

# INTERMEDIATE

## Paper 7

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# INDIRECT TAXATION

## Study Notes

### SYLLABUS 2022



The Institute of Cost Accountants of India

CMA Bhawan, 12, Sudder Street, Kolkata - 700 016

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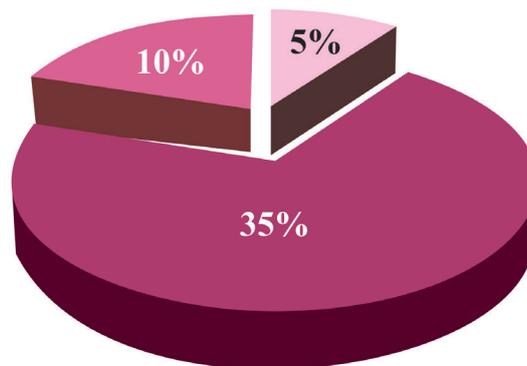
# PAPER 7 : INDIRECT TAXATION

## SECTION - B

### Syllabus Structure:

The syllabus in this paper comprises the following topics and study weightage:

Module No.	Module Description	Weight
Section B: Indirect Taxation		50%
4	Concept of Indirect Taxes	5%
5	Goods and Services Tax (GST) Laws	35%
6	Customs Act & Rules	10%



## Learning Environment

<b>Subject Title</b>	<b>INDIRECT TAXATION (Section - B)</b>
<b>Subject Code</b>	<b>DITX</b>
<b>Paper No.</b>	<b>7</b>
<b>Course Description</b>	This section deals with Goods and Services Tax and Customs Duty. Accordingly, it focuses on explaining the legal provisions associated with levy and collection of CGST and IGST, input tax credit and determination of GST liability. It also discusses, in detail, the basic concepts under Customs Duty and procedure for determining the assessable value and duty liability.
<b>CMA Course Learning Objectives (CMLOs)</b>	<ol style="list-style-type: none"> <li>1. Interpret and appreciate emerging national and global concerns affecting organizations and be in a state of readiness for business management.             <ol style="list-style-type: none"> <li>a. Identify emerging national and global forces responsible for enhanced/varied business challenges.</li> <li>b. Assess how far these forces pose threats to the status-quo and creating new opportunities.</li> <li>c. Find out ways and means to convert challenges into opportunities</li> </ol> </li> <li>2. Acquire skill sets for critical thinking, analyses and evaluations, comprehension, syntheses, and applications for optimization of sustainable goals.             <ol style="list-style-type: none"> <li>a. Be equipped with the appropriate tools for analyses of business risks and hurdles.</li> <li>b. Learn to apply tools and systems for evaluation of decision alternatives with a 360-degree approach.</li> <li>c. Develop solutions through critical thinking to optimize sustainable goals.</li> </ol> </li> <li>3. Develop an understanding of strategic, financial, cost and risk-enabled performance management in a dynamic business environment.             <ol style="list-style-type: none"> <li>a. Study the impacts of dynamic business environment on existing business strategies.</li> <li>b. Learn to adopt, adapt and innovate financial, cost and operating strategies to cope up with the dynamic business environment.</li> <li>c. Come up with strategies and tactics that create sustainable competitive advantages.</li> </ol> </li> <li>4. Learn to design the optimal approach for management of legal, institutional, regulatory and ESG frameworks, stakeholders' dynamics; monitoring, control, and reporting with application-oriented knowledge.             <ol style="list-style-type: none"> <li>a. Develop an understanding of the legal, institutional and regulatory and ESG frameworks within which a firm operates.</li> <li>b. Learn to articulate optimal responses to the changes in the above frameworks.</li> <li>c. Appreciate stakeholders' dynamics and expectations, and develop appropriate reporting mechanisms to address their concerns.</li> </ol> </li> </ol>

	<ol style="list-style-type: none"> <li>5. Prepare to adopt an integrated cross functional approach for decision management and execution with cost leadership, optimized value creations and deliveries. <ol style="list-style-type: none"> <li>a. Acquire knowledge of cross functional tools for decision management.</li> <li>b. Take an industry specific approach towards cost optimization, and control to achieve sustainable cost leadership.</li> <li>c. Attain exclusive knowledge of data science and engineering to analyze and create value.</li> </ol> </li> </ol>
<b>Subject Learning Objectives [SLOB(s)]</b>	<p><b>Indirect Taxation</b></p> <ol style="list-style-type: none"> <li>1. To acquire knowledge of legal provisions enshrined in laws related to GST and Customs Duty and appreciate their applicability in business operations. (CMLO 4a)</li> <li>2. To gather understanding of legal provisions of said two indirect tax laws about matters of compliance while conducting business operations. (CMLO 4 c)</li> </ol>
<b>Subject Learning Outcome [SLOC(s)] and Application Skill [APS]</b>	<p><b>SLOCs:</b></p> <ol style="list-style-type: none"> <li>1. Students will attain understanding about various provisions of indirect taxation in areas of GST and Customs Duty.</li> <li>2. They will be able to ensure compliance of legal provisions related to indirect taxes.</li> </ol> <p><b>APs:</b></p> <ol style="list-style-type: none"> <li>1. Students will attain skill sets for solving computation related issues that may arise while determining levies of GST and Customs Duty on business transactions</li> <li>2. Students will be able to ensure compliances of indirect taxation related provisions.</li> </ol>

#### Module wise Mapping of SLOB(s)

Module No.	Topics and Sub-topics	Additional Resources (Research articles, case studies, blogs)	SLOB Mapped
4	Concept of Indirect Taxes	For Bare Acts & Rules, refer <a href="http://www.cbic.gov.in">www.cbic.gov.in</a>	<ol style="list-style-type: none"> <li>1. To acquire knowledge of legal provisions enshrined in laws related to GST and Customs Duty and appreciate their applicability in business operations.</li> <li>2. To gather understanding of legal provisions of said two indirect tax laws about matters of compliance while conducting business operations.</li> </ol>
5	Goods and Services Tax (GST) Laws	Refer Chapter III, IV, V, VI, VII, IX & X of the CGST Act, 2017	
6	Customs Act	Refer Customs Act, 1962, Customs Tariff Act, 1975, Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and Customs Valuation (Determination of Value of Export Goods) Rules, 2007	

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**SECTION - B**  
**INDIRECT TAXATION**



# Concept of Indirect Taxes

4

**This Module includes -**

- 4.1 Concept and Features of Indirect Taxes**
- 4.2 Difference between Direct and Indirect Taxes**
- 4.3 Background of erstwhile Indirect Taxes**
- 4.4 Constitutional Validity of GST**

# Concept of Indirect Taxes

## **SLOB Mapped against the Module:**

1. To acquire knowledge of legal provisions enshrined in laws related to GST and Customs Duty and appreciate their applicability in business operations.
2. To gather understanding of legal provisions of said two indirect tax laws about matters of compliance while conducting business operations.

## **Module Learning Objectives:**

After studying this module, the students will be able to -

- Appreciate the difference between direct and indirect taxes
- Understand the problems in erstwhile indirect taxes

# Introduction

4

“It was only for the good of his subjects that he collected taxes from them, just as the Sun draws moisture from the Earth to give it back a thousand folds” – Kalidas in Raghuvansh eulogizing King Dalip.

In a Welfare State, the Government takes primary responsibility for the welfare of its citizens, as in matters of health care, education, employment, infrastructure, social security and other development needs. To facilitate these, Government needs revenue. Taxation is the primary source of revenue to the Government for incurring such public welfare expenditure. In other words, Government is taking taxes from the public through its one hand and through another hand; it incurs welfare expenditure for public at large. However, no one enjoys handing over his hard-earned money to the government to pay taxes. Thus, taxes are compulsory or enforced contribution to the Government revenue by public. The government may levy taxes on income, business profits or wealth or add it to the cost of some goods, services, and transactions.

## Basic Reasons to impose taxation

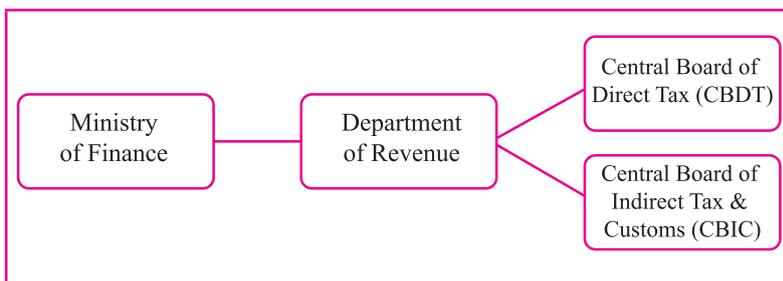
- **To provide basic facilities for every citizen of the country :** Whatever money is received by the government from taxation is spent by it for the welfare of the citizens of the country. Some of the services provided by the government are: health care, electricity, roads, education system, free houses for the poor, water supply, police, firefighters, judiciary system, disaster relief, taking care of bridges and other things of public welfare.
- **To finance multiple governments :** All the local governments of the state like village panchayats, block panchayats and municipal corporations receive funds from the finance commission.
- **Protection of the life :** Taxpayers receive the protection of life and wealth from the government in case of external aggression, internal armed rebellion or any other situation.

## Administration of Tax Laws

The administrative hierarchy of tax law is as follows:

### Taxpoint :

- Both of the Boards have been constituted under the Central Board of Revenue Act, 1963.
- CBDT deals with levy and collection of all direct tax whereas matters relating to levy and collection of Central indirect tax are dealt by CBIC.



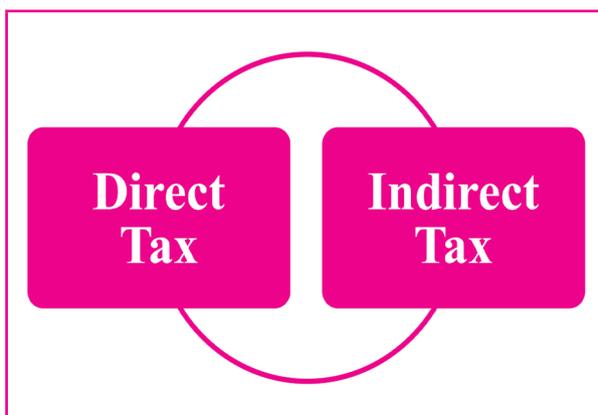
# Concept and Features of Indirect Taxes

## 4.1

- ◉ **Tax on goods and services :** Indirect tax is levied at the time of supply or manufacture or purchase or sale or import or export of goods. Further, it is also levied on supply.
- ◉ **Burden :** Tax, being indirect tax paid by the seller, shall be recovered by the seller from the buyer. Thus, one can say that burden of indirect tax is shifted from seller to buyer and ultimately borne by consumers of such goods or services.
- ◉ **Inflationary in nature :** Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote inflation.
- ◉ **Social welfare :** It is useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.
- ◉ **Wider Tax Base :** Majority of goods and services are liable to indirect tax with very low threshold limits, so tax base is much wider in case of indirect tax in compare to direct tax.
- ◉ **Regressive in Nature :** All persons (rich or poor) will bear equal wrath of tax on goods or service consumed by them irrespective of their ability. In other words, indirect tax does not create any difference between rich and poor. Poor people are also required to pay equal percentage of tax on certain goods and service of mass consumption. Thus, it may increase the disparities between rich and poor.
- ◉ **No pinch :** Seller (the person on which indirect tax is levied) does not perceive a direct pinch of tax as it is recovered by him from the buyer and then he is paying to the Government. On the other hand, since it is inbuilt in the price of the goods, the ultimate payer (i.e., buyer) pay it without knowing that he is paying any tax to the Government.

# Difference Between Direct & Indirect Taxes

## 4.2

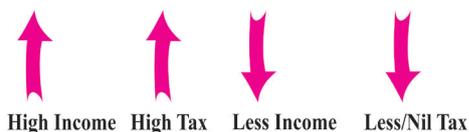


There are two types of taxes: Direct Tax and Indirect Tax

Tax, of which incidence and impact fall on the same person, is known as Direct Tax, such as Income Tax. On the other hand, tax, of which incidence and impact fall on two different persons, is known as Indirect Tax, such as GST, etc. It means, in the case of Direct Tax, tax is recovered directly from the assessee, who ultimately bears such taxes, whereas in the case of Indirect Tax, tax is recovered from the assessee, who passes such burden to another person & is ultimately borne by consumers of such goods or services.

Direct Tax
<ul style="list-style-type: none"> <li>Incidence and impact fall on the same person</li> <li>Assessee, himself bears such taxes. Thus, it pinches the taxpayer.</li> <li>Levied on income</li> <li>E.g. Income Tax</li> <li>Progressive in nature i.e., higher tax are levied on person earning higher income and vice versa.</li> </ul>

Indirect Tax
<ul style="list-style-type: none"> <li>Incidence and impact fall on two different persons</li> <li>Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.</li> <li>Levied on goods and services. Thus, this type of tax leads to inflation and have wider base.</li> <li>E.g. GST, Customs Duty, etc.</li> <li>Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.</li> <li>Useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.</li> </ul>



**Direct tax: Progressive in nature**



**Indirect Tax: Regressive in nature**

## Indirect Taxation

Basis	Direct Tax	Indirect Tax
Meaning	Direct tax is referred to as the tax, levied on person's income and wealth and is paid directly to the government	Indirect Tax is referred to as the tax, levied on a person who consumes the goods and services and is paid indirectly to the government.
Nature	Progressive in nature i.e., higher tax is levied on a person earning higher income and vice versa.	Regressive in nature i.e., all persons will bear equal wrath of tax on goods or service consumed by them irrespective of their ability.
Incidence and Impact	Falls on the same person. Assessee, himself bears such taxes. Thus, it pinches the taxpayer.	Falls on different person. Tax is recovered from the assessee, who passes such burden to another person. Thus, it does not pinch the taxpayer.
Example	Income Tax	GST, Custom Duty
Evasion	Tax evasion is possible	Tax evasion is hardly possible because it is included in the price of the goods and services.
Inflation	Direct tax helps in reducing the inflation.	Cost of goods and services increases due to levy of indirect tax thus indirect taxes promote inflation. However, sometimes it is useful tool to promote social welfare by checking the consumption of harmful goods or sin goods through higher rate of tax.
Imposition and collection	Imposed on and collected from the same person	Imposed on and collected from consumers of goods and services but paid and deposited by the assessee.
Burden	Cannot be shifted	Can be shifted
Event	Taxable income of the assessee	Supply of goods and services

# Background of Erstwhile Indirect Taxes

## 4.3

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

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

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

Union List (List I)	State List (List II)
<b>Entry 82</b> - Taxes on income other than agricultural income i.e. <b>Income-tax</b>	<b>Entry 54</b> - Taxes on the sale or purchase of goods other than newspapers, subject to the provisions of entry 92A of List I i.e., <b>State Level VAT</b>
<b>Entry 83</b> - Duties of customs including export duties i.e., <b>Customs Act</b>	<b>Entry 46</b> - Taxes on agricultural income.
<b>Entry 84</b> - Duties of excise on tobacco and other goods manufactured or produced in India except: a. alcoholic liquors for human consumption. b. opium, Indian hemp and other narcotic drugs and narcotics, but including medicinal and toilet preparations containing alcohol / opium / Indian hemp / narcotic drugs / narcotics i.e., <b>Central Excise Act</b>	<b>Entry 60</b> - Taxes on professions, trades, callings and employments i.e., <b>Professional Tax</b>
<b>Entry 86</b> - Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies i.e., <b>Wealth Tax</b>	<b>Entry 51</b> - Duties of excise on the following goods manufactured or produced in the State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India: a. alcoholic liquors for human consumption; b. opium, Indian hemp and other narcotic drugs and narcotics, but not including medicinal and toilet preparations containing alcohol/ opium/ Indian hemp/ narcotic drugs / narcotics
<b>Entry 92A</b> - Taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce i.e., <b>Central Sales Tax</b>	
<b>Entry 92C</b> – Tax on services	
<b>Entry 97</b> - Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists.	

## Indirect Taxation

- In pre-GST regime, Indian indirect tax was highly fragmented. Centre and States were separately taxing Goods and services. There were many taxes like excise duty, service tax, VAT, CST, purchase tax, entertainment tax, octroi.
- In addition, there was multiplicity of rates. Law and procedures. This caused heavy compliance burden.
- Imposition of tax on tax was another serious problem. For example, VAT was levied on a value that included excise duty.
- Input tax credit chain broke as goods moved from one state to another, resulting in hidden cost for the business.
- Further, pre-GST, there were tax nakas at every inter-state border, creating bottlenecks in inter-state transport of goods.
- As a result, logistics sector remained inefficient and it adversely impacted the businesses.
- Every state was effectively a distinct market for the industry as well as consumer.
- Industry's choice of locating factories or warehouses was heavily influenced by the prevailing tax regime rather than pure business consideration.
- This made our industry uncompetitive.

To curb all these, Goods and Services Tax (GST) was introduced in the system with the idea of One Nation One Tax. Various indirect tax levied by Central and State Government was subsumed into one tax called GST.

### Cascading effect of tax (Tax on Tax)

In pre-GST regime, when a manufacturer "A" sold goods ₹ 1,00,000 to dealer "B" from Gujarat to Haryana, he is liable to collect pay Excise Duty and Central Sales Tax at the rate of 12% and 2% respectively, being an inter-state sale. Dealer "B" in turn sells it to Dealer "C" in Haryana after adding ₹ 10,000/- and charges VAT on such sale @ 12%.

The calculation were as follow :

Transaction	Particulars	Amount (₹)	Tax to Government (₹)
Transaction between "A" and "B"	Sale price of goods	1,00,000	
	Add: Excise Duty @ 12%	12,000	12,000
		1,12,000	
	Add: Central Sales Tax	2,240	2,240
	Total Invoice Value	1,14,240	
Transaction between "B" and "C"	Sale price of goods [₹ 1,14,240 + ₹ 10,000]	1,24,240	
	Add: VAT @ 12%	14,909	14,909
		1,39,149	
	Total Invoice Value	1,39,149	
	Total		29,149

In this regime, following are the components of the VAT amount :

- On actual price	₹ 1,00,000 x 12%	=	₹ 12,000
- On Excise Duty	₹ 12,000 x 12%	=	₹ 1,440
- On CST	₹ 2,240 x 12%	=	₹ 269
- On value added by B	₹ 10,000 x 12%	=	₹ 1,200
<b>Total VAT</b>			<b>₹ 14,909</b>

Since credit for excise duty and CST was not available to dealer B, excise duty and CST were considered as a cost. Further, he is liable to pay VAT on tax components also. Such tax on tax is known as cascading effect of tax, which leads to inflation.

If the same transactions are executed under GST law and rate of GST is say 12% then calculation would be as under :

Transaction	Particulars	Amount (₹)	Tax to Government (₹)
Transaction between "A" and "B"	Sale price of goods	1,00,000	
	Add: GST @ 12%	12,000	12,000
	Total Invoice Value	1,12,000	
Transaction between "B" and "C"	Sale price of goods [₹ 1,00,000 + ₹ 10,000]	1,10,000	
	Add: GST @ 12%	13,200	
	Total Invoice Value	1,23,200	
	Amount payable to the Government by "B"		
	[₹ 13,200 – ₹ 12,000]		1,200
	Total		13,200

Since credit for GST paid by dealer B to dealer A is available to dealer B, hence the same is not considered as a cost. In this way, GST eliminates the cascading effect of tax and which results in lower prices.

However, fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on sale of goods. In case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the originating States. As for services, it is the Centre alone that is empowered to levy service tax. Since the States are not empowered to levy any tax on the sale or purchase of goods in the course of their importation into or exportation from India, the Centre levies and collects this tax as additional duties of customs, which is in addition to the Basic Customs Duty. This additional duty of customs (commonly known as CVD and SAD) counter balances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

Introduction of the GST required amendments in the Constitution so as to simultaneously empower the Centre and the States to levy and collect this tax. The assignment of concurrent jurisdiction to the Centre and the States for the levy of GST would require a unique institutional mechanism that would ensure that decisions about the structure, design and operation of GST are taken jointly by the two. For it to be effective, such a mechanism also needs to have Constitutional force.

# Constitutional Validity of GST

## 4.4

### 4.4.1 Constitution (One Hundred and First) Amendment Act, 2016

**E**arlier, fiscal powers between the Centre and the States are clearly demarcated in the Constitution with almost no overlap between the respective domains. The Centre has the powers to levy tax on the manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.) while the States have the powers to levy tax on sale of goods. In case of inter-State sales, the Centre has the power to levy a tax (the Central Sales Tax) but, the tax is collected and retained entirely by the originating States. As for services, it is the Centre alone that is empowered to levy service tax. Since the States are not empowered to levy any tax on the sale or purchase of goods in the course of their importation into or exportation from India, the Centre levies and collects this tax as additional duties of customs, which is in addition to the Basic Customs Duty. This additional duty of customs (commonly known as CVD and SAD) counter balances excise duties, sales tax, State VAT and other taxes levied on the like domestic product. Introduction of GST would require amendments in the Constitution so as to concurrently empower the Centre and the States to levy and collect the GST.

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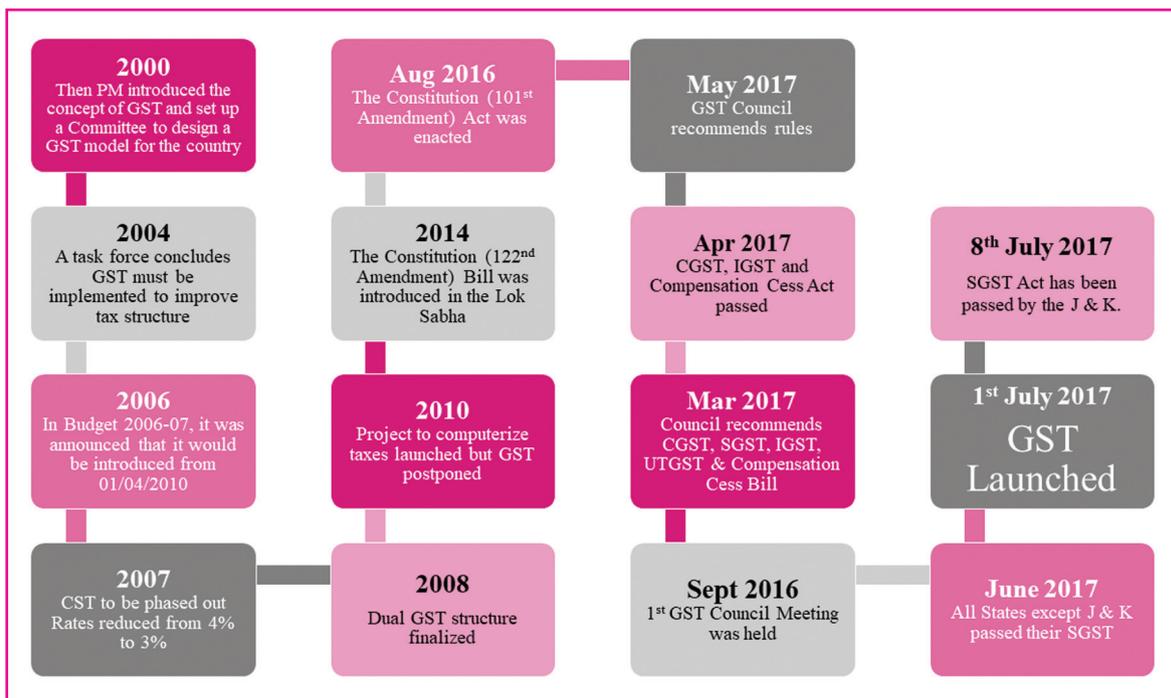
To address all these and other issues, the Constitution (122nd Amendment) Bill was introduced in the 16th Lok Sabha on 19.12.2014. The Bill provides for a levy of GST on supply of all goods or services except for Alcohol for human consumption. The tax shall be levied as Dual GST separately but concurrently by the Union (central tax - CGST) and the States (including Union Territories with legislatures) (State tax - SGST) / Union territories without legislatures (Union territory tax- UTGST). The Parliament would have exclusive power to levy GST (integrated tax - IGST) on inter-State trade or commerce (including imports) in goods or services. The Central Government will have the power to levy excise duty in addition to the GST on tobacco and tobacco products. The tax on supply of five specified petroleum products namely crude, high speed diesel, petrol, air turbine fuel and natural gas would be levied from a later date on the recommendation of GST Council.

A Goods and Services Tax Council (GSTC) shall be constituted comprising the Union Finance Minister, the Minister of State (Revenue) and the State Finance Ministers to recommend on the GST rate, exemption and

thresholds, taxes to be subsumed and other features. This mechanism would ensure some degree of harmonization on different aspects of GST between the Centre and the States as well as across States. One half of the total number of members of GSTC would form quorum in meetings of GSTC. Decision in GSTC would be taken by a majority of not less than three-fourth of weighted votes cast. Centre and minimum of 20 States would be required for majority because Centre would have one-third weightage of the total votes cast and all the States taken together would have two-third of weightage of the total votes cast.

The Constitution Amendment Bill was passed by the Lok Sabha in May, 2015. The Bill was referred to the Select Committee of Rajya Sabha on 12.05.2015. The Select Committee had submitted its Report on the Bill on 22.07.2015. The Bill with certain amendments was finally passed in the Rajya Sabha and thereafter by Lok Sabha in August, 2016. Further the bill had been ratified by required number of States and received assent of the President on 8th September, 2016 and has since been enacted as Constitution (101st Amendment) Act, 2016 w.e.f. 16th September, 2016.

The journey is as under :



#### 4.4.2 Major chronological events that have led to the introduction of GST

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

- a. In 2003, the Kelkar Task Force on indirect tax had suggested a comprehensive Goods and Services Tax (GST) based on VAT principle.
- b. A proposal to introduce a National level Goods and Services Tax (GST) by April 1, 2010 was first mooted in the Budget Speech for the financial year 2006-07.
- c. Since the proposal involved reform/ restructuring of not only indirect taxes levied by the Centre but also the States, the responsibility of preparing a Design and Road Map for the implementation of GST was assigned to the Empowered Committee of State Finance Ministers (EC).
- d. Based on inputs from Govt of India and States, the EC released its First Discussion Paper on Goods and Services Tax in India in November, 2009.
- e. In order to take the GST related work further, a Joint Working Group consisting of officers from Central as well as State Government was constituted in September, 2009.
- f. In order to amend the Constitution to enable introduction of GST, the Constitution (115th Amendment) Bill was introduced in the Lok Sabha in March 2011. As per the prescribed procedure, the Bill was referred to the Standing Committee on Finance of the Parliament for examination and report.
- g. Meanwhile, in pursuance of the decision taken in a meeting between the Union Finance Minister and the Empowered Committee of State Finance Ministers on 8th November, 2012, a 'Committee on GST Design', consisting of the officials of the Government of India, State Governments and the Empowered Committee was constituted.
- h. This Committee did a detailed discussion on GST design including the Constitution (115th) Amendment Bill and submitted its report in January, 2013. Based on this Report, the EC recommended certain changes in the Constitution Amendment Bill in their meeting at Bhubaneswar in January 2013.
- i. The Empowered Committee in the Bhubaneswar meeting also decided to constitute three committees of officers to discuss and report on various aspects of GST as follows:-
  - Committee on Place of Supply Rules and Revenue Neutral Rates;
  - Committee on dual control, threshold and exemptions;
  - Committee on IGST and GST on imports.
- j. The Parliamentary Standing Committee submitted its Report in August, 2013 to the Lok Sabha. The recommendations of the Empowered Committee and the recommendations of the Parliamentary Standing Committee were examined in the Ministry in consultation with the Legislative Department. Most of the recommendations made by the Empowered Committee and the Parliamentary Standing Committee were accepted and the draft Amendment Bill was suitably revised.

- k. The final draft Constitutional Amendment Bill incorporating the above stated changes were sent to the Empowered Committee for consideration in September 2013.
- l. The EC once again made certain recommendations on the Bill after its meeting in Shillong in November 2013. Certain recommendations of the Empowered Committee were incorporated in the draft Constitution (115th Amendment) Bill. The revised draft was sent for consideration of the Empowered Committee in March, 2014.
- m. The 115th Constitutional (Amendment) Bill, 2011, for the introduction of GST introduced in the Lok Sabha in March 2011 lapsed with the dissolution of the 15th Lok Sabha.
- n. In June 2014, the draft Constitution Amendment Bill was sent to the Empowered Committee after approval of the new Government.
- o. Based on a broad consensus reached with the Empowered Committee on the contours of the Bill, the Cabinet on 17.12.2014 approved the proposal for introduction of a Bill in the Parliament for amending the Constitution of India to facilitate the introduction of Goods and Services Tax (GST) in the country. The Bill was introduced in the Lok Sabha on 19.12.2014, and was passed by the Lok Sabha on 06.05.2015. It was then referred to the Select Committee of Rajya Sabha, which submitted its report on 22.07.2015.

## Exercise

### Multiple Choice Questions

1. Who is empowered to make law for matters containing in List II of Schedule VII of the Constitution of India
  - a. State Government
  - b. Central Government
  - c. Both Central and State Government
  - d. None of the above
2. Power to make laws with respect to goods and services tax has been given by the Constitution wide Article
  - a. 279A
  - b. 246A
  - c. 246
  - d. 365
3. Indirect tax is
  - a. Regressive in nature
  - b. Progressive in nature
  - c. Suppressive in nature
  - d. None of these
4. One of the following is not an example of indirect types
  - a. GST
  - b. Customs Duty
  - c. Income tax
  - d. None of these
5. In case of indirect tax, impact and incidence of tax fall on
  - a. One person
  - b. Different persons
  - c. State Government
  - d. None of these
6. Levy of indirect tax on goods and services may leads to
  - a. Inflation
  - b. Deflation
  - c. Reflection
  - d. None of the above

7. Levy and collection of Central indirect tax are dealt by
  - a. CBIC
  - b. CBDT
  - c. NIC
  - d. UGS
8. In pre-GST regime, excise duty has been levied by ..... Government whereas VAT has been levied by ..... State Government on goods
  - a. Central, State
  - b. State, Central
  - c. Central, Central
  - d. State, State
9. Cascading effect of tax means
  - a. Tax on goods
  - b. Tax on services
  - c. Tax on Tax
  - d. None of these
10. Who is empowered to make law for matters containing in List I of Schedule VII of the Constitution of India
  - a. State Government
  - b. Central Government
  - c. Both Central and State Government
  - d. None of the above

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

⊙ **State True or False**

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

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

### ◉ Fill in the Blanks

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

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

### ◉ Short Essay Type Questions

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

### ◉ References:

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

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

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

# Goods and Services Tax (GST) Laws 5

**This Module includes -**

- 5.1 Introduction to GST Law**
- 5.2 Levy and Collection of CGST and IGST**
- 5.3 Basic concepts of Time and Value of Supply**
- 5.4 Input Tax Credit**
- 5.5 Computation of GST Liability**
- 5.6 Registration**
- 5.7 Tax Invoice – Electronic Way Bill**
- 5.8 Returns and Payment of Taxes**

# Goods and Services Tax (GST) Laws

## **SLOB Mapped against the Module:**

1. To acquire knowledge of legal provisions enshrined in laws related to GST and Customs Duty and appreciate their applicability in business operations.
2. To gather understanding of legal provisions of said two indirect tax laws about matters of compliance while conducting business operations.

## **Module Learning Objectives:**

After studying this module, the students will be able to -

- Appreciate the Constitutional Aspects of GST
- Understand the basic features of Indian model of GST
- Appreciate the meaning of supply
- Understand the provision relating to charge, exemption and composition levy
- Appreciate the provisions relating to time and value of supply
- Appreciate the concepts of input tax credit and its utilisation
- Apply the knowledge in computing GST liability
- Appreciate the various compliance provisions of the GST laws.

# Introduction

5

Under the earlier taxation system for indirect taxes, number of indirect taxes were being levied and collected at multiple rates both by Central Government and State Governments on different activities undertaken. The international best tax practices in indirect taxes look for, easing out the complications and cumbersome confusing compliances and reduce interaction with different statutory authorities. Similar thought process was started in India to consolidate number of taxes in to one system of taxation uniformly across the country in late 1970s.

The idea of moving towards the GST was first mooted by the then Union Finance Minister in his Budget for 2006-07. Initially, it was proposed that GST would be introduced from 1st April, 2010. The Empowered Committee of State Finance Ministers (EC) which had formulated the design of State VAT was requested to come up with a roadmap and structure for the GST. Joint Working Groups of officials having representatives of the States as well as the Centre were set up to examine various aspects of the GST and draw up reports specifically on exemptions and thresholds, taxation of services and taxation of inter-State supplies. Based on discussions within and between it and the Central Government, then First Discussion Paper (FDP) was released on GST in November, 2009. This spell out the features of the proposed GST and has formed the basis for discussion between the Centre and the States so far.

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods. Introduction of GST would also make Indian products competitive in the domestic and international markets.

### 5.1.1 Amendments made by the Constitution (101st Amendment) Act, 2016

#### Constitution of Goods and Services Tax Council [Article 279A]

1. The President shall, within 60 days from the date of commencement of the Constitution (101st Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council. Accordingly, the President has since constituted the GST Council.
2. The GST Council which will be a joint forum of the Centre and the States, shall consist of the following members :

a.	Union Finance Minister	Chairperson
b.	The Union Minister of State, in-charge of Revenue of finance	Member
c.	The Minister In-charge of finance or taxation or any other Minister nominated by each State Government	Members

3. The Members of the Goods and Services Tax Council referred to in clause 2(c) shall, as soon as may be, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide
4. The Goods and Services Tax Council shall make recommendations to the Union and the States on—
  - a. the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
  - b. the goods and services that may be subjected to, or exempted from the goods and services tax;
  - c. model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;
  - d. the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

- e. the rates including floor rates with bands of goods and services tax;
  - f. any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
  - g. special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
  - h. any other matter relating to the goods and services tax, as the Council may decide.
5. The Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.
  6. While discharging the functions conferred by this article, the Goods and Services Tax Council shall be guided by the need for a harmonised structure of goods and services tax and for the development of a harmonised national market for goods and services.
  7. One-half of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.
  8. The Goods and Services Tax Council shall determine the procedure in the performance of its functions.
  9. Every decision of the Goods and Services Tax Council shall be taken at a meeting, by a majority of not less than three-fourths of the weighted votes of the members present and voting, in accordance with the following principles, namely:—
    - a. the vote of the Central Government shall have a weightage of onethird of the total votes cast, and
    - b. the votes of all the State Governments taken together shall have a weightage of two-thirds of the total votes cast, in that meeting.
  10. No act or proceedings of the Goods and Services Tax Council shall be invalid merely by reason of
    - a. any vacancy in, or any defect in, the constitution of the Council; or
    - b. any defect in the appointment of a person as a Member of the Council; or
    - c. any procedural irregularity of the Council not affecting the merits of the case.
  11. The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute —
    - a. between the Government of India and one or more States; or
    - b. between the Government of India and any State or States on one side and one or more other States on the other side; or
    - c. between two or more States,arising out of the recommendations of the Council or implementation thereof.

**Special provision with respect to goods and services tax [Article 246A]**

1. Notwithstanding anything contained in articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every State, have power to make laws with respect to goods and services tax imposed by the Union or by such State.
2. Parliament has exclusive power to make laws with respect to goods and services tax where the supply of

goods, or of services, or both takes place in the course of inter-State trade or commerce.

### **Taxpoint :**

- As per Article 366(12A), “goods and services tax” means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption
- In case of inter-State supply, Central Government have exclusive power to make law and for intra-State supply, both Central and State government has power to make law.
- The provisions of this article, shall, in respect of goods and services tax referred to in Article 279A(5), take effect from the date recommended by the Goods and Services Tax Council (i.e., on this goods: petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel)
- Earlier as per Article 246, power to levy various types of indirect tax was distributed between Central Government and State Government. Article 246A empowered both the Government to levy GST.

### **5.1.2 Levy and collection of goods and services tax in course of inter-State trade or commerce [Article 269A]**

1. Goods and services tax on supplies in the course of inter-State trade or commerce shall be levied and collected by the Government of India and such tax<sup>1</sup> shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

**Taxpoint :** Supply of goods, or of services, or both in the course of import into the territory of India shall be deemed to be supply of goods, or of services, or both in the course of inter-State trade or commerce.

2. The amount apportioned (as aforesaid) to a State shall not form part of the Consolidated Fund of India.
3. Where an amount collected as IGST has been used for payment of the SGST (or vice versa), such amount shall not form part of the Consolidated Fund of India.
4. Parliament may, by law, formulate the principles for determining the place of supply, and when a supply of goods, or of services, or both takes place in the course of inter-State trade or commerce.

### **5.1.3 GST Network (GSTN)**

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

- a. facilitating registration;
- b. forwarding the returns to Central and State authorities;
- c. computation and settlement of IGST;
- d. matching of tax payment details with banking network;
- e. providing various MIS reports to the Central and the State Governments based on the tax payer return information;

<sup>1</sup> This tax is termed as the Integrated Goods and Services Tax (IGST).

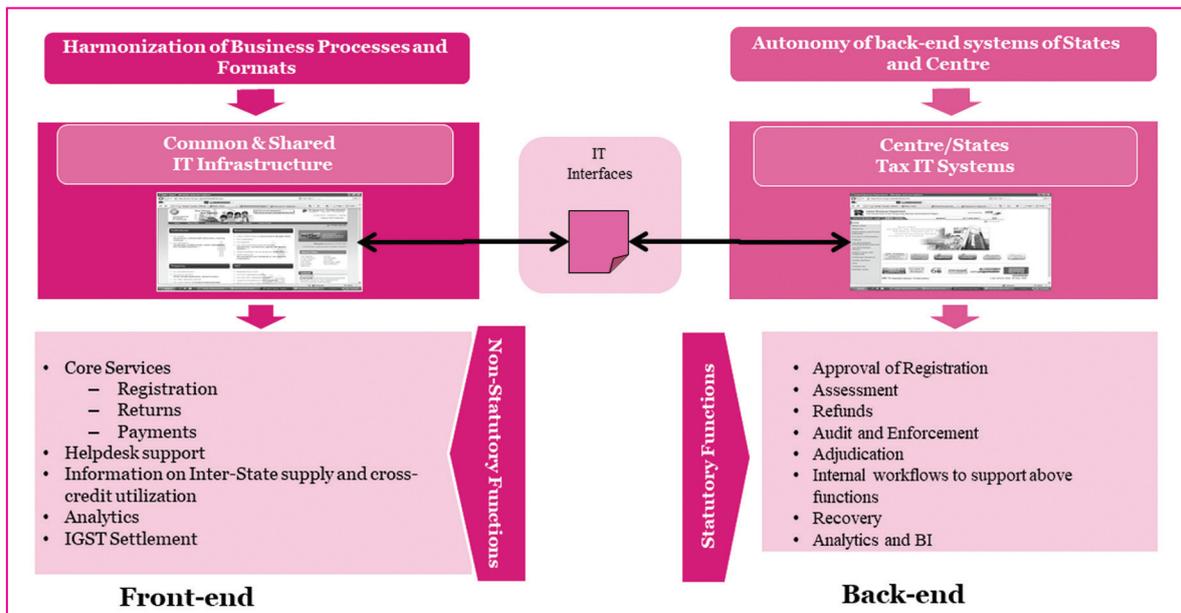
- f. providing analysis of tax payers' profile; and
- g. running the matching engine for matching, reversal and reclaim of input tax credit.

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

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

**Salient features of GSTN**

- ◉ Incorporated in March 2013 as sec. 25 100% government owned company with paid up capital of ₹ 10 crore
- ◉ To function as a Common Pass-through portal for taxpayers
  - Submit registration application
  - File returns
  - Make tax payments
- ◉ To develop back-end modules for States
- ◉ Infosys Ltd. appointed as Managed Service Provider (MSP)
- ◉ Appointed more than 70 GST Suvidha Providers (GSPs)



**5.1.4 Need for GST**

Under the pre-GST regime, there are various taxes that have to pay at every stage and differently collected by State and Central Government and rates differ from one state to another. Imposing several taxes on goods and services can lead to high cost and inefficient tax structure. Moreover :

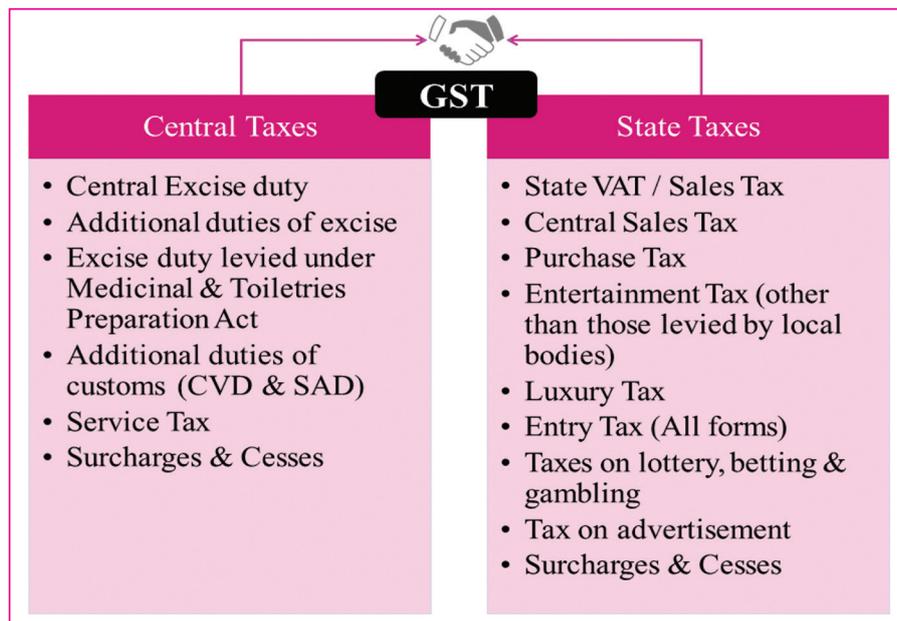
- a. Tax levied by one Government was not available for set off against the tax levied by another Government. Even few taxes levied by the Government was not allowed to be set off with another type of tax levied by the same Government.

## Indirect Taxation

- b. Further, there was cascading effect of taxation (i.e., tax on tax), which leads to inflation. E.g., VAT is levied by the State Government on the excise duty levied by the Central Government.
- c. Rate of CST was lower than VAT rate which had been used by the business as tax arbitrage.
- d. Each State has separate VAT law which had divided the nation into various economic states.
- e. Due to levy of entry tax, octroi, etc. by various State Governments results into a hindrance in free flow of business.

GST removed the inefficiencies and complexities of the erstwhile archaic taxation system and helped in accelerating growth. GST has been enacted with effect from 01-07-2017 with the following benefits:

1. **Tax subsumed in the GST :** Following taxes, levied by different Governments, were subsumed in the GST:



However, it is to be noted that following taxes are not subsumed into the GST:

Central Taxes	State Taxes
Basic Customs Duty	State Excise Duty
Research and Development Cess	Stamp Duty
Export Duty	Profession Tax
Anti-Dumping Duty	Motor Vehicle Tax
Safeguard Duty	

2. **Seamless Flow of Credit :** In the GST regime, the buyer (other than ultimate consumer) will take the credit of tax paid<sup>2</sup> by him at the time of purchase of goods and services, and he can utilize that credit in discharging his tax liability. GST eliminates the multiplicity and cascading of taxes which results into overall reduction in tax incidence.

<sup>2</sup> Subject to certain restrictions

3. **Competitive prices** : GST eliminates all other taxes of indirect nature, and this will effectively mean that the tax amount paid by end consumers will reduce. Lower the prices, more will be demand for that product, which will result in more consumption and will benefit the entities.
4. **Increase in revenue** : One reason behind the need for GST was also to boost the revenue from the indirect taxes in the nation. GST is easy to understand, and a simple tax structure will bring more taxpayers and in return, it will increase the revenue for the Government.
5. **Easy and straightforward tax structure** : Before GST, taxpayers needed to pay a lot of taxes, but with GST, a single tax system, only one tax needs to be paid, which is comparatively easy and convenient to understand. For accounting, business complexities will reduce and result in less paperwork, saving both money and time.
6. **One Nation One Tax** : With uniform tax on supplies of goods and services India turned into one market.

### 5.1.5 Benefits of GST

The benefits of GST can be summarized as under :

#### A. For business and industry

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

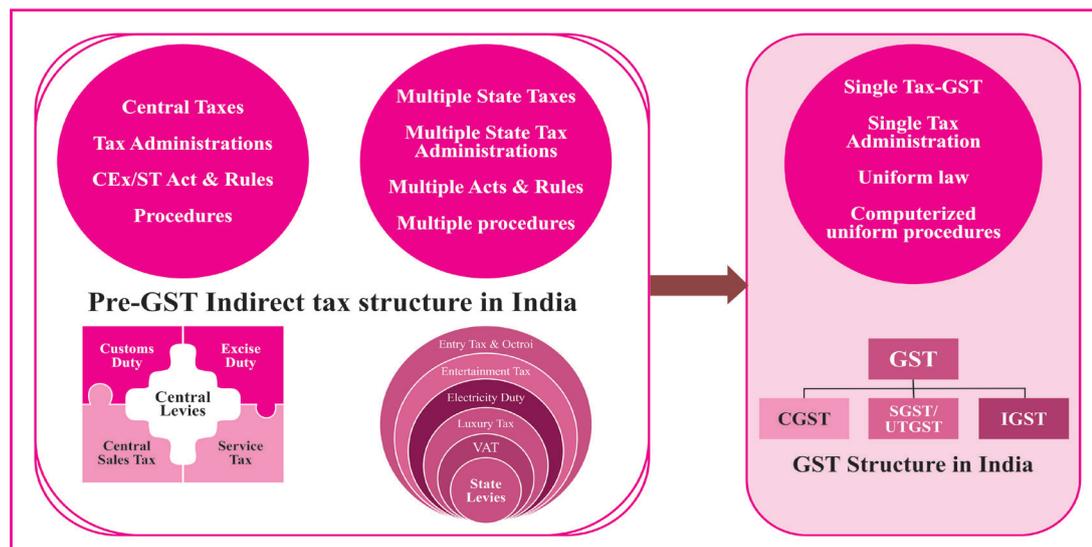
#### B. For Central and State Governments

- **Simple and easy to administer** : Multiple indirect taxes at the Central and State levels are being replaced by GST. Backed with a robust end-to-end IT system, GST would be simpler and easier to administer than all other indirect taxes of the Centre and State levied so far.
- **Better controls on leakage** : GST will result in better tax compliance due to a robust IT infrastructure. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an inbuilt mechanism in the design of GST that would incentivize tax compliance by traders.

- **Higher revenue efficiency** : GST is expected to decrease the cost of collection of tax revenues of the Government, and will therefore, lead to higher revenue efficiency.
- **Boost to ‘Make in India’ initiative** : GST will give major boost to the ‘Make in India’ initiative of government of India by making goods and services produced in India competitive in the national as well as international market.

**C. For the consumer**

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

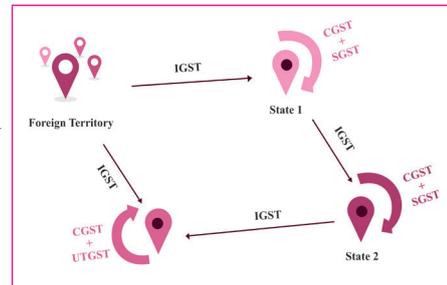


**5.1.6 Salient Features of GST**

- ⊙ **Destination Based Tax** : GST is a value added destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as setoff. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer. Benefit of tax (STCG/ UTGST) will accrue to the consuming state which will benefit the poor states.  
**Example 1** : If A in Gujarat produces the goods and sells the goods to B in Rajasthan, then in such case the tax should be levied and collected and should accrue to the State of Rajasthan and not to the State of Gujarat<sup>3</sup>.
- ⊙ **One Nation One Tax** : GST is levied on supply of goods and services across India (including Jammu and Kashmir). It is a single tax on the supply of goods and services, right from the manufacturer to the consumer.
- ⊙ **Dual GST Model** : Centre and states will impose tax on goods and services simultaneously.

<sup>3</sup> In pre-GST regime which was origin base taxation system, revenue will accrue to the State of Gujarat

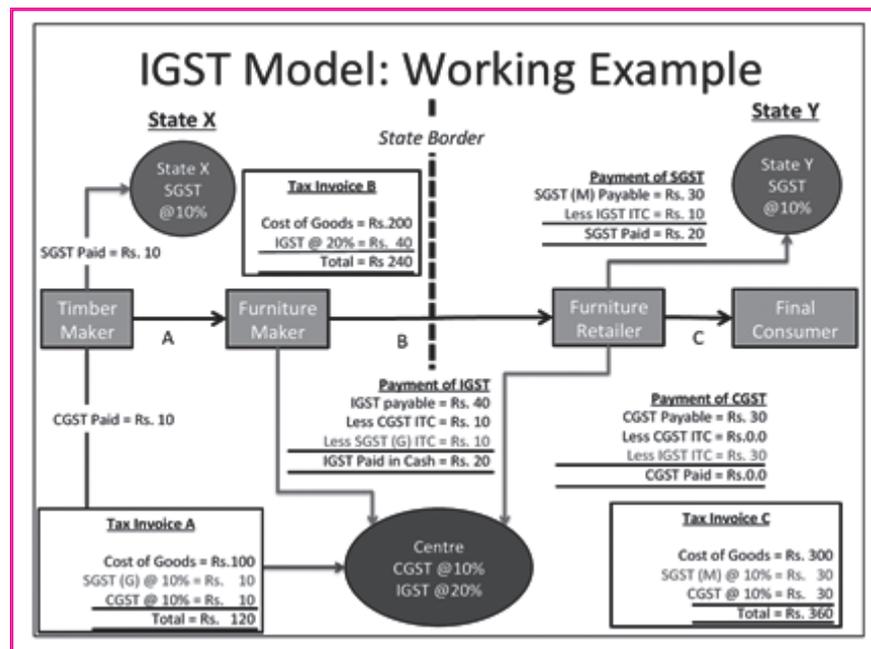
- a. Intra-State supply of goods and services
  - CGST: Payable to Central Government
  - SGST/ UTGST: Payable to State Government/ Union Territory (as applicable) where they are consumed
- b. Inter-States Supply of goods and services
  - IGST: Payable to Central Government



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

- ◉ **Import and Export :** Import will be treated as inter-States supply and IGST will be chargeable along with basic Customs duty. However, in GST Export will be treated as Zero rated supplies and no IGST is payable.
- ◉ **Rates of GST :** The rates of GST<sup>4</sup> are 0.5%, 3%, 5%, 12%, 18% and 28%. In addition, compensation cess will be payable on pan masala, tobacco & tobacco product, coal, lignite, aerated water and motor-cars.
- ◉ **Tax on value of supply :** GST will be calculated on value of supply of goods and services, which is transaction value. (subject to some exceptions)
- ◉ **Registration :** Under GST, every suppliers who have made taxable supply (subject to certain threshold limits) shall required to get himself registered under GST Law.
- ◉ **Input Tax Credit :** A registered person is entitled to take credit (deduction) of input tax paid from the output tax (if any) subject to following restriction:
  - a. Utilisation of IGST: First utilized for the payment of IGST then the balance, if any, shall be utilized towards payment of CGST and SGST/UTGST
  - b. Utilisation of CGST: First utilized for the payment of CGST then the balance, if any, may be utilized towards payment of IGST.
  - c. Utilisation of SGST/UTGST: First utilized for the payment of SGST/UTGST then the balance may be utilized towards payment of IGST.
- ◉ **Free flow of the credit :** Under GST regime there is a seamless (without any obstruction) credit flow in case of inter-state supplies, which was not possible in pre-GST period. No credit was available for CST paid by the buyer. Under GST regime the seamless credit will flow as follows:
  - a. The inter-state supplier in exporting state is allowed to set off the available credit in IGST, CGST and SGST/UTGST against the IGST payable on inter-state supply made by him.
  - b. The buyer of importing state in inter-state supply can avail the credit of IGST paid on purchase from the output tax payable.
  - c. The exporting state transfers to the centre the credit of SGST/ UTGST utilised for the payment of IGST.
  - d. The Centre transfers to the importing state the credit of IGST used in payment of SGST/UTGST.

<sup>4</sup> These are IGST rates, however where CGST and SGST/UTGST is applicable (i.e., in case of intra-State supply) rate of IGST shall be divided into 2 parts i.e., 50% of rate of IGST shall be treated as rate of CGST and balance 50% shall be treated as SGST/UTGST. E.g. where IGST rate of inter-State supply of goods is 18% then if such goods are supplied in the course of intra-State supply, applicable CGST rate would be 9% (i.e., 50% of 18%) and applicable SGST/UTGST rate would be 9% (i.e., 50% of 18%)



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

Act	Rules
The Central Goods and Services Tax Act, 2017 <sup>5</sup>	Central Goods and Services Tax Rules, 2017
The Integrated Goods and Services Tax Act, 2017	Integrated Goods and Services Tax Rules, 2017
The Goods and Services Tax (Compensation to States) Act, 2017	Goods and Services Tax Compensation Cess Rules, 2017

- Other features

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

### 5.1.7 Goods and Services Tax Compensation Cess

- Goods and Services Tax (Compensation to States) Act, 2017 was enacted to levy Compensation cess for providing compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act is brought into force (01/07/2017), for a period of five years or for such period as may be prescribed on the recommendations of the GST Council<sup>6</sup>.

<sup>5</sup> Similar law has been made by States and UT

<sup>6</sup> Extended upto 31/03/2026

- ⊙ Taxable persons selling notified goods are liable to collect and pay GST Cess. Notified goods are:
  - a. Pan masala,
  - b. Tobacco & tobacco product,
  - c. Cigarettes, cigar
  - d. Coal, lignite,
  - e. Aerated water; and
  - f. Motor-cars
- ⊙ Cess shall be computed on the value of taxable supply. Cess is levied in addition to CGST + SGST/UTGST in case of intra-state sales and IGST in case of inter-state sales including import of goods.
- ⊙ Taxpayer can use Input Tax Credit of Cess for payment of Cess liability on outward supply made by him. He cannot use Input Tax Credit of Cess for payment of output CGST, SGST or IGST
- ⊙ Where a taxpayer is registered under composition levy, Cess is not applicable on outward supplies made by him
- ⊙ Cess is not levied on export made from India. The exporter can claim a refund of the input tax credit of cess paid on purchases
- ⊙ The amount of compensation to be distributed to each state shall be calculated as follows:
 

Step 1 : Base revenue = Tax revenue of the State in financial year 2015-16.

Step 2 : Assume growth rate as 14% and calculate projected revenue for each financial year.

The implication of projected revenue is that this would be the revenue that a state could have earned if GST were not implemented.

If the base year revenue for 2015-16 for a concerned State, calculated as per section 5 is one hundred rupees, then the projected revenue for financial year 2018-19 shall be:

Projected Revenue for 2018-19=100 (1+14/100)<sup>3</sup>

Step 3 : Calculate the Compensation payable for each FY as follows :

Projected Revenue for that particular financial year	xxx
(-) Actual Revenue earned by the State including share in IGST	xxx
<b>Compensation payable to the State</b>	<b>xxx</b>
- ⊙ 50% of the amount remaining unutilised in the Fund at the end of the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance 50% shall be distributed amongst the States in the ratio of their total revenues from the State tax or the Union territory goods and services tax, as the case may be, in the last year of the transition period.

**FAQ by CBIC on 15-12-2018**

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

**Answer :** It is a destination based tax on consumption of goods and services. It is proposed to be levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as

setoff. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer.

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

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

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

**Answer :** The GST would replace the following taxes:

- i. taxes currently levied and collected by the Centre:
  - a. Central Excise duty
  - b. Duties of Excise (Medicinal and Toilet Preparations)
  - c. Additional Duties of Excise (Goods of Special Importance)
  - d. Additional Duties of Excise (Textiles and Textile Products)
  - e. Additional Duties of Customs (commonly known as CVD)
  - f. Special Additional Duty of Customs (SAD)
  - g. Service Tax
  - h. Central Surcharges and Cesses so far as they relate to supply of goods and services
- ii. State taxes that would be subsumed under the GST are:
  - a. State VAT
  - b. Central Sales Tax
  - c. Luxury Tax
  - d. Entry Tax (all forms)
  - e. Entertainment and Amusement Tax (except when levied by the local bodies)
  - f. Taxes on advertisements
  - g. Purchase Tax
  - h. Taxes on lotteries, betting and gambling
  - i. State Surcharges and Cesses so far as they relate to supply of goods and services

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

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

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

- a. Taxes or levies to be subsumed should be primarily in the nature of indirect taxes, either on the supply of goods or on the supply of services.
- b. Taxes or levies to be subsumed should be part of the transaction chain which commences with import/

manufacture/ production of goods or provision of services at one end and the consumption of goods and services at the other.

- c. The subsumation should result in free flow of tax credit in intra and inter-State levels. The taxes, levies and fees that are not specifically related to supply of goods & services should not be subsumed under GST.
- d. Revenue fairness for both the Union and the States individually would need to be attempted.

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

**Answer :** Article 366(12A) of the Constitution as amended by 101st Constitutional Amendment Act, 2016 defines the Goods and Services tax (GST) as a tax on supply of goods or services or both, except supply of alcoholic liquor for human consumption. So alcohol for human consumption is kept out of GST by way of definition of GST in constitution. Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have temporarily been kept out and GST Council shall decide the date from which they shall be included in GST.

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

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

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

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

**Q 8. What type of GST was implemented?**

**Answer :** It would be a dual GST with the Centre and States simultaneously levying it on a common tax base. The GST to be levied by the Centre on intra-State supply of goods and / or services would be called the Central GST (CGST) and that to be levied by the States/ Union territory would be called the State GST (SGST)/ UTGST. Similarly, Integrated GST (IGST) will be levied and administered by Centre on every inter-state supply of goods and services.

**Q 9. Why is Dual GST required?**

**Answer :** India is a federal country where both the Centre and the States have been assigned the powers to levy and collect taxes through appropriate legislation. Both the levels of Government have distinct responsibilities to perform according to the division of powers prescribed in the Constitution for which they need to raise resources. A dual GST will, therefore, be in keeping with the Constitutional requirement of fiscal federalism.

**Q 10. Which authority will levy and administer GST?**

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

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

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

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

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

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

**Illustration 1 :** Suppose hypothetically that the rate of CGST is 10% and that of SGST is 10%. When a wholesale dealer of steel in Uttar Pradesh supplies steel bars and rods to a construction company which is also located within the same State for, say ₹ 100, the dealer would charge CGST of ₹ 10 and SGST of ₹ 10 in addition to the basic price of the goods. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government. Of course, he need not actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as he would be entitled to set-off this liability against the CGST or SGST paid on his purchases (say, inputs). But for paying CGST he would be allowed to use only the credit of CGST paid on his purchases while for SGST he can utilize the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

**Illustration 2 :** Suppose, again hypothetically, that the rate of CGST is 10% and that of SGST is 10%. When an advertising company located in Mumbai supplies advertising services to a company manufacturing soap also located within the State of Maharashtra for, let us say ₹ 100, the ad company would charge CGST of ₹ 10 as well as SGST of ₹ 10 to the basic value of the service. He would be required to deposit the CGST component into a Central Government account while the SGST portion into the account of the concerned State Government. Of course, he need not again actually pay ₹ 20 (₹ 10 + ₹ 10) in cash as it would be entitled to set-off this liability against the CGST or SGST paid on his purchase (say, of inputs such as stationery, office equipment, services of an artist etc.). But for paying CGST he would be allowed to use only the credit of CGST paid on its purchase while for SGST he can utilise the credit of SGST alone. In other words, CGST credit cannot, in general, be used for payment of SGST. Nor can SGST credit be used for payment of CGST.

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

**Answer :** Introduction of GST would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax and allowing set-off of prior-stage taxes, it would mitigate the ill effects of cascading and pave the way for a common national market. For the consumers, the biggest gain would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25%-30%. Introduction of GST would also make our products competitive in the domestic and international markets. Studies show that this would instantly spur economic growth. There may also be revenue gain for the Centre and the States due to widening of the tax base, increase in trade volumes and improved tax compliance. Last but not the least, this tax, because of its transparent character, would be easier to administer.

### **Q 14. What is IGST?**

**Answer :** Under the GST regime, an Integrated GST (IGST) would be levied and collected by the Centre on inter-State supply of goods and services. Under Article 269A of the Constitution, the GST on supplies in the

course of inter- State trade or commerce shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in the manner as may be provided by Parliament by law on the recommendations of the Goods and Services Tax Council.

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

**Answer :** The CGST and SGST would be levied at rates to be jointly decided by the Centre and States. The rates would be notified on the recommendations of the GST Council.

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

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

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

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

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

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

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

# Levy and Collection of CGST and IGST

## 5.2

### 5.2.1 Application of CGST/ IGST Law

The introduction of Goods and Services Tax (GST) was a significant reform in the field of indirect taxes in our country. Multiple taxes levied and collected by the Centre and states has been replaced by one tax called Goods and Services Tax (GST). GST is a multi-stage value added tax on consumption of goods or services or both. A “dual GST” model has been adopted in view of the federal structure of our country.

#### A. Intra-State Supply

Centre and States will simultaneously levy GST on every supply of goods or services or both which takes place within a State or Union territory. Thus, there shall be two components of GST as under:

- a. Central tax (CGST): (levied & collected under the authority of CGST Act, 2017 passed by the Parliament)
- b. State tax (SGST) (levied & collected under the authority of SGST Act, 2017 passed by respective State)

#### B. Inter-State Supply

Centre will levy Integrated Goods and Services Tax (IGST) on every supply of goods or services or both. However, the levy shall be shared equally between Central and respective State Government.

$$\text{IGST rate} = \text{CGST rate} + \text{SGST rate}$$

In the GST, it is very important to determine the nature of supply – whether it is inter-state or intra state, as the kind of tax to be paid (IGST or CGST+SGST) depends on that. A brief note to determine nature of supply are as under :

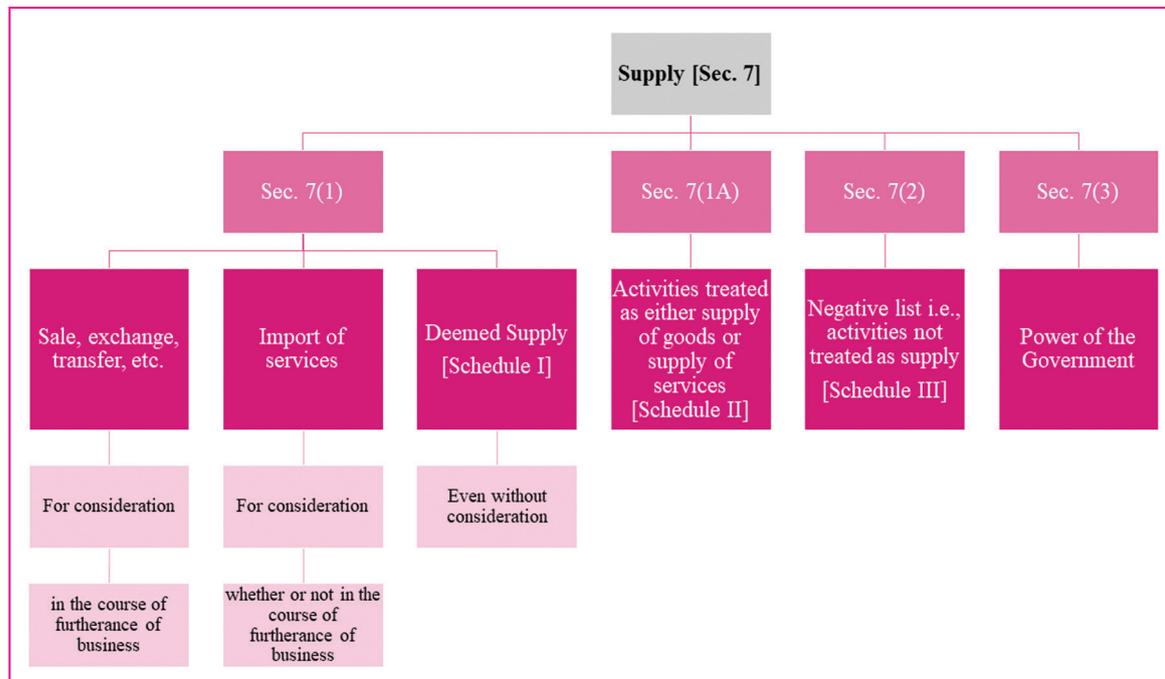
Intra-State supply	Inter-State supply
1. Supply of goods within the state or union territory.	i. Supply of goods from one state or union territory to other state or union territory.
2. Supply of services within the state or union territory	ii. Supply of service from one state or union territory to other state or union territory.
	iii. Import of goods till they cross customs frontier.
	iv. Import of service.
	v. Export of goods or service.
	vi. Supply of goods/services to/by SEZ.
	vii. Any other supply in the taxable territory which is not intra state supply.

However, sec. 20 of the IGST Act provides that the provisions of Central Goods and Services Tax Act relating to:

- a. scope of supply;
  - b. composite supply and mixed supply;
  - c. time and value of supply;
  - d. input tax credit;
  - e. registration;
  - f. tax invoice, credit and debit notes;
  - g. accounts and records;
  - h. returns, other than late fee;
  - i. payment of tax;
  - j. tax deduction at source;
  - k. collection of tax at source;
  - l. assessment;
  - m. refunds;
  - n. audit;
  - o. inspection, search, seizure and arrest;
  - p. demands and recovery;
  - q. liability to pay in certain cases;
  - r. advance ruling;
  - s. appeals and revision;
  - t. presumption as to documents;
  - u. offences and penalties;
  - v. job work;
  - w. electronic commerce;
  - x. transitional provisions; and
  - y. miscellaneous provisions including the provisions relating to the imposition of interest and penalty,
- shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act.

### 5.2.2 Concept of Supply including Composite and Mixed Supplies

The taxable event in GST is supply of goods or services or both. Various taxable events like manufacture, sale, rendering of service, purchase, entry into a territory of State etc. have been done away with in favour of just one taxable event i.e., supply. Thus, it is very important to understand the meaning of supply. The GST law provides an inclusive definition of “supply”.



### Supply [Sec. 7(1)]

Supply includes :

- 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**.
  - aa. the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
    - Notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;
- b. import of services **for a consideration whether or not** in the course or furtherance of business.
- c. the activities specified in Schedule I, made or agreed to be made **without a consideration**.

### All forms of supply of goods or services or both for a consideration by a person in the course or furtherance of business [Sec. 7(1)(a)]

- ⊙ Supply should be of goods and services. If something else is supplied like money or securities, it is not covered.
- ⊙ Supply includes all forms of supply (goods and/ or services) and includes agreeing to supply when the

supply is for a consideration and in the course or furtherance of business. It specifically provides for the inclusion of the following classes of transactions# :

a. Sale	Sale is a lawful, permanent and absolute transfer of ownership of property in goods for money consideration under a valid contract such that no rights are left behind with the transferor.
b. Transfer	Transfer is to lawfully convey property from one person to another. Consent of the transferor and capacity of transferee may not be present although all other ingredients of a lawful contract are involved.
c. Barter	Barter is where the consideration is in the form of goods or services (and not in money) for a sale or transfer. Barter will involve two supplies and not one.
d. Exchange	The act of giving or taking one thing in return for another.
e. License	To give permission to enter and use the property (movable or immovable) or permission to act.
f. Rental	An arrangement to rent something or the amount of money that you pay to rent something.
g. Lease	To make a legal agreement by which money is paid in order to use land, a building, a vehicle, or a piece of equipment for an agreed period of time.
h. Disposal	The act of getting rid of something, especially by throwing it away

# These are illustrative form of supply.

- ⦿ The supply includes supply of goods or services agreed to made in future. E.g., if Mr. X receives advance payment for providing specific service in future, the Mr. X is required to pay GST at the time of receipt of advance money as here he agrees to provide services in future.
- ⦿ Supply should be made for a consideration (i.e., quid pro quo). Consideration may be money or something else. As per sec. 2(31), **consideration** in relation to the supply of goods or services or both includes:
  - a. any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but **shall not include** any subsidy given by the Central Government or a State Government;
  - b. the monetary value of any act (doing something) or forbearance (not doing something), in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but **shall not include** any subsidy given by the Central Government or a State Government:

However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply.

  - It may be monetary or non-monetary.
- ⦿ For a transaction to qualify as ‘supply’, it is essential that the same is ‘in the course’ or ‘furtherance of business’. This implies that only such supplies of goods and/ or services by a business entity would be liable to tax, which are ‘in the course’ or in ‘furtherance of business’. Supplies that are not in the course of business or in furtherance of business will not qualify as ‘supply’ for the purpose of levy of tax.
- ⦿ As per sec. 2(52), **goods** means every kind of **movable property** other than money and securities but

includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

**Taxpoint** : Actionable Claim other than lottery, betting and gambling is not treated as supply.

- ◉ As per sec. 2(102), **services** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. It also includes facilitating or arranging transactions in securities;
- ◉ As per sec. 2(107) **taxable person** means a person who is registered or liable to be registered u/s 22 or sec. 24.

Supply should be made by a taxable person. However, recipient of the supply may or may not be a taxable person.

- ◉ As per sec. 2(84), **person** includes:
  - a. an individual;
  - b. a Hindu Undivided Family;
  - c. a company;
  - d. a firm;
  - e. a Limited Liability Partnership;
  - f. an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
  - g. any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in sec. 2(45) of the Companies Act, 2013;
  - h. any body corporate incorporated by or under the laws of a country outside India;
  - i. a co-operative society registered under any law relating to co-operative societies;
  - j. a local authority;
  - k. Central Government or a State Government;
  - l. society as defined under the Societies Registration Act, 1860;
  - m. trust; and
  - n. every artificial juridical person, not falling within any of the above;
- ◉ As per sec. 2(109), taxable territory means the territory to which the provisions of this Act apply.
- ◉ As per sec. 2(108), taxable supply means a supply of goods or services or both which is leviable to tax under this Act;
- ◉ As per sec. 2(17), business includes:
  - a. any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  - b. any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
  - c. any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

- d. supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- e. provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- f. admission, for a consideration, of persons to any premises;
- g. services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- h. activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
- i. any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

The meaning and scope of supply under GST can be understood in terms of following parameters, which can be adopted to characterize a transaction as supply:

- Supply of goods or services or both (Supply of anything other than goods or services does not attract GST).
- Supply should be made for a consideration (subject to certain exceptions).
- Supply should be made in the course or furtherance of business (subject to certain exceptions).
- Supply should be a taxable supply.
- Supply should be made in a taxable territory.
- Supply is made by as taxable person.

### **Import of service for consideration whether or not in the course or furtherance of business [Sec. 7(1)(b)]**

The word 'supply' includes import of a service (not goods), made for a consideration and whether or not in the course or in furtherance of business. This implies that import of paid services even for personal consumption would qualify as 'supply' and, therefore, would be liable to tax.

### **Activities specified in Schedule I, made or agreed to be made without a consideration [Sec. 7(1)(c)]**

As per schedule I, following activities are to be treated as supply even if made without consideration provided such activities are in course or furtherance of business:

1. Permanent transfer or disposal of business assets where input tax credit (ITC) has been availed on such asset shall be treated as supply.

#### **Taxpoint :**

Where ITC has not been availed at the time of acquisition of asset, disposal of such asset without consideration is not treated as supply.

#### **Example 2 :**

- Mr. Ramesh is engaged in the business of beauty products. Few of items on which he has already availed ITC, taken by him for personal use of his family members. Such transaction shall be treated as supply

even though there is no consideration involved.

- Mr. Kisan purchased furniture on which he has taken ITC. After 2 years, he donated that furniture to an NGO. This donation is treated as supply under the GST law.

### 2. Supply of goods or services or both between:

- related persons or
- distinct persons as specified in sec. 25,

when made in the course or furtherance of business, shall be treated as supply (even though without consideration)

#### **Exception :**

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.

#### **Taxpoint :**

- As per explanation to sec. 15(5), persons shall be deemed to be “related persons” if-
  - i. such persons are officers or directors of one another’s businesses;
  - ii. such persons are legally recognised partners in business;
  - iii. such persons are employer and employee;
  - iv. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
  - v. one of them directly or indirectly controls the other;
  - vi. both of them are directly or indirectly controlled by a third person;
  - vii. together they directly or indirectly control a third person; or
  - viii. they are members of the same family ;
    - As per sec. 2(49), family means:
      - a. the spouse and children of the person, and
      - b. the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.
- Though employer-employee are treated as related person but services provided by an employee to his employer in the course of employment is not treated as supply.
- **Distinct person [Sec. 25(4)]:** A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons

#### **Example 3 :**

X Ltd. has 3 branches. One at Kolkata, another at Chennai and third one at Mumbai. All these branches are separately registered with GST and treated as distinct persons. Any inter-State transfer (like stock transfer, etc.) among them shall be treated as supply even though there is no consideration.

### 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.

\* The clause is applicable in case of Pakka aarhatia (i.e., the agent selling or buying in this own name).

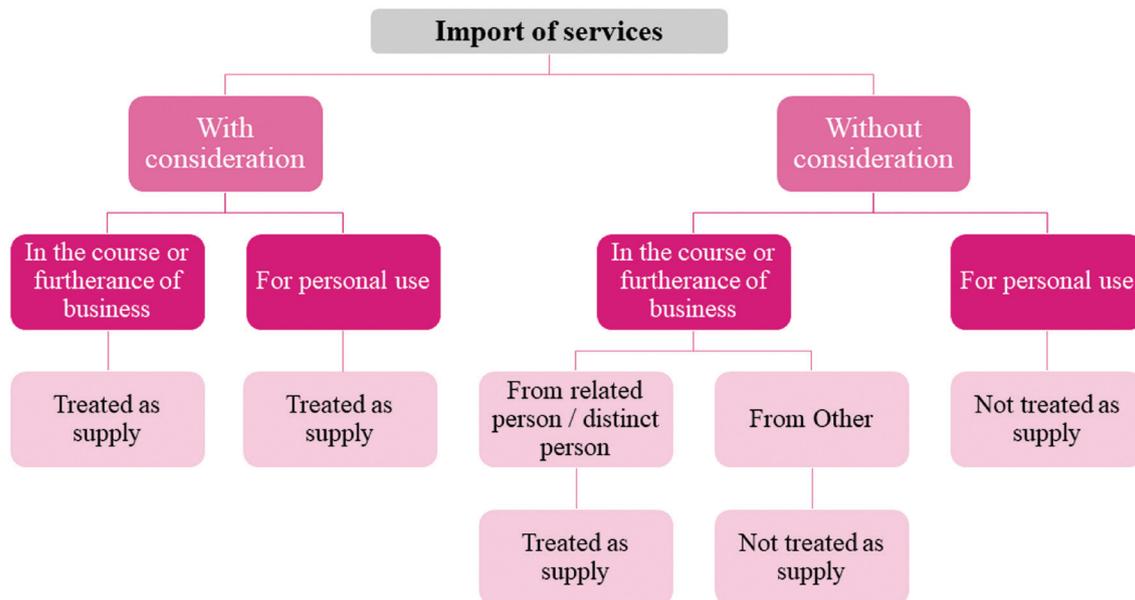
**Taxpoint :**

- This clause is applicable only
  - in case of supply of goods
  - between principal and agent
- Transfer of goods between principal and agent shall be treated as supply even though it is without any consideration.
- As per sec. 2(5), agent means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.
- As per sec. 2(88), principal means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both.

**Example 4 :**

1. Mr. Prem, Kolkata, is an agent of Mr. Magan, Mumbai. Mr. Prem is acquiring goods on behalf of Mr. Magan and supply it to Mr. Magan. Here, transaction between Mr. Prem and Mr. Magan is treated as supply even though there is no consideration.
  2. Similarly, Mr. Ashok, Surat, is an agent of Mr. Magan, Mumbai. Mr. Magan is sending goods to Mr. Ashok for selling that in Surat. Here, transaction between Mr. Ashok and Mr. Magan is treated as supply even though there is no consideration.
4. Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

**Taxpoint:** Import of services for a consideration whether or not in the course or furtherance of business is treated as supply u/s 7(1)(b). However, if services are imported by a person from a related person even though without consideration is treated as supply provided such import is in the course of business or furtherance of business.



**Buy one get one free offer [Circular No. 92/11/2019-GST dated 07/03/2019]**

Sometimes, companies announce offers like ‘Buy One, Get One free’. For example, “buy one soap and get one soap free” or “Get one tooth brush free along with the purchase of tooth paste”. As per sec. 7(1)(a), the goods or services which are supplied free of cost (without any consideration) shall not be treated as ‘supply’ under GST (except in case of activities mentioned in Schedule I). It may appear at first glance that in case of offers like ‘Buy One, Get One Free’, one item is being ‘supplied free of cost’ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

**Activities or transactions to be treated as supply of goods or supply of services [Sec. 7(1A) with Schedule II]**

In the earlier tax regime, activities like works contract was treated as both goods and services. Both VAT and service taxes were applicable on it. There were various rates, composition schemes available for works contractors with many complexities thus resulting in litigation. To settle the innumerable complexities and confusion regarding these types of activities, Schedule II is inserted in the GST laws which specifically mention the nature of supply involved in these activities.

As per Schedule II, following activities or transactions shall be treated as either supply of goods or supply of service.

Particulars	Type of activity	Nature of supply	
		Supply of goods	Supply of services
Transfer	a. any transfer of the title in goods <b>Example 5 :</b> Roby Collection sells readymade garments to its customers is a supply of goods	Yes	
	b. any transfer of right in goods or of undivided share in goods without transfer of title thereof <b>Example 6 :</b> Akhil gives his weaving machine to Rahul on rent for two months is a supply of services		Yes
	c. any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed <b>Example 7 :</b> Narayan supplied car to Kunal with a condition that ownership shall be transferred after full and final payment, is treated as supply of goods.	Yes	
Land and Building	a. any lease, tenancy, easement, licence to occupy land <b>Example 8 :</b> Vikram, owner of a piece of land in Napasar, Bikaner, leases the same land to Murli for one year at an agreed consideration, is a supply of services.		Yes
	b. any lease or <b>letting out of the building</b> including a commercial, industrial or <b>residential complex</b> for <b>business or commerce</b> , either wholly or partly <b>Example 9:</b> Vikash owns a shop in the market area. Such shop is let out by Vikash to Anil, it is treated as supply of services.		Yes

Particulars	Type of activity	Nature of supply	
		Supply of goods	Supply of services
Treatment or process	Any treatment or process which is applied to another person's goods is a supply of services  <b>Example 10 : Job work</b>		Yes
Transfer of business assets	a. where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets  <b>Example 11:</b> Kunal disposes his business asset being old laptop. This transaction is treated as supply of goods.	Yes	
	b. where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business.  <b>Example 12 :</b> Sonam provides her business laptop to his son Mohak for his full-time study is treated as supply of services.		Yes
	c. where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person.  <b>Example 13 :</b> Due to ill-health, Mr. X shut downs his business. Any business asset left at the time of shut down of the business shall be treated as supply.  <b>Exceptions</b>  i. the business is transferred as a going concern to another person; or  ii. the business is carried on by a personal representative who is deemed to be a taxable person.	Yes	
Immovable property	Renting of immovable property  <b>Taxpoint :</b> Rent of immovable property for any purpose is treated as supply of service. However, vide Notification No. 12/2017-CT(R) dated 28/06/2017, renting of residential dwelling for use as residence is treated as exempted supply [Entry 12].		Yes

Particulars	Type of activity	Nature of supply	
		Supply of goods	Supply of services
Construction	<p>Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly.</p> <p><b>Exception :</b> However, where the entire consideration has been received:</p> <p>a. after issuance of completion certificate, where required, by the competent authority; or</p> <p>b. after its first occupation</p> <p>– whichever is earlier.</p> <p>then it is not treated as supply.</p>		Yes
	<p><b>Taxpoint</b></p> <ul style="list-style-type: none"> <li>➤ Sale of ready flat, where entire consideration is received after aforesaid date, is not a supply.</li> <li>➤ “Competent authority” means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following:                             <ul style="list-style-type: none"> <li>i. an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or</li> <li>ii. a chartered engineer registered with the Institution of Engineers (India); or</li> <li>iii. a licensed surveyor of the respective local body of the city or town or village or development or planning authority;</li> </ul> </li> <li>➤ “Construction” includes additions, alterations, replacements or remodelling of any existing civil structure.</li> </ul>		
Intellectual property right	<p>Temporary transfer or permitting the use or enjoyment of any intellectual property right (IPR)</p> <p><b>Taxpoint :</b> Transfer of ownership in IPR permanently is treated as supply of goods.</p>		Yes
Information technology software	<p>Development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software;</p> <p><b>Example 14 :</b> Mr. Rahul develops a customized software for X Ltd. It is treated as supply of services</p>		Yes

Particulars	Type of activity	Nature of supply	
		Supply of goods	Supply of services
Non-compete fee	Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;  <b>Taxpoint :</b> Non-compete agreement is treated as supply of services. Further, charges recovered from the supplier for non-supplying the desired product is treated as supply of services.		Yes
Right to use	Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.  <b>Example 15 :</b> Hire purchase.		Yes
Composite supply	a. works contract; and  <b>Taxpoint :</b> As per sec. 2(119), “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.		Yes
	b. supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.		

**Activities neither supply of goods nor supply of services (Negative List) [Sec. 7(2)]**

The following activities shall be treated neither as a supply of goods nor supply of services

- a. activities or transactions specified in Schedule III; or
- b. such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

**Taxpoint :** Since these activities are neither supply of goods nor supply of services, hence no GST is payable on these activities or transactions.

**Activities or transactions specified in Schedule III**

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

**Taxpoint:**

- Gift up to ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or service or both
- Service provided by an employee to the employer, in some other capacity, is not covered.

2. Services by any **court or Tribunal** established under any law for the time being in force.
3.
  - a. the functions performed by the **Members** of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities
  - b. the duties performed by any person who holds any post in pursuance of the provisions of the **Constitution** in that capacity; or
    - Duties performed by President of India, Vice-President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Controller and Auditor General of India (CAG), Chairman of Union Public Service Commission, Chief Election Commissioner, Attorney General of India in that capacity are covered
  - c. the duties performed by any person as a **Chair-person** or a **Member** or a **Director** in a body established by the **Central Government** or a **State Government** or **local authority** and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including **transportation** of the **deceased**.
5. Sale of land and, subject to clause (b) of paragraph 5 of schedule II, sale of building. (i.e., excluding sale of under-construction premises where the part or full consideration is received before issuance of completion certificate or before its first occupation, whichever is earlier).

**Taxpoint:** Sale of ready flat is not taxable.
6. Actionable claims, other than lottery, betting and gambling.

**Taxpoint:**

  - Actionable claim means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent. E.g., unsecured loan, bills of exchange, promissory notes, etc.
  - Apart from lottery, betting and gambling, all other actionable claim is not subject to GST.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India i.e., merchant trading or Out and Out transactions.
8.
  - a. Supply of warehoused (i.e. customs bonded) goods to any person **before clearance** for home consumption
  - b. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption i.e., high sea sale

### Activities or transactions notified for the purpose of sec. 7(2)(b)

As per sec. 7(2)(b), activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council shall be treated neither as supply of goods nor as supply of services. The following activities or transactions are notified:

- ⦿ Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a municipality under article 243W of the Constitution<sup>7</sup>.

<sup>7</sup> Notification No. 14/2017-CT(R) dated 28-06-2017 as amended

- ◉ Service 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<sup>8</sup>.

**Activities or transactions not considered as supply, clarified through circulars**

- ◉ Inter-State movement of various modes of conveyance between distinct persons including trains, buses, trucks, tankers, trailers, vessels, containers, aircraft, carrying goods of passengers or both, except in cases where such movement is for further supply of the same conveyance.
- ◉ Inter-State movement of rigs, tools and spares, and all goods on wheels (like cranes)

**Taxpoint :** However, applicable tax shall be levied on repairs and maintenance done for such goods.

**Power of Government to specify the nature of supply [Sec. 7(3)]**

Subject to the provisions of sec. 7(1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as -

- a supply of goods and not as a supply of services; or
- a supply of services and not as a supply of goods.

**FAQ by CBIC on 15-12-2018**

**Q 1. What is the taxable event under GST? [FAQ 2]**

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

**Q 2. Whether supplies made without consideration will also come within the purview of supply under GST? [FAQ 3]**

**Ans.** Yes, but only those activities which are specified in Schedule I to the CGST Act / SGST Act. The said provision has been adopted in IGST Act as well as in UTGST Act also. In cases where the inputs/ capital goods sent for job work are not returned within the specified time limit, the supplies made by the principal to job worker will also be deemed to be a supply.

**Q 3. Who can notify a transaction to be supply of goods or services? [FAQ 5]**

**Ans.** Central Government or State Government, on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

**Q 4. Are all goods and services taxable under GST? [FAQ 8]**

**Ans.** Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

<sup>8</sup> Notification No. 25/2019-CT(R) dated 30-09-2019

### Composite and Mixed Supply [Sec. 7(1)]

The taxable event under GST is “supply of goods or services or both”. GST will be payable on every supply of goods or services or both unless otherwise exempted. The rates at which GST is payable for individual goods or services or both is also separately-notified. Classification of any supply (whether as goods or services, the category of goods or services) is essential to determine the applicable rate of GST on the particular supply. The application of rates will pose no problem if the supply is of individual goods or services which is clearly identifiable and the goods or services are subject to a particular rate of tax.

But not all supplies will be such simple and clearly identifiable supplies. Some of the supplies will be a combination of goods or combination of services or combination of goods and services both. Each individual component in a given supply may attract different rate of tax. The determination of rate of tax to be levied on such supplies may pose a problem and would depend upon the classification of such supplies. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

### Tax liability on composite and mixed supplies [Sec. 8]

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

Case	Applicable GST
A composite supply comprising two or more supplies, one of which is a principal supply.	It is treated as a supply of such principal supply and rate of GST on such <b>principal supply</b> shall be applicable.
A mixed supply comprising two or more supplies.	It is treated as a supply of that particular supply which <b>attracts the highest rate of tax.</b>

### Meaning of composite supply [Sec. 2(30)]

“Composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

“Principal supply” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary – Sec. 2(90)

### Example 16 :

- Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.
- When a consumer buys a laptop and he also gets warranty, pre-installed windows and microsoft office applications, this supply is a composite supply. Here, supply of laptop is the principal supply and others are ancillary to it.
- Food supplied to the in-patients as advised by the doctor/ nutritionist is a part of composite supply of health care and not separately taxable”. Further supplies of food by hospital to patients (not admitted) or their attendants or visitors are taxable.
- In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing of the content supplied by the recipient of supply is the principal supply.

**Taxpoint :**

Works contracts and restaurant services are classic examples of composite supplies, however the GST Act identifies both as supply of services and chargeable to specific rate of tax mentioned against each of such services (works contract or restaurant).

In respect of composite supplies (other than the two categories mentioned above), the need to determine the supply as a composite one, will arise, so as to determine the appropriate classification of such supply as a supply of goods or supply of services as also the appropriate rate of tax. It will be necessary to determine as to :

- a. what constitutes principal supply in such composite supplies; and
- b. whether a particular supply is naturally bundled<sup>9</sup> in the ordinary course of business.

**Example 17 :**

- ⊙ A hotel provides a 4-D/3-N package with the facility of breakfast. This is a natural bundling of services in the ordinary course of business. The service of hotel accommodation gives the bundle the essential character and would, therefore, be treated as service of providing hotel accommodation.
- ⊙ A 5 star hotel is booked for a conference of 100 delegates on a lump sum package with the following facilities:
  - Accommodation for the delegates
  - Breakfast for the delegates,
  - Tea and coffee during conference
  - Access to fitness room for the delegates
  - Availability of conference room
  - Business centre

As evident a bouquet of services is being provided, many of them chargeable to different effective rates of tax. None of the individual constituents are able to provide the essential character of the service. However, if the service is described as convention service it is able to capture the entire essence of the package. Thus, the service may be judged as convention service and chargeable to full rate. However, it will be fully justifiable for the hotel to charge individually for the services as long as there is no attempt to offload the value of one service on to another service that is chargeable at a concessional rate.

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

- ⊙ The perception of the consumer or the service receiver. If large number of service receivers of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.
- ⊙ Majority of service providers in a particular area of business provide similar bundle of services. For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.
- ⊙ The nature of the various services in a bundle of services will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. For example, service of stay in a hotel is often

<sup>9</sup> The rule is – 'If various elements of a bundled service are naturally bundled in the ordinary course of business, it shall be treated as provision of a single service which gives such bundle its essential character'

combined with a service or laundering of 3-4 items of clothing free of cost per day. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

- ◉ Other illustrative indicators, not determinative but indicative of bundling of services in ordinary course of business are -
  - There is a single price or the customer pays the same amount, no matter how much of the package they actually receive or use.
  - The elements are normally advertised as a package.
  - The different elements are not available separately.
  - The different elements are integral to one overall supply
  - if one or more is removed, the nature of the supply would be affected.

“No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case must be individually examined in the backdrop of several factors some of which are outlined above.” The above principles explained in the light of what constitutes a naturally bundled service can be gainfully adopted to determine whether a particular supply constitutes a composite supply under GST and if so what constitutes the principal supply so as to determine the right classification and rate of tax of such composite supply.

### Meaning of Mixed Supply [Sec. 2(74)]

“Mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

#### Example 18 :

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

In order to identify if the particular supply is a Mixed Supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a Mixed Supply. Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of a supply of goods or services attracting highest rate of tax.

The following illustration given in the Education Guide of CBIC referred to above can be a pointer towards a mixed supply of services: “A house is given on rent one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts highest liability of service tax. In this case renting for use as residence is a negative list service while renting for non-residence use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property.”

While there are no infallible tests for such determination, the following guiding principles could be adopted to determine whether a supply would be a composite supply or a mixed supply. However, every supply should be

independently analysed.

Description	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Each supply available for supply individually	No	Yes / No
One is predominant supply for recipient	Yes	Yes / No
Other supply(ies) is/ are ancillary or received because of predominant supply	Yes	No
Each supply priced separately	Yes / No	No
Supplied together	Yes	Yes
All supplies can be of goods	Yes	Yes
All supplies can be of services	Yes	Yes
A combination of one/ more goods and one/more services	Yes	Yes

**Buy one get one free offer [Circular No. 92/11/2019-GST dated 07-03-2019]**

- i. Sometimes, companies announce offers like ‘Buy One, Get One free’ For example, “buy one soap and get one soap free” or “Get one tooth-brush free along with the purchase of tooth paste”. As per sec. 7(1)(a), the goods or services which are supplied free of cost (without any consideration) shall not be treated as “supply” under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like “Buy One, Get One Free”, one item is being “supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.
- ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of sec. 8.
- iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

**FAQ by CBIC on 15-12-2018**

**Q 1. What are composite supply and mixed supply? How are these two different from each other?**

**Ans.** Composite supply is a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are bundled in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is a principal supply. For example, when a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.

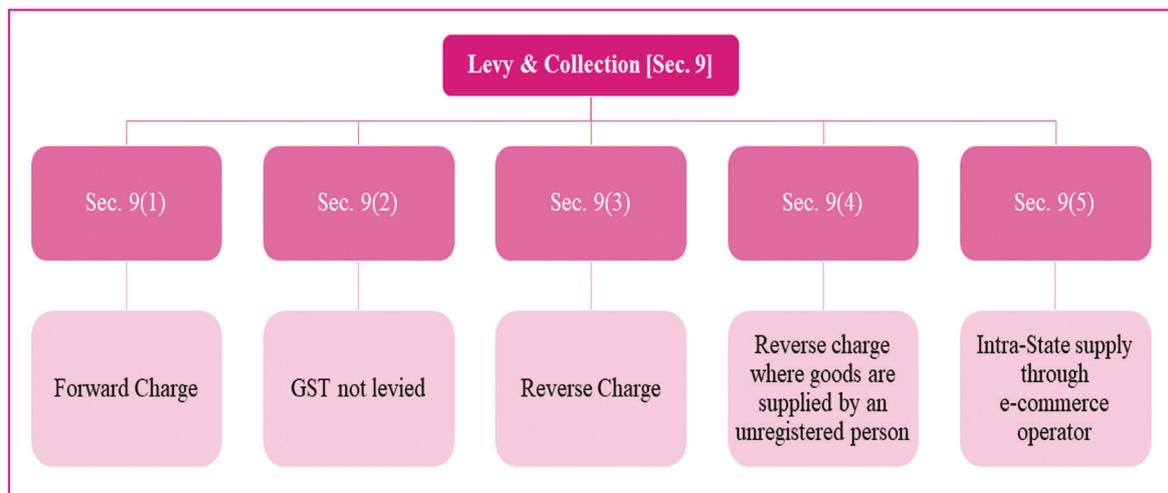
Mixed supply is combination of more than one individual supplies of goods or services or any combination thereof made in conjunction with each other for a single price, which can ordinarily be supplied separately. For example, a shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.

**Q 2. What is the treatment of composite supply and mixed supply under GST?**

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

### 5.2.3 Charge of Tax including Reverse Charge

Article 265 of the Constitution of India mandates that no tax shall be levied or collected except by the authority of law. The charging section is a must in any tax law for levy and collection of tax. Before imposing any tax, it must be shown that the transaction falls within the ambit of the taxable event and that the person on whom the tax is so imposed also gets covered within the scope and ambit of the charging section. The scope of the taxable event being 'supply' has been discussed in the earlier Chapter. This chapter will provide an insight into the chargeability of tax on a supply. Sec.9<sup>10</sup> is the charging provision of the CGST Act. It provides the maximum rate of tax that can be levied on supplies leviable to tax under this law, the manner of collection of tax and the person responsible for paying such tax. There are four aspects of levy viz taxable event, tax rate, collection or levy, and the person liable to pay. Sec. 9 of the CGST Act covers all these aspects.



#### Tax payable on Forward Charge Basis [Sec. 9(1) and 9(2)]

A tax called the central goods and services tax shall be levied.

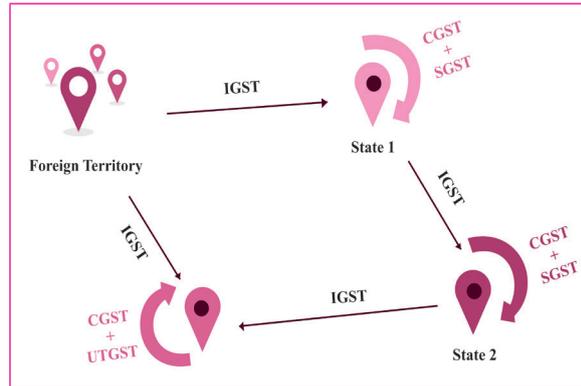
- on all intra-State supplies of goods or services or both,
- except on the supply of alcoholic liquor for human consumption,
- on the value determined u/s 15; and
- at such rates, not exceeding 20%, as may be notified by the Government on the recommendations of the Council; and
- collected in such manner as may be prescribed; and
- shall be paid by the taxable person.

	<b>Alcohol for human consumption</b>	<b>Power to tax remains with the State</b>
	<b>Five petroleum products – crude oil, diesel, petrol, natural gas and ATF</b>	<b>GST Council to decide the date from which GST will be applicable</b>
	<b>Tobacco</b>	<b>Part of GST but power to levy additional excise duty with Central Government</b>
	<b>Entertainment tax levied by local bodies</b>	<b>Power to tax remains with the State</b>

<sup>10</sup> Sec. 5 in case of IGST Act

**Taxpoint :**

- As per sec. 5 of the IGST Act, IGST shall be levied on all inter-State supplies and on goods imported into India. In case of IGST, maximum rate of tax would be 40% (20% for CGST + 20% for SGST/UTGST)
- SGST / UTGST shall also be levied on all inter-State supplies
- The central tax on the supply of
  - a. petroleum crude,
  - b. high speed diesel,
  - c. motor spirit (commonly known as petrol),
  - d. natural gas and
  - e. aviation turbine fuel



shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council. That means, GST is not leviable on aforesaid items. As per sec. 2(78), non-taxable supply means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

- As per sec. 2(107), taxable person means a person who is registered or liable to be registered u/s 22 or sec. 24.
- As per sec. 2(105), supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;
- As per sec. 2(108), taxable supply means a supply of goods or services or both which is leviable to tax under this Act;
- GST Act extends to the whole of India. As per sec. 2(56), “India” means.
  - the territory of India as referred to in article 1 of the Constitution,
  - its territorial waters<sup>11</sup>, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and
  - the air space above its territory and territorial waters ;

**Rate of GST :**

GST Rates for various goods	GST Rates for various services
0.25%	1.5%
3%	5%
5%	7.5%
12%	12%
18%	18%
28%	28%

<sup>11</sup> Refer the Customs Law, discussed in later part of this study material

### Taxpoint :

- These rates are IGST rate i.e., combined rate of CGST and SGST/UTGST
- Where services being not covered under any specific heading shall be taxable @ 18%
- Item wise applicable rate of GST are provided at portal of CBIC.

### Tax payable on Reverse Charge Basis [Sec. 9(3)]

Generally, the supplier of goods or services is liable to pay GST. However, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

As per sec. 2(98), reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both u/s 9(3) or 9(4), or u/s 5(3) or 5(4) of the Integrated Goods and Services Tax Act.

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

### Reverse charge in respect of supply of goods [Notification No. 04/2017-CT(R) dated 28/06/2017 (as amended)]

In respect of supply of following goods, GST shall be paid on reverse charge basis i.e., GST shall be payable by the recipient of such goods :

Sl. No	Description of supply of Goods	Supplier of goods	Recipient of supply (the person who is liable to pay tax)
1.	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
3A.	Following essential oils other than those of citrus fruit: a. Of peppermint (Menthapiperita) b. Of other mints: Spearmint oil (exmenthaspicata), Water mint-oil (exenthaaquatic), Horsemint oil (ex-menthasylvestries), Bergament oil (exmentha citrate)	Any unregistered person	Any registered person
4.	Silk yarn	Any person who manufactures silk yarn from raw silk or silkworm cocoons for supply of silk yarn	Any registered person
4A.	Raw Cotton	Agriculturist	Any registered person

Sl. No	Description of supply of Goods	Supplier of goods	Recipient of supply (the person who is liable to pay tax)
5.	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent. ➤ Lottery distributor or selling agent has the same meaning as assigned to it in Rule 2(c) of the Lotteries (Regulation) Rules, 2010, made under the provisions of sec. 11(1) of the Lotteries (Regulations) Act, 1998.
6.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person
7.	Priority Sector Lending Certificate	Any registered person	Any registered person

**Reverse charge in respect of supply of services [Notification No. 13/2017-CT(R) dated 28/06/2017 (as amended)]**

In respect of supply of following services, GST shall be paid on reverse charge basis i.e., GST shall be payable by the recipient of such services :

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1.	Supply of Services in respect of transportation of goods by road <b>Exception</b> However, RCM shall not apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to : a. a Department or establishment of the Central Government or State Government or Union territory; b. local authority; c. Governmental agencies, – which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.	Goods Transport Agency (GTA) who has not paid central tax @ 6%	(a) Any factory registered under or governed by the Factories Act, 1948; or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the GST; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; – located in the taxable territory.

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
2.	<p>Services provided by an individual Advocate including a Senior Advocate or firm of Advocates by way of legal services, directly or indirectly.</p> <p>➤ Legal service means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.</p>	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3.	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person.	Any body corporate or partnership firm located in the taxable territory.
5.	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding :</p> <p>1 renting of immovable property, and</p> <p>2 services specified below :</p> <p>i. services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;</p> <p>ii. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>iii. transport of goods or passengers.</p>	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
5A.	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017.	Central Government, State Government, Union territory or local authority.	Any person registered under the CGST Act.
5B.	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person.	Promoter.

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
5C.	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.
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate.	The company or a body corporate located in the taxable territory.
7.	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent.	Any person carrying on insurance business, located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent.	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a publisher, music company, producer or the like.	Music composer, photographer, artist, or the like.	Music company, producer or the like, located in the taxable territory.
9A.	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher.	Author.	<p>Publisher located in the taxable territory.</p> <p><b>Exception :</b> The provision of RCM shall not apply where :</p> <p>i. the author has taken registration under the CGST Act, 2017, 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 copyright service supplied by him under forward charge in accordance with sec. 9 (1) of the CGST Act, 2017, and to comply with all the provisions</p>

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
			<p>of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>ii. the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.</p>
10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India.	Members of Overseeing Committee constituted by the Reserve Bank of India.	Reserve Bank of India.
11.	Services supplied by individual direct selling agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).	Individual direct selling agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.
12.	Services provided by business facilitator (BF) to a banking company.	Business facilitator (BF).	A banking company, located in the taxable territory.
13.	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of Business correspondent (BC).	A business correspondent, located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person.  However, these services shall not be subject to the following recipient :	Any person other than a body corporate	A registered person, located in the taxable territory.

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
	<p>i. (a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agency; which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax u/s 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>ii. a registered person paying tax u/s 10 [Composition Levy].</p>		
15.	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6% to the service recipient.	Any body corporate located in the taxable territory
16.	Services of lending securities under Securities Lending Scheme, 1997 of Securities and Exchange Board of India, as amended.	Lender i.e., a person who deposits the Securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

**Reverse charge in respect of IGST Payable [Notification No. 10/2017-IT(R) dated 28/06/2017]**

In addition to the above list, following additional categories of supply of services are listed under Notification No. 10/2017-Integrated Tax (Rate) dated 28/06/2017 on which GST shall be paid by the recipient on reverse charge basis :

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1.	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient	Any person located in a non-taxable territory.	Any person located in the taxable territory other than non-taxable online recipient : <ul style="list-style-type: none"> <li>➤ Non-taxable online recipient means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.</li> <li>➤ Governmental authority means an authority or a board or any other body : <ul style="list-style-type: none"> <li>i. set up by an Act of Parliament or a State Legislature; or</li> <li>ii. established by any Government,</li> </ul> </li> </ul> with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.
2.	Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non-taxable territory	Importer, located in the taxable territory. <ul style="list-style-type: none"> <li>➤ Importer, in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer.</li> </ul>

**Tax payable on Reverse Charge where the supplies are made by unregistered person [Sec. 9(4)]**

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.

Following are notified :

Category of supply of goods and services	Supplier	Recipient of goods and services
Supply of specified goods and services or both <sup>12</sup> [other than services by way of grant of development rights, long term lease of land or FSI (including additional 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 (or part of the financial year) till the date of issuance of completion certificate or first occupation, whichever is earlier.	Unregistered person	Promoter
Cement 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.	Unregistered person	Promoter
Capital goods supplied to a promoter for construction of a project.	Unregistered person	Promoter

**Tax on intra-State supply through e-commerce operator [Sec. 9(5)]**

The Government is empowered to notify categories of services wherein the person responsible for payment of taxes would neither be the supplier nor the recipient of supply, but the e-commerce operator through whom the supply is effected liable to pay tax.

**Taxpoint :**

- ◉ As per sec. 2(44), “electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network.
- ◉ As per sec. 2(45), “electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.
- ◉ However, where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.
- ◉ Further, where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

The following services are specified :

1. Services by way of transportation of passengers by a radio-taxi, motor-cab, maxi-cab, motor-cycle, omnibus or any other motor vehicle.
  - Radio taxi means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).

<sup>12</sup> 80% of value of input and input services used in supplying the service of construction of project shall be received from registered supplier only. However, in computing the aforesaid 80% limit following input services and input shall be excluded:

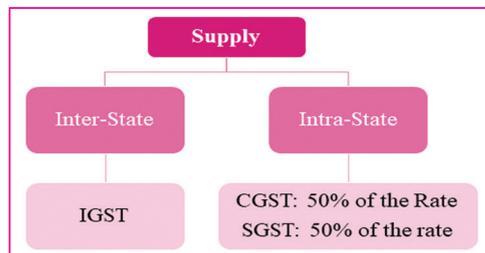
- i. High speed diesel
- ii. Motor spirit
- iii. Natural gas
- iv. Electricity
- v. Service by way of grant of development rights
- vi. FSI including additional FSI
- vii. Services by way of long term lease of land (against upfront payment in the form of premium, salami, development charges)

## Indirect Taxation

- Motor cab means any motor vehicles constructed or adapted to carry not more than 6 passengers, excluding the driver, for hire or reward.
  - Maxi cab means any motor vehicle constructed or adapted to carry more than 6 passengers but not more than 12 passengers, excluding the driver, for hire or reward.
  - Motorcycle means at two-wheeled motor vehicle, inclusive of any detachable side-car having an extra wheel, attached to the motor vehicle.
  - Omnibus means any motor vehicle constructed or adapted to carry more than 6 persons excluding the driver.
2. Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of the CGST Act.
  3. Services by way of house-keeping, such as plumbing, carpentering etc., except where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of the CGST Act.
  4. Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
    - Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent.

### Levy of GST on inter-State and intra-State Supply

For the purpose of levying tax, supply is classified as under:



- a. Inter-State Supply
- b. Intra-State Supply

In case of inter-State supply, the IGST is required to be collected and paid by the supplier. On the other hand, where supply is intra-State, CGST and SGST/UTGST is applicable. In that case, supplier is required to collect and pay CGST and SGST/UTGST.

### Taxpoint :

<p>Intra-State supply of goods [Sec. 8(1) of the IGST Act]</p>	<p>Subject to the provisions of sec. 10<sup>13</sup>, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply.</p> <p><b>Exceptions :</b></p> <p>The following supply of goods shall not be treated as intra-State supply :</p> <ol style="list-style-type: none"> <li>i. supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;</li> <li>ii. goods imported into the territory of India till they cross the customs frontiers of India; or</li> <li>iii. supplies made to a tourist referred to in sec. 15.</li> </ol>
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<sup>13</sup> Provision relating to place of supply of goods  
IGST collected by the Central Government on inter-State supply shall be apportioned between the Central Government and State Government/UT.

<sup>14</sup> Provision relating to place of supply of services

Intra-State supply of services [Sec. 8(2) of the IGST Act]	Subject to the provisions of sec. 12 <sup>14</sup> , supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply. <b>Exceptions :</b> The intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.
Inter-State supply of goods [Sec. 7(1) & 7(2) of the IGST Act]	<ul style="list-style-type: none"> <li>➤ Subject to the provisions of sec. 10, supply of goods, where the location of the supplier and the place of supply are in: <ul style="list-style-type: none"> <li>a. two different States;</li> <li>b. two different Union territories; or</li> <li>c. a State and a Union territory,</li> </ul>                     shall be treated as a supply of goods in the course of inter-State trade or commerce.                 </li> <li>➤ Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.</li> </ul>
Inter-State supply of services [Sec. 7(3) & 7(4) of the IGST Act]	<ul style="list-style-type: none"> <li>➤ Subject to the provisions of sec. 12, supply of services, where the location of the supplier and the place of supply are in- <ul style="list-style-type: none"> <li>a. two different States;</li> <li>b. two different Union territories; or</li> <li>c. a State and a Union territory,</li> </ul>                     shall be treated as a supply of services in the course of inter-State trade or commerce.                 </li> <li>➤ Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.</li> </ul>
Inter-State supply of goods and services [Sec. 7(5) of the IGST Act]	Supply of goods or services or both,- <ul style="list-style-type: none"> <li>a. when the supplier is located in India and the place of supply is outside India;</li> <li>b. to or by a Special Economic Zone developer or a Special Economic Zone unit; or</li> <li>c. in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,</li> </ul> shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

**Zero Rated Supply [Sec. 16 of the 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 for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.

**Taxpoint :**

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

made thereunder, subject to such conditions, safeguards and procedure as may be prescribed.

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

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

### FAQ by CBIC on 15-12-2018

#### Q 1. Are all goods and services taxable under GST? [FAQ 8]

Ans. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

#### Q 2. What is meant by Reverse Charge? [FAQ 11]

Ans. It means the liability to pay tax is on the recipient of supply of goods and services instead of the supplier of such goods or services in respect of notified categories of supply.

#### Q 3. Is the reverse charge mechanism applicable only to services? [FAQ 12]

Ans. No, reverse charge applies to supplies of both goods and services, as notified by the Government on the recommendations of the GST Council.

#### Q 4. Can any person other than the supplier or recipient be liable to pay tax under GST?[FAQ 16]

Ans. Yes, the Government can specify categories of services the tax on which shall be paid by the electronic commerce operator, if such services are supplied through it and all the provisions of the Act shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

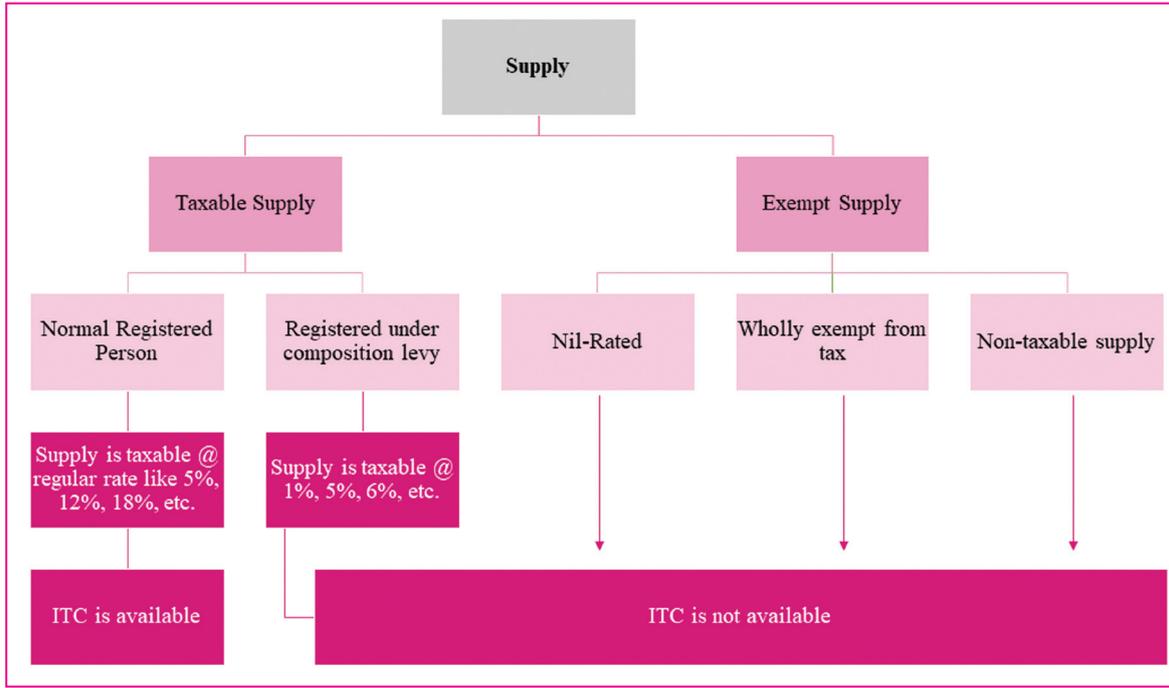
### 5.2.4 Exemption from Tax

As per sec. 2(47), “exempt supply” means supply of any goods or services or both

- which attracts nil rate of tax or
- which may be wholly exempt from tax u/s 11, or u/s 6 of the IGST Act,
- and includes non-taxable supply.

Further, as per sec. 2(78), “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the IGST Act.

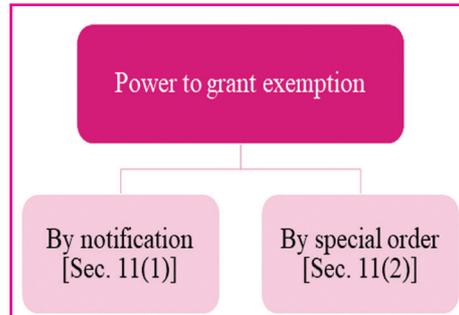
Supply can be categorized as under :



**Power to grant Exemption [Sec. 11 and Sec. 6 of the IGST Act]**

1. The Government may, on the recommendations of the Council, by notification, exempt generally, either:
  - i. absolutely; or
  - ii. subject to such conditions as may be specified therein,
 

goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.



2. The Government may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
3. For the purpose of clarifying the scope or applicability of such notification or order, the Government may insert an explanation in such notification or order, as the case may be, by notification at any time within 1 year of issue of the earlier notification or order.

Further, such explanation shall have effect as if it had always been the part of the such notification or order.

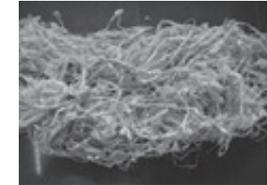
## Indirect Taxation

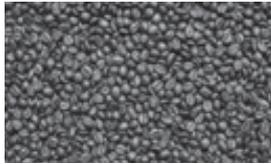
### Taxpoint :

- ◉ Unconditional exemption is mandatory whereas conditional exemption is optional in nature.
- ◉ Where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.
- ◉ Exemption may be granted on any of the following basis
  - a. Exemption based on activities
  - b. Exemption based on suppliers
  - c. Exemption based on recipients
  - d. Exemption based on specified suppliers and specified recipients

### Goods Exempt from Tax

Vide Notification No. 02/2017-CT (Rates) dated 28/06/2017 (as amended from time to time) has provided a list of almost 150 items which are exempt from GST. Few of the most common goods which are as under :

			
Cereals	Fish (not frozen or processed)	Fresh fruits and vegetables (Other than frozen or processed)	Edible vegetables roots and tubers
			
Meat (other than in frozen state and put up in unit containers)	Cane Jaggery (Gur)	Tender Coconut Water	Raw Silk
			
Silkworm laying cocoon	Silk Waste	Wool (not carded or combed)	Puja Samagri

			
Coconut coir fibre	Coffee beans (not roasted)	Green Tea Leaves (Unprocessed)	Human Blood and its components
			
Printed books, newspaper & maps	Earthen pot and clay lamps	Agricultural implements (manually operated or animal driven)	Judicial, Non-judicial stamp papers, Court fee stamps when sold by the Government Treasuries or Vendors authorized by the Government
			
Betel Leaves	Firewood or fuel wood	Non-branded organic manure	Wood charcoal

Sl. No.	Exempted goods (Notification No.2/2017-Central Tax (Rate) Dt. 28-06-2017)
1.	Live animals other than live horses.
2.	Meat and edible meat offal.
3.	Fish, crustaceans, molluscs & other aquatic invertebrates.
4.	Dairy produce; bird's eggs; natural honey; edible products of animal origin, not elsewhere specified.
5.	Human hair, unworked, whether or not washed or scoured, waste of human hair.
6.	Cut flowers and ornamental foliage

Sl. No.	Exempted goods (Notification No.2/2017-Central Tax (Rate) Dt. 28-06-2017)
7.	Edible vegetables, roots and tubers <ul style="list-style-type: none"> <li>† Potatoes, fresh or chilled.</li> <li>† Tomatoes, fresh or chilled.</li> <li>† Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled.</li> <li>† Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled etc.,</li> </ul>
8.	Coconuts, fresh or dried, whether or not shelled or peeled Bananas, including plantains, fresh or dried, Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh, other fruits, etc.,
9.	Coffee, beans, not roasted. Unprocessed green leaves of tea.
10.	Cereals All goods [other than those put up in unit container and bearing a registered brand name]. Fresh ginger, other than in processed form etc.,
11.	Products of milling industry; malt; starches; insulin; wheat gluten.
12.	Lac and Shellac,
13.	Betel leaves.
14.	Cane jaggery.
15.	<ol style="list-style-type: none"> <li>1. Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki</li> <li>2. Pappad, by whatever name it is known, except when served for consumption</li> <li>3. Bread (branded or otherwise), except when served for consumption and pizza bread.</li> </ol>
16.	Prasadam supplied by religious places like temples, mosques, churches, gurudwaras, dargahs, etc.
17.	Electrical energy.
18.	Salt.
19.	Human Blood and its components.
20.	Organic manure, other than put up in unit containers and bearing a brand name.
21.	Kumkum, Bindi, Sindur, Alta.
22.	Municipal waste, sewage sludge, clinical waste.
23.	Contraceptives
24.	wood charcoal Firewood or fuel wood
25.	Printed books, newspapers, pictures and other products of the printing industry, manuscripts, typescripts and plans.
26.	Raw Silk
27.	Wool, fine or coarse animal hair; horse hair yarn and woven fabric
28.	Gandhi Topi,

Sl. No.	Exempted goods (Notification No.2/2017-Central Tax (Rate) Dt. 28-06-2017)
29.	Khadi yarn
30.	Jute fibres, raw or processed but not spun
31.	Coconut, coir fibre
32.	Indian National Flag
33.	Bangles (except those made from precious metals)
34.	Agricultural implements manually operated or animal driven
35.	Handloom [weaving machinery]
36.	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles
37.	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof
38.	Indigenous handmade musical instruments
39.	Slates, Slate pencils and chalk sticks
40.	Project imports, laboratory chemicals, passengers' baggage, personal importation, ship stores Passenger baggage

#### Services exempt from tax

Services exempted through various provisions are as under :

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
1.	<p>Services by an entity registered u/s 12AA or 12AB of the Income-tax Act, 1961 by way of charitable activities.</p> <p><b>Taxpoint :</b> Charitable activities means activities relating to –</p> <p>As per sec. 2(47), “exempt supply” means supply of any goods or services or both</p> <p>i. public health by way of, -</p> <p style="padding-left: 20px;">A. care or counseling of</p> <p style="padding-left: 40px;">I. terminally ill persons or persons with severe physical or mental disability;</p> <p style="padding-left: 40px;">II. persons afflicted with HIV or AIDS;</p> <p style="padding-left: 40px;">III. persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;</p> <p style="padding-left: 40px;">or</p> <p style="padding-left: 20px;">B. public awareness of preventive health, family planning or prevention of HIV infection;</p> <p>ii. advancement of religion , spirituality or yoga;</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p>iii. advancement of educational programmes or skill development relating to,-</p> <ul style="list-style-type: none"> <li>A. abandoned, orphaned or homeless children;</li> <li>B. physically or mentally abused and traumatized persons;</li> <li>C. prisoners; or</li> <li>D. persons over the age of 65 years residing in a rural area;</li> </ul> <p>iv. preservation of environment including watershed, forests and wildlife.</p> <ul style="list-style-type: none"> <li>➤ Rural area means the area comprised in a village as defined in land revenue records, excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee; or any area that may be notified as an urban area by the Central Government or a State Government</li> <li>➤ Where charitable or religious trust merely provide accommodation or serve food and drink against some consideration in any form like donation etc., such activity will be taxable. Further activities such as holding of fitness camps or classes such as those in aerobics, dance, music, etc will be taxable [Circular No. 66/40/2018 dated 26-09-2018]. Further see entry 80</li> <li>➤ College, school, etc. run by a trust is not covered by entry 1 but covered in entry 66</li> <li>➤ Hostel accommodation service is covered by entry 14.</li> <li>➤ Subject to entry 60, religious yatra service is not exempt.</li> <li>➤ Medical facility is covered in entry 74.</li> <li>➤ Service provided to charitable or religious trust are taxable unless and until specifically exempted.</li> </ul>
2.	Services by way of transfer of a going concern, as a whole or an independent part thereof.
3.	<p>Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority :</p> <ul style="list-style-type: none"> <li>– by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</li> <li>– by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li> </ul> <p><b>Taxpoint :</b></p> <p>Government Entity means an authority or a board or any other body including a society, trust, corporation,—</p> <ul style="list-style-type: none"> <li>(i) set up by an Act of Parliament or State Legislature; or</li> <li>(ii) established by any Government,</li> </ul> <p>with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
3A.	<p>Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority :</p> <ul style="list-style-type: none"> <li>– by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or</li> <li>– by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.</li> </ul>
4.	<p>Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution.</p>
5.	<p>Services by Central Government, State Government, Union territory, local authority or Governmental Authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.</p> <p><b>Taxpoint :</b> Governmental Authority means an authority or a board or any other body,—</p> <ul style="list-style-type: none"> <li>(i) set up by an Act of Parliament or a State Legislature; or</li> <li>(ii) established by any Government,</li> </ul> <p>with 90% or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution .</p>
6.	<p>Services by the Central Government, State Government, Union territory or local authority excluding the following services :</p> <ul style="list-style-type: none"> <li>a. services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</li> <li>b. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>c. transport of goods or passengers; or</li> <li>d. any service, other than services covered under entries (a) to (c) above, provided to business entities.</li> </ul>
7.	<p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of upto such amount in the preceding financial year as makes it eligible for exemption from registration.</p> <p>However, the provisions of this entry shall not be applicable to:</p> <ul style="list-style-type: none"> <li>a. services,— <ul style="list-style-type: none"> <li>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;</li> <li>ii. in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> </ul> </li> </ul>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p>iii. of transport of goods or passengers; and</p> <p>b. services by way of renting of immovable property.</p> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Business entity means any person carrying out business</li> <li>➤ Renting in relation to immovable property means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.</li> </ul>
8.	<p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority.</p> <p>However, nothing contained in this entry shall apply to services—</p> <ol style="list-style-type: none"> <li>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;</li> <li>ii. in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>iii. of transport of goods or passengers</li> </ol>
9.	<p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed ₹ 5,000:</p> <p>However, nothing contained in this entry shall apply to—</p> <ol style="list-style-type: none"> <li>i. services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</li> <li>ii. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</li> <li>iii. transport of goods or passengers.</li> </ol> <p>However, where continuous supply of service, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed ₹ 5,000 in a financial year.</p>
9A.	<p>Services provided by and to Federation Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup 2017 to be hosted in India</p> <p>Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2017.</p>
9AA.	<p>Services provided by and to Federation International de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the event under FIFA U-17 Women's World Cup 2020 to be hosted in India whenever rescheduled</p> <p>Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 World Cup 2020.</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
9AB.	Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India. Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022."
9B.	Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries).
9C.	Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.
9D.	Services by an old age home run by Central Government, State Government or entity u/s 12AA of the Income Tax Act, 1961, to residents for consideration upto ₹ 25,000 per month per member provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance
10.	Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.
	<b>Taxpoint :</b> Original works means-all new constructions: i. all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable; ii. erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise.
10A.	Services supplied by electricity distribution utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturalist for agricultural use.
11.	Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex. <b>Taxpoint :</b> ➤ Residential complex means any complex comprising of a building or buildings, having more than one single residential unit ➤ Single residential unit means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.
11A.	Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.
12.	Services by way of renting of residential dwelling for use as residence.

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
13.	<p>Services by a person by way of :</p> <p>a. conduct of any religious ceremony;</p> <p>b. renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust u/s 12AA of the Income-tax Act, 1961 or a trust or an institution registered u/s 10(23C)(v) or a body or an authority covered u/s 10(23BBA) of said Act.</p> <p><b>However</b>, nothing contained in entry (b) of this exemption shall apply to,—</p> <ul style="list-style-type: none"> <li>– renting of rooms where charges are ₹ 1,000 or more per day;</li> <li>– renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ₹ 10,000 or more per day;</li> <li>– renting of shops or other spaces for business or commerce where charges are ₹ 10,000 or more per month.</li> </ul> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ General public means the body of people at large sufficiently defined by some common quality of public or impersonal nature</li> <li>➤ Religious place means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality;</li> </ul>
14.	<p>Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to ₹ 1,000 per day or equivalent.</p>
15	<p>Transport of passengers, with or without accompanied belongings, by:</p> <p>a. air, embarking from or terminating in an airport located in the state of—</p> <ol style="list-style-type: none"> <li>i. Arunachal Pradesh,</li> <li>ii. Assam,</li> <li>iii. Manipur,</li> <li>iv. Meghalaya,</li> <li>v. Mizoram,</li> <li>vi. Nagaland,</li> <li>vii. Sikkim,</li> <li>viii. Tripura; or</li> <li>ix. at Bagdogra located in West Bengal;</li> </ol> <p>b. non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or</p> <p>c. stage carriage other than airconditioned stage carriage.</p> <p>However, nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified u/s 9(5) the Act</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Radio taxi means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service</li> <li>➤ Stage carriage means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or just reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey</li> <li>➤ “Contract carriage” means a motor vehicle which carries a passenger or passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied, for the use of such vehicle as a whole for the carriage of passengers mentioned therein and entered into by a person with a holder of a permit in relation to such vehicle or any person authorised by him in this behalf on a fixed or an agreed rate or sum-: <ul style="list-style-type: none"> <li>a. on a time basis, whether or not with reference to any route or distance; or</li> <li>b. from one point to another, and in either case, without stopping to pick up or set down passengers not included in the contract anywhere during the journey,</li> </ul>                     and includes-- <ul style="list-style-type: none"> <li>i. a maxicab; and</li> <li>ii. a motor cab notwithstanding that separate fares are charged for its passengers;</li> </ul> </li> </ul>
16.	<p>Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding.</p> <p>However, nothing contained in this entry shall apply on or after the expiry of a period of 3 year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.</p>
17.	<p>Service of transportation of passengers, with or without accompanied belongings, by—</p> <ul style="list-style-type: none"> <li>a. railways in a class other than— <ul style="list-style-type: none"> <li>(i) first class; or</li> <li>(ii) an air-conditioned coach;</li> </ul> </li> <li>b. metro, monorail or tramway;</li> <li>c. inland waterways;</li> <li>d. public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and</li> <li>e. metered cabs or auto rickshaws (including e-rickshaws).</li> </ul> <p>However, nothing contained in item (e) above shall apply to services supplied through an electronic commerce operator, and notified u/s 9(5) the Act.</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Metered cab means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment and that is charged accordingly under the conditions of its permit issued under the Motor Vehicles Act, 1988 and the rules made thereunder (but does not include radio taxi)</li> <li>➤ e-Rickshaw means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers, as the case may be, for hire or reward, manufactured, constructed or adapted, equipped and maintained in accordance with such specifications, as may be prescribed in this behalf.</li> </ul>
18.	<p>Services by way of transportation of goods:</p> <ol style="list-style-type: none"> <li>a. by road except the services of:               <ol style="list-style-type: none"> <li>i. a goods transportation agency;</li> <li>ii. a courier agency;</li> </ol> </li> <li>b. by inland waterways.</li> </ol> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Goods transport agency means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called</li> <li>➤ Courier agency means any person engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles.</li> </ul>
19.	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.
19A.	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India (available upto September 2022).
19B.	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India. (available upto September 2022).
19C.	Satellite services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.
20.	<p>Services by way of transportation by rail or a vessel from one place in India to another of the following goods:</p> <ol style="list-style-type: none"> <li>a. relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;</li> <li>b. defense or military equipment's;</li> <li>c. newspaper or magazines registered with the Registrar of Newspapers;</li> <li>d. railway equipment's or materials;</li> <li>e. agricultural produce;</li> <li>f. milk, salt and food grain including flours, pulses and rice; and</li> <li>g. organic manure.</li> </ol>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
21	<p>Services provided by a goods transport agency, by way of transport in a goods carriage of:</p> <ol style="list-style-type: none"> <li>a. agricultural produce;</li> <li>b. goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed ₹ 1,500;</li> <li>c. goods, where consideration charged for transportation of all such goods for a single consignee does not exceed ₹ 750;</li> <li>d. milk, salt and food grain including flour, pulses and rice;</li> <li>e. organic manure;</li> <li>f. newspaper or magazines registered with the Registrar of Newspapers;</li> <li>g. relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;</li> <li>h. defense or military equipment's.</li> </ol> <p><b>Taxpoint :</b></p> <p>Goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods.</p>
21A.	<p>Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients:</p> <ol style="list-style-type: none"> <li>a. any factory registered under or governed by the Factories Act, 1948; or</li> <li>b. any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</li> <li>c. any Co-operative Society established by or under any law for the time being in force; or</li> <li>d. any body corporate established, by or under any law for the time being in force; or</li> <li>e. any partnership firm whether registered or not under any law including association of persons;</li> <li>f. any casual taxable person registered under the Act or the IGST Act or the SGST Act or the UTGST.</li> </ol>
21B.	<p>Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to:</p> <ol style="list-style-type: none"> <li>a. a Department or Establishment of the Central Government or State Government or Union territory; or</li> <li>b. local authority; or</li> <li>c. Governmental agencies,</li> </ol> <p>which has taken registration under the CGST, 2017 only for the purpose of deducting tax u/s 51 and not for making a taxable supply of goods or services.</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
22.	<p>Services by way of giving on hire:</p> <ol style="list-style-type: none"> <li>a. to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers; or</li> <li>b. to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers;</li> <li>c. to a goods transport agency, a means of transportation of goods.</li> <li>d. motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</li> </ol> <p><b>Taxpoint :</b></p> <p>➤ Educational institution means an institution providing services by way of:</p> <ol style="list-style-type: none"> <li>i. pre-school education and education up to higher secondary school or equivalent;</li> <li>ii. education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;</li> <li>iii. education as a part of an approved vocational education course.</li> </ol>
23.	Service by way of access to a road or a bridge on payment of toll charges.
23A.	Service by way of access to a road or a bridge on payment of annuity.
24.	Services by way of loading, unloading, packing, storage or warehousing of rice.
24A.	Service by way of Services by way of warehousing of minor forest produce.
24B.	Services provided by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres, jute etc. indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.
25.	Transmission or distribution of electricity by an electricity transmission or distribution utility.
26.	Services by the Reserve Bank of India.
27.	<p>Services by way of—</p> <ol style="list-style-type: none"> <li>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);</li> <li>b. sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.</li> </ol> <p><b>Taxpoint :</b></p> <p>Interest means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.</p>
27A.	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
28.	Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013.
29.	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.
29A.	Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.
29B.	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
30.	Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948.
31.	Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952.
31A.	Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948.
31B.	Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee.
32.	Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999.
33.	Services provided by the Securities and Exchange Board of India (SEBI) set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
34.	Services by an acquiring bank, to any person in relation to settlement of an amount upto ₹ 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. "Acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.
34A.	Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the financial institutions.
35.	Services of general insurance business provided under following schemes: <ol style="list-style-type: none"> <li>a. Hut Insurance Scheme;</li> <li>b. Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);</li> <li>c. Scheme for Insurance of Tribals;</li> <li>d. Janata Personal Accident Policy and Gramin Accident Policy;</li> <li>e. Group Personal Accident Policy for Self-Employed Women;</li> <li>f. Agricultural Pumpset and Failed Well Insurance;</li> </ol>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<ul style="list-style-type: none"> <li>g. Premia collected on export credit insurance;</li> <li>h. Restructured Weather Based Crop Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture;</li> <li>i. Jan Arogya Bima Policy;</li> <li>j. Pradhan Mantri Fasal Bima Yojana);</li> <li>k. Pilot Scheme on Seed Crop Insurance;</li> <li>l. Central Sector Scheme on Cattle Insurance;</li> <li>m. Universal Health Insurance Scheme;</li> <li>n. Rashtriya Swasthya Bima Yojana;</li> <li>o. Coconut Palm Insurance Scheme;</li> <li>p. Pradhan Mantri Suraksha Bima Yojna;</li> <li>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</li> <li>r. Bangla Shasya Bima.</li> </ul>
36.	<p>Services of life insurance business provided under following schemes:</p> <ul style="list-style-type: none"> <li>i. Janashree Bima Yojana;</li> <li>ii. Aam Aadmi Bima Yojana;</li> <li>iii. Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ₹ 2,00,000;</li> <li>iv. Varishtha Pension BimaYojana;</li> <li>v. Pradhan Mantri Jeevan Jyoti BimaYojana;</li> <li>vi. Pradhan Mantri Jan DhanYogana;</li> <li>vii. Pradhan Mantri Vaya Vandan Yojana.</li> </ul>
36A.	Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40.
37.	Services by way of collection of contribution under the Atal Pension Yojana.
38.	Services by way of collection of contribution under any pension scheme of the State Governments.
39.	<p>Services by the following persons in respective capacities—</p> <ul style="list-style-type: none"> <li>a. business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;</li> <li>b. any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or</li> <li>c. business facilitator or a business correspondent to an insurance company in a rural area.</li> </ul>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p><b>Taxpoint :</b></p> <p>Business facilitator or business correspondent means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India.</p>
39A.	<p>Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).</p> <p><b>Taxpoint :</b></p> <p>The intermediary of financial services in IFSC is a person:</p> <ol style="list-style-type: none"> <li>i. who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or</li> <li>ii. who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or</li> <li>iii. who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or</li> <li>iv. who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.</li> </ol>
40.	<p>Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory.</p>
41.	<p>One time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (30 years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units.</p> <p><b>Taxpoint :</b></p> <p>The Central Government, State Government or Union territory shall have 20% or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.</p> <p><b>Conditions :</b></p> <ol style="list-style-type: none"> <li>1. The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area.</li> <li>2. The State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard.</li> <li>3. In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of integrated tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty.</li> </ol>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p>4. The lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the integrated tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.</p>
41A.	<p>Service by way of transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under :</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project + Total carpet area of the residential and commercial apartments in the project)</p> <p><b>Conditions :</b></p> <p>The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner –</p> <p>[GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un-booked on the date of issuance of completion certificate or first occupation + Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation</p> <p>The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
41B.	<p>Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] x (carpet area of the residential apartments in the project + Total carpet area of the residential and commercial apartments in the project).</p> <p><b>Conditions</b></p> <p>The promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un- booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner –</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation + Total carpet area of the residential apartments in the project);</p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 0.5% of the value in case of affordable residential apartments and 2.5% of the value in case of residential apartments other than affordable residential apartments remaining un-booked on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.</p>
42.	<p>Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges, as the case may be.</p>
43.	Omitted.

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
44.	<p>Services provided by an incubatee upto a total turnover of ₹ 50 lakh in a financial year subject to the following conditions, namely :</p> <ol style="list-style-type: none"> <li>a. the total turnover had not exceeded ₹ 50 lakh during the preceding financial year; and</li> <li>b. a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee.</li> </ol> <p><b>Taxpoint :</b></p> <p>Incubatee means an entrepreneur located within the premises of a Technology Business Incubator or Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the Technology Business Incubator or the Science and Technology Entrepreneurship Park to enable himself to develop and produce hi-tech and innovative products.</p>
45.	<p>Services provided by—</p> <ol style="list-style-type: none"> <li>(a) an arbitral tribunal to— <ol style="list-style-type: none"> <li>i. any person other than a business entity; or</li> <li>ii. a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Act, 2017;</li> <li>iii. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</li> </ol> </li> <li>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to— <ol style="list-style-type: none"> <li>i. an advocate or partnership firm of advocates providing legal services;</li> <li>ii. any person other than a business entity; or</li> <li>iii. a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Act, 2017;</li> <li>iv. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;</li> </ol> </li> <li>(c) a senior advocate by way of legal services to— <ol style="list-style-type: none"> <li>i. any person other than a business entity; or</li> <li>ii. a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Act, 2017;</li> <li>iii. the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.</li> </ol> </li> </ol> <p><b>Taxpoint :</b></p> <p>Legal service means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.</p>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
46.	Services by a veterinary clinic in relation to health care of animals or birds.
47.	Services provided by the Central Government, State Government, Union territory or local authority by way of— a. registration required under any law for the time being in force; b. testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.
47A.	Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators.
48.	Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.
49.	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
50.	Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.  Books but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes.
51.	Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.
52.	Services by an organiser to any person in respect of a business exhibition held outside India.
53.	Services by way of sponsorship of sporting events organised— a. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country; b. by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat; c. by the Central Civil Services Cultural and Sports Board; d. as part of national games, by the Indian Olympic Association; or e. under the Panchayat Yuva Kreedaa Aur Khel Abhiyaan Scheme.
53A.	Services by way of fumigation in a warehouse of agricultural produce.

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
54.	<p>Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of:</p> <ol style="list-style-type: none"> <li>a. agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;</li> <li>b. supply of farm labour;</li> <li>c. processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;</li> <li>d. renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</li> <li>e. loading, unloading, packing, storage or warehousing of agricultural produce ;</li> </ol> <p><b>Taxpoint :</b> Aforesaid services for processed product is not exempt. E.g. storage services of green tea leave is exempt but that of black tea is not exempt here<sup>15</sup>.</p> <ol style="list-style-type: none"> <li>f. agricultural extension services;</li> </ol> <p><b>Taxpoint :</b> Agricultural extension means application of scientific research and knowledge to agricultural practices through farmer education or training</p> <ol style="list-style-type: none"> <li>g. services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</li> </ol> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Agricultural produce means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.</li> <li>➤ Agricultural Produce Marketing Committee or Board means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce</li> </ul> <ol style="list-style-type: none"> <li>h. services by way of fumigation in a warehouse of agricultural produce.</li> </ol>
55.	<p>Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce</p> <p><b>Taxpoint :</b> Milling of paddy into rice is not eligible for exemption here<sup>16</sup>.</p>

<sup>15</sup> Circular No. 16/16/2017-GST dated 15-11-2017

<sup>16</sup> Circular No. 19/19/2017-GST dated 20-11-2017

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
55A.	Services by way of artificial insemination of livestock (other than horses).
56.	Services by way of slaughtering of animals
57.	Services by way of pre-conditioning, precooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
58.	Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination.
59.	Services by a foreign diplomatic mission located in India.
60.	Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement [Haj Yatra].
61.	Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving licence, birth certificate or death certificate.
61A.	Services by way of granting National Permit to a goods carriage to operate through-out India / contiguous States.
62.	Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.
63.	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products
64.	Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April 2016:  Provided that the exemption shall apply only to tax payable on one time charge payable, in full upfront or in instalments, for assignment of right to use such natural resource.
65.	Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
65A.	Services by way of providing information under the Right to Information Act, 2005

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
65B.	<p>Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.</p> <p><b>Taxpoint :</b></p> <p>Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957, the rules made thereunder or the rules made by a State Government u/s 15(1) of the Mines and Minerals (Development and Regulation) Act, 1957.</p> <p><b>Condition :</b></p> <p>At the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.</p>
66.	<p>Services provided :</p> <ol style="list-style-type: none"> <li>a. by an educational institution to its students, faculty and staff;</li> <li>b. by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;</li> <li>c. to an educational institution, by way of,             <ol style="list-style-type: none"> <li>i. transportation of students, faculty and staff;</li> <li>ii. catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</li> <li>iii. security or cleaning or housekeeping services performed in such educational institution;</li> <li>iv. services relating to admission to, or conduct of examination by, such institution;</li> <li>v. supply of online educational journals or periodicals ;</li> </ol> </li> </ol> <p>However, nothing contained in sub-items (i), (ii) and (iii) of item (c) shall apply to an educational institution other than an institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</p> <p>Further nothing contained in sub-item (v) of item (c) shall apply to an institution providing services by way of,—</p> <ol style="list-style-type: none"> <li>i. pre-school education and education upto higher secondary school or equivalent; or</li> <li>ii. education as a part of an approved vocational education course</li> </ol>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
	<p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Approved vocational education course means,                             <ul style="list-style-type: none"> <li>i. a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or</li> <li>ii. a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship</li> </ul> </li> <li>➤ To exempt subscription of online educational journals/periodicals by educational institutions who provide degree recognized by any law</li> <li>➤ Educational institution means an institution providing services by way of,-                             <ul style="list-style-type: none"> <li>i. pre-school education and education up to higher secondary school or equivalent;</li> <li>ii. education as a part of a curriculum for obtaining a qualification recognised by any law (in India) for the time being in force;</li> <li>iii. education as a part of an approved vocational education course</li> </ul> </li> </ul> <p><b>Taxpoint :</b> Training provided by private coaching institute is not exempt.</p>
67.	Omitted.
68.	<p>Services provided to a recognised sports body by:</p> <ul style="list-style-type: none"> <li>a. an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;</li> <li>b. another recognised sports body.</li> </ul>
69.	<p>Any services provided by,:</p> <ul style="list-style-type: none"> <li>a. the National Skill Development Corporation set up by the Government of India;</li> <li>b. a Sector Skill Council approved by the National Skill Development Corporation;</li> <li>c. an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;</li> <li>d. a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to—                             <ul style="list-style-type: none"> <li>i. the National Skill Development Programme implemented by the National Skill Development Corporation; or</li> <li>ii. a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</li> <li>iii. any other Scheme implemented by the National Skill Development Corporation.</li> </ul> </li> </ul>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
70.	Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.
71.	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.
72.	Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.
73.	Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.
74.	<p>Services by way of :</p> <p>a. health care services by a clinical establishment, an authorised medical practitioner or paramedics;</p> <p>b. services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.</p> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"> <li>➤ Health care services means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in <b>any recognised system of medicines</b><sup>17</sup> in India and includes services by way of <b>transportation of the patient</b> to and from a clinical establishment, but <b>does not include hair transplant or cosmetic or plastic surgery</b>, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.</li> <li>➤ Clinical establishment means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases</li> <li>➤ Authorised medical practitioner means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force</li> <li>➤ Supply of services other than healthcare services such as renting of shops, auditorium, display of advertisement, etc. will be subject to GST.</li> </ul>
74A.	Services provided by rehabilitation professionals recognized under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA or 12AB of the Income tax Act, 1961.

<sup>17</sup> Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani and any other system of medicine that may be recognized by Central Government.

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
75.	Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.
76.	Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.
77.	Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution: <ol style="list-style-type: none"> <li>a. as a trade union;</li> <li>b. for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or</li> <li>c. upto an amount of ₹ 7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.</li> </ol>
77A.	Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in: <ol style="list-style-type: none"> <li>i. activities relating to the welfare of industrial or agricultural labour or farmers; or</li> <li>ii. promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,</li> </ol> to its own members against consideration in the form of membership fee upto an amount of ₹ 1,000/- per member per year.
78.	Services by an artist by way of a performance in folk or classical art forms of— <ol style="list-style-type: none"> <li>a. music, or</li> <li>b. dance, or</li> <li>c. theatre,</li> </ol> if the consideration charged for such performance is not more than ₹ 1,50,000. However, the exemption shall not apply to service provided by such artist as a brand ambassador. Taxpoint: Brand ambassador means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person.
79.	Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.
80.	Services by way of training or coaching in recreational activities relating to— <ol style="list-style-type: none"> <li>a. arts or culture, or</li> <li>b. sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.</li> </ol>

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
81.	<p>Services by way of right to admission to—</p> <ol style="list-style-type: none"> <li>a. circus, dance, or theatrical performance including drama or ballet;</li> <li>b. award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;</li> <li>c. recognised sporting event,</li> <li>d. planetarium,</li> </ol> <p>where the consideration for right to admission to the events or places as referred above is not more than ₹ 500 per person.</p> <p><b>Taxpoint :</b></p> <p>➤ “Recognised sporting event” means any sporting event,-</p> <ol style="list-style-type: none"> <li>i. organised by a recognised sports body where the participating team or individual represent any district, state, zone or country;</li> <li>ii. organised – <ol style="list-style-type: none"> <li>A. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;</li> <li>B. by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat ;</li> <li>C. by Central Civil Services Cultural and Sports Board;</li> <li>D. as part of national games, by Indian Olympic Association; or</li> <li>E. under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme;</li> </ol> </li> </ol>
	<p>➤ “Recognised sports body” means</p> <ol style="list-style-type: none"> <li>i. the Indian Olympic Association;</li> <li>ii. Sports Authority of India;</li> <li>iii. a national sports federation recognised by the Ministry of Sports and Youth Affairs of the Central Government, and its affiliate federations;</li> <li>iv. national sports promotion organisations recognised by the Ministry of Sports and Youth Affairs of the Central Government;</li> <li>v. the International Olympic Association or a federation recognised by the International Olympic Association; or</li> <li>vi. a federation or a body which regulates a sport at international level and its affiliated federations or bodies regulating a sport in India</li> </ol>
82.	Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017.
82A.	Services by way right to admission to the events organised under FIFA U-17 Women’s World Cup 2020.

Entry No.	Exempted services Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017)
82B.	Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022 exempted from GST.

**Following services are exempted under the IGST Act [Notification No. 9/2017-IT (Rate) Dated 28-06-2017]**

10.	<p>Services received from a provider of service located in a non-taxable territory by –</p> <ul style="list-style-type: none"> <li>a. the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;</li> <li>b. an entity registered u/s 12AA of the Income-tax Act, 1961 for the purposes of providing charitable activities; or</li> <li>c. way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of: <ul style="list-style-type: none"> <li>i. Pre-school education and education upto higher secondary school or equivalent; or</li> <li>ii. Education as a part of an approved vocational education course</li> </ul> </li> <li>d. a person located in a non-taxable territory</li> </ul> <p>However, the exemption shall not apply to</p> <ul style="list-style-type: none"> <li>i. online information and database access or retrieval services received by persons specified in entry (a) or entry (b); or</li> <li>ii. services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.</li> </ul>
10F.	Services supplied by an establishment of a person in India to any establishment of that any person outside India, which are treated as establishments of distinct persons in accordance with explanation 1 in sec. 8 of the IGST Act, 2017, subject to the condition that the place of supply of the service is outside India.
10G.	Import of services by United Nations or a specified international organization for official use of the United nations or the specified international organization.
10H.	Import of services by foreign diplomatic mission or consular post in India or diplomatic agents or career consular officers posted therein.
12AA.	Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory.
42.	Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves.
54.	Services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.

## Indirect Taxation

### Other Exemptions :

Description of Service
Services imported by unit/developer in SEZ.
Exemption to Central Government's share of profit - petroleum
Services supplied by Asian Development Bank (ADB) and International Finance Corporation (IFC)
Exemption to royalty and licence fee to the extent it is paid on the consideration attributable to royalty and licence fee re-included in transaction value on which the appropriate duties of customs have been paid.

### Sector-wise summary of exempted services

Sector-wise summary of exempted services are as under :

		
Charitable and Religious Trust Entry 1, 9D, 13, 14, 60, 66, 74 & 80	Agricultural related services Entry 24, 24A, 24B, 53A, 54, 55 & 55A	Health care services Entry 46, 73 & 74
		
Educational services Entry 66 and 80	Services by Government Entry 4, 5, 6, 7, 8, 9, 9C, 9D, 34A, 47, 61, 62, 63, 65, 65B & 74A	Construction service Entry, 10, 10A, 11, 41A & 41B
		
Passenger transportation services Entry 15, 16 & 17	Goods transportation services Entry 18, 20, 21, 21A & 21B	Financial services Entry 26, 27, 27A, 34 & 39A
		
Life insurance business services Entry 28, 29, 29A, 29B & 36	General insurance services Entry 35 & 36A	Pension services Entry 37 & 38

		
<p>Services provided by specified body Entry 30, 31, 31A, 31B, 32 &amp; 33</p>	<p>Business facilitator service Entry 39</p>	<p>Leasing services Entry 41 &amp; 43</p>
		
<p>Legal Service Entry 45</p>	<p>Sponsorship service Entry 53</p>	<p>Right to admission to event service Entry 79, 79A &amp; 81</p>
		
<p>Skill development services Entry 69 &amp; 70</p>	<p>Services by artist Entry 78</p>	<p>Services by un-incorporated body or a non-profit entity Entry 77 &amp; 77A</p>
<p>Services provided to Government Entry 3, 3A, 11A, 40, 72 &amp; 51</p>	<p>Other exempted services Entry 2, 9AA, 9B, 12, 14, 19C, 22, 23, 23A, 25, 44, 47A, 48, 49, 50, 52, 56, 57, 58, 59, 65A, 68, 75, 76, 82A &amp; 82B</p>	

**Difference between zero-rated supply and exempted supply**

Particulars	Zero-Rated Supplies	Nil-Rated Supply	Non-GST Supply	Exempt Supply
<b>Meaning</b>	Supply which is meant for Export or supply of goods or services or both for authorized operations to Special Economic Zone developer or a Special Economic Zone unit.	Supply which attracts 0% GST rate.	Supply which is outside the purview of GST Act.	Supply which attracts nil rate of tax or which are specifically exempt from GST through government notification and includes non-taxable supply.

## Indirect Taxation

<b>GST Applicability</b>	(i) Supply of good or services without payment GST using LUT and claim a refund of unutilised ITC.  (ii) Supply of good or services by paying IGST and claim a refund of such IGST paid.	GST is not applicable on supply.	GST is not applicable on supply.	GST is not applicable on supply.
<b>Input Tax Credit Availability</b>	Input tax credit can be claimed.	No input tax credit is available.	No input tax credit is available.	No input tax credit is available.
<b>Cover under GST Ambit</b>	Yes	Yes	Yes	Yes (for nil rated and exempt supply) No (for non-taxable supply).

### Illustration 3 :

State whether following services are exempted or not :

Services	Remarks
Shri Jagdish Ji, a priest, charged ₹ 21,000/- from Mr. X for carrying out the rituals of his marriage ceremony.	Exempt as per Entry 13
Rent of ₹ 19,000 charged for letting out community hall in a temple premises for marriage ceremony.	Not Exempt
Temple provides room (in the precincts of the temple) on rent of ₹ 750 per day to the pilgrims.	Exempt as per Entry 13

### Illustration 4 :

Determine taxable value of supply under GST law with respect to each of the following independent services provided by the registered persons :

Particulars	₹
Fees charged for yoga camp conducted by a charitable trust.	50,000
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts.	1,00,000
Amount charged by cord blood bank for preservation of stem cells.	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

### Solution:

Computation of value of taxable supply :

Particulars	Entry	₹
Fees charged for yoga camp conducted by a charitable trust	1	Exempt
Amount charged by business correspondent for the services provided to the rural branch of a bank with respect to Savings Bank Accounts.	39	Exempt

Amount charged by cord blood bank for preservation of stem cells.	73	Exempt
Amount charged for service provided by commentator to a recognized sports body.		5,20,000

**Illustration 5 :**

Mr. Ijas, a performing artist, provides the following information relating to October, 2022 :

Receipts from	Amount (₹)
Performing classical dance	1,40,000
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts	2,10,000
Activities in sculpture making	3,10,000
Performing western dance	90,000

What will be value of taxable supply?

**Solution:**

Computation of value of taxable supply :

Particulars	Amount (₹)
Performing classical dance [Exempt as per entry 78]	Exempt
Performing in television serial	2,80,000
Services as brand ambassador	12,00,000
Coaching in recreational activities relating to arts [Exempt as per entry 80]	Exempt
Activities in sculpture making	3,10,000
Performing western dance	90,000
<b>Value of taxable supply</b>	<b>18,80,000</b>

**Illustration 6 :**

On the basis of following information, you are requested to compute value of taxable supply and GST :

	Particulars	₹
a)	Advertisement through hoardings	1,00,000
b)	Performances as folk-dance artist	80,000
c)	Hotel room @ ₹ 2,500/- per room	1,50,000
d)	Rent received for residential dwelling use as residence per month	20,000
e)	Received from outdoor catering service	1,50,000
f)	Received by a professional training centre	1,80,000
g)	Received from service by way of transportation of passengers by inland waterways	50,000

Assuming GST @ 18% i.e. CGST - 9% & SGST - 9%

**Solution:**

Computation of value of taxable supply and tax liability :

	Particulars	₹
a)	Advertisement through hoardings	1,00,000
b)	Performances as folk-dance artist [Exempt as per entry 78]	Exempt
c)	Hotel room @ ₹ 2,500/- per room	1,50,000
d)	Rent received for residential dwelling use as residence per month	Exempt
e)	Received from outdoor catering service [Exempt as per entry 12]	1,50,000
f)	Received by a professional training centre	1,80,000
g)	Received from service by way of transportation of passengers by inland waterways [Exempt as per entry 17]	Exempt
	<b>Value of taxable supply</b>	<b>5,80,000</b>
	Tax on above	
	- CGST [₹ 5,80,000 x 9%]	52,200
	- SGST [₹ 5,80,000 x 9%]	52,200

**Illustration 7 :**

Compute the taxable value of supply of service of A Ltd. for the month of June 2022 from the following information:

S.N.	Particulars	₹
(1)	Entry fees received for cultural programme organised in open theatre where the ticket price is ₹ 200	5,00,000
(2)	Receipts on account of stand alone ride in a mall	2,00,000
(3)	Receipts of video parlours for exhibiting movies	2,00,000
(4)	Auxiliary services provided in capacity of an event manager for organising an event	15,00,000
(5)	Receipts from running Natraj Circus	8,00,000
(6)	Receipts on account of admission to award function where the consideration for admission is ₹ 400 per person	5,00,000
(7)	Receipts on account of admission to musical performance where the consideration for admission is ₹ 1,000 per person	10,00,000
(8)	Receipts on account of admission to recognised sporting event where the consideration for admission is ₹ 1,000 per person	10,00,000
(9)	Receipts on account of admission to non recognised sporting event where the consideration for admission is ₹ 1,000 per person	10,00,000
(10)	Receipts of amusement park	15,00,000

**Solution:**

Computation of value of taxable supply :

S.N.	Particulars	₹
(1)	Entry fees received for cultural programme organised in open theatre [Entry 81]	Exempt
(2)	Receipts on account of stand alone ride in a mall	2,00,000
(3)	Receipts of video parlours for exhibiting movies	2,00,000
(4)	Auxiliary services provided in capacity of an event manager for organising an event	15,00,000
(5)	Receipts from running Natraj Circus	Exempt
(6)	Receipts on account of admission to award function where the consideration for admission is ₹ 400 per person	Exempt
(7)	Receipts on account of admission to musical performance where the consideration for admission is ₹ 1,000 per person	10,00,000
(8)	Receipts on account of admission to recognised sporting event where the consideration for admission is ₹ 1,000 per person	10,00,000
(9)	Receipts on account of admission to non recognised sporting event where the consideration for admission is ₹ 1,000 per person	10,00,000
(10)	Receipts of amusement park	15,00,000
	<b>Value of taxable supply</b>	<b>64,00,000</b>

**Illustration 8 :**

Agro Farm Limited registered under GST furnishes the following details with respect to the activities undertaken by them in the month of May, 2022 :

S.N.	Particulars	₹
(1)	Receipts from Supply of farm labour	85,000
(2)	Charges for seed testing	65,000
(3)	Charges for soil testing of farm land	35,000
(4)	Charges for warehousing of potato chips	85,000
(5)	Commission received on sale of wheat	75,000
(6)	Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research	10,000
(7)	Renting of vacant land to a stud farm	1,85,000
(8)	Leasing of vacant land to a cattle farm	83,500
(9)	Charges for warehousing of rice	1,50,000
(10)	Charges for warehousing of cotton fabrics	2,00,000
(11)	Retail packing and labelling of fruits and vegetables	5,00,000

Compute the value of taxable supply of Agro Farm Limited for the month of May, 2022 if all the above amounts are exclusive of GST.

**Solution:**

Computation of value of taxable supply :

S.N.	Particulars	₹
(1)	Receipts from Supply of farm labour [Entry 54]	Exempt
(2)	Charges for seed testing [Entry 54]	Exempt
(3)	Charges for soil testing of farm land [Entry 54]	Exempt
(4)	Charges for warehousing of potato chips	85,000
(5)	Commission received on sale of wheat [Entry 54]	Exempt
(6)	Charges for training of farmers on use of new pesticides and fertilizers developed through scientific research [Entry 54]	Exempt
(7)	Renting of vacant land to a stud farm	1,85,000
(8)	Leasing of vacant land to a cattle farm [Entry 54]	Exempt
(9)	Charges for warehousing of rice [Entry 24]	Exempt
(10)	Charges for warehousing of cotton fabrics	2,00,000
(11)	Retail packing and labelling of fruits and vegetables [Entry 57]	Exempt
	<b>Value of taxable Supply</b>	<b>4,70,000</b>

**Illustration 9 :**

Mr. Dev a famous cricketer furnishes you with the following information of the various receipts for the month ended 30-09-2022. You are required to compute value of taxable supply :

S.N.	Particulars	₹
(1)	Receipts from Sports Authority of India for participation in recognised sport	50 lakh
(2)	Receipts from franchisee of Indian Premier league (not a recognised sports body)	75 lakh
(3)	Receipts from acting as brand ambassador for corporate client	22 lakh
(4)	Receipts of sports training academy to coach young players	15 lakh

**Solution:**

Computation of value of taxable supply :

S.N.	Particulars	₹
(1)	Receipts from Sports Authority of India for participation in recognised sport [Entry 68]	Exempt
(2)	Receipts from franchisee of Indian Premier league (not a recognised sports body)	75 lakh
(3)	Receipts from acting as brand ambassador for corporate client	22 lakh
(4)	Receipts of sports training academy to coach young players [Entry 80]	Exempt
	<b>Value of taxable supply</b>	<b>97 lakh</b>

**Illustration 10 :**

M/s. D Bank Limited, a Scheduled Commercial Bank has furnished the following details for the month of August, 2022 :

Particulars	₹ in Crores (Excluding GST)
Extended Housing Loan to its customers	200
Processing fees collected from its customers on sanction of loan	40
Commission collected from its customers on bank guarantee	60
Interest income on credit card issued by the bank	80
Interest received on housing loan extended by the bank	50
Minimum balance charges collected from current account & saving account holder	02

Compute the value of taxable supply.

**Solution:**

Computation of value of taxable supply :

Particulars	₹ in Crores
Extended Housing Loan to its customers [Money is not considered as goods hence, extending loan is not a supply]	-
Processing fees collected from its customers on sanction of loan	40
Commission collected from its customers on bank guarantee	60
Interest income on credit card issued by the bank	80
Interest received on housing loan extended by the bank [Interest on loan is exempt]	-
Minimum balance charges collected from current account & saving account holder	02
<b>Value of taxable supply</b>	<b>182</b>

### FAQ by CBIC on 15-12-2018

#### Q 1. Does the GST Law empower the Government to exempt supplies from the levy of GST? [FAQ 9]

**Ans.** Yes. In the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions. Further the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both. It has also been provided in the SGST Act and UTGST Act that any exemption granted under CGST Act shall be deemed to be exemption under the said Act.

#### Q 2. When exemption from whole of tax on goods or services or both has been granted absolutely, can a person pay tax? [FAQ 10]

**Ans.** No. Furthermore, if the goods are partly exempted, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

### 5.2.5 Composition Levy

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit. The objective of composition scheme is to bring simplicity, ease compliance burden and reduce cost of compliance for the small taxpayers. The scheme is optional. It essentially provides for a turnover tax regime for such tax-payers, with facility of less compliance.

An eligible person opting to pay tax under the composition scheme shall, instead of paying tax on every invoice at the specified rate, pay tax at a prescribed percentage of his turnover.

**Advantages of Composition Scheme :**

The following are the advantages of registering under composition scheme:

- Lesser compliance (returns, maintaining books of record, issuance of invoices)
- Limited tax liability
- High liquidity as taxes are levied at a lower rate

**Disadvantages of Composition Scheme :**

The disadvantages of registering under GST composition scheme are as under:

- A limited territory of business. The dealer is barred from carrying out inter-state transactions
- No Input Tax Credit available to composition dealers
- The taxpayer will not be eligible to supply non-taxable goods under GST such as alcohol and goods through an e-commerce portal.
- No ITC to the buyer of goods from the supplier under composition scheme, which will lead to increase in cost.

**Composition Levy under GST [Sec. 10]**

A registered person, whose aggregate turnover in the preceding financial year did not exceed threshold limit, may opt to pay, in lieu of the tax payable by him u/s 9(1), an amount of tax calculated at such rate as may be prescribed.

**Threshold limit [Notification No. 14/2019-CT dated 07-03-2019]**

The limit are as under :

Case	Limit	
	Location	Threshold Limit
Supply of goods and restaurant service (restaurant, mandap keeper, and outdoor caterer who made supplies, by way of or as a part of any service of goods, being food or any other article for human consumption or any drink other than alcoholic liquor for human consumption)	1. Arunachal Pradesh, 2. Manipur, 3. Meghalaya, 4. Mizoram, 5. Nagaland, 6. Sikkim, 7. Tripura, 8. Uttarakhand	₹ 75 lakh
	Other States / UT	₹ 1.5 crore
<b>Taxpoint:</b> The person is allowed to opt for consumption scheme in the current financial year if his turnover of the preceding financial year did not exceed aforesaid limit.		
Manufacturers and Traders are allowed to supply of services with supply of goods and/or restaurant service	Higher of the following is allowed: a. 10% of turnover in a State or UT in the preceding financial year b. ₹ 5,00,000	
Supplier of service other than restaurant services	₹ 50 lakh	

**Taxpoint :**

- ⦿ Manufacturer of
  - a ice cream and other edible ice, whether or not containing cocoa; or
  - b Pan masala; or
  - c Tobacco and manufactured tobacco substitutes; or
  - d aerated water; or
  - e fly ash bricks, fly ash aggregate with 90% or more fly ash content; Fly ash blocks; or
  - f Bricks of fossil meals or similar siliceous earths; or
  - g Building bricks; or
  - h Earthen or roofing tiles,
 are not eligible for composition scheme.
- ⦿ The value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory

**Rates of GST for the supplier under composition scheme [Read with Rule 7]**

The rate are as under :

Case	Rate of GST
Manufacturers other than manufacturer of ice cream, pan masala, tobacco or aerated water, etc.	1% (i.e. 0.5% CGST + 0.5% SGST) of the turnover <sup>18</sup> in State or turnover in Union territory.
Traders	1% (i.e. 0.5% CGST + 0.5% SGST) of the turnover of <b>taxable supplies</b> of goods and services in the State or Union territory
Restaurant Services	5% (i.e. 2.5% CGST + 2.5% SGST) of the turnover <sup>1</sup> in State or turnover in Union territory
Services other than restaurant services	6% (i.e. 3% CGST + 3% SGST) of the turnover of supplies of goods and services in the State or Union territory.

The composition supplier shall be liable to make payment at the rate applicable on the supply in respect of every inward supply liable to tax under the reverse charge mechanism, regardless of the rate of tax that is applicable on him on the outward supplies effected by him. It may be noted that the value of such inward supplies would not be included in the aggregate turnover of the composition taxpayer although the liability is discharged by him on such inward supplies.

**Restriction on the supplier of goods and restaurant services opting for composition scheme [Sec. 10(2)]**

The registered person shall be eligible to opt for composition scheme, if:

- a. he is not engaged in the supply of services (however, upto certain limit as mentioned above, supply of service is allowed);
- b. he is not engaged in making any supply of goods or services which are not leviable to tax under this Act (however, he may deal in exempt supply);

<sup>18</sup> Exempted as well as taxable

- c. he is not engaged in making any inter-State outward supplies of goods or services;
- d. he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source u/s 52;
- e. he is not a manufacturer of notified goods i.e., ice cream and other edible ice, whether or not containing cocoa, or Pan masala or Tobacco and manufactured tobacco substitutes or aerated water, etc.
- f. he is neither a casual taxable person nor a non-resident taxable person

### **Taxpoint :**

Where more than one registered persons are having the same PAN, the registered person shall not be eligible to opt for the scheme unless all such registered persons opt to pay tax under the scheme. i.e., all registered person having same PAN must opt for composition scheme.

### **Example 19 :**

A company has the following businesses separately registered:

- Sale of mobile devices (registered in Kerala)
- Franchisee of branded restaurant (registered in Goa)

The scheme would be applicable for the said two units. The company cannot opt for composition scheme for the registration in Kerala and opt to pay taxes under the regular scheme for the registration in Goa.

### **Restriction on the supplier of services opting for composition scheme [Sec. 10(2A)]**

The registered person, being supplier of services, are eligible to composition scheme if:

- a. he is not engaged in making any supply of goods or services which are not leviable to tax under this Act;
- b. he is not engaged in making any inter-State outward supplies of goods or services;
- c. he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source u/s 52;
- d. he is not a manufacturer of notified goods<sup>19</sup> or supplier of notified services; and
- e. he is not a casual taxable person or a non-resident taxable person:

### **Taxpoint :**

Where more than one registered persons are having the same PAN, the registered person shall not be eligible to opt for the scheme unless all such registered persons opt to pay tax under the scheme. i.e., all registered person having same PAN must opt for composition scheme.

### **Aggregate Turnover and turnover for the purpose of computing tax**

- As per sec. 2(6), aggregate turnover means the aggregate value of:
  - a. all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
  - b. exempt supplies (excluding exempted services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount),
  - c. exports of goods or services or both; and

<sup>19</sup> manufacturer of notified goods i.e., ice cream and other edible ice, whether or not containing cocoa, or Pan masala or Tobacco and manufactured tobacco substitutes or aerated water, etc.

- d. inter-State supplies of persons having the same PAN (i.e., stock transfer between branches, etc.) to be computed on all India basis but excludes
- central tax, State tax, Union territory tax, integrated tax and cess.
  - the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount
- ◉ For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
  - ◉ Further, for the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies:
    - i. supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
    - ii. exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

#### **Lapse of options [Sec. 10(3)]**

The option availed of by a registered person for composition scheme shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit.

#### **Person not eligible to collect tax [Sec. 10(4)]**

A taxable person, who opts for composition levy, shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

#### **Taxpoint :**

The composition supplier is required to pay tax from his own pocket.

#### **Penalty in case of wrongfully availing the scheme [Sec. 10(5)]**

If the proper officer has reasons to believe that a taxable person has paid tax under composition levy, despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of sec. 73 or 74 shall, mutatis mutandis, apply for determination of tax and penalty.

#### **Other Rules**

##### **Intimation for composition levy [Rule 3]**

1. Any person who applies for registration under rule 8(1) may give an option to pay tax u/s 10 in Part B of Form GST REG-01, which shall be considered as an intimation to pay tax under the said section.
2. Any registered person who opts to pay tax u/s 10 shall electronically file an intimation in Form GST CMP-02, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised.

3. He shall also furnish the statement in Form GST ITC-03 in accordance with the provisions of rule 44(4) within a period of 60 days from the commencement of the relevant financial year.
4. Any intimation in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

**Effective date for composition levy [Rule 4]**

The intimation shall be considered only after the grant of registration to the applicant and his option to pay tax u/s 10 shall be effective from the following date :

Where the application for registration has been submitted within a period of 30 days from the date of his becoming liable to registration.	The registration shall be effective from the date on which the person becomes liable to registration.
Where an application for registration has been submitted by the applicant after the expiry of 30 days from the date of his becoming liable to registration.	The date of grant of registration

**Conditions and restrictions for composition levy [Rule 5]**

The person exercising the option to pay tax u/s 10 shall comply with the following conditions:

- a. he is neither a casual taxable person nor a non-resident taxable person;
- b. the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sec. 9(4) i.e., reverse charge;
- c. he shall pay tax u/s 9(3) or (4) on inward supply of goods or services or both;
- d. he was not engaged in the manufacture of notified goods<sup>20</sup> during the preceding financial year;
- e. he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- f. he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

**Taxpoint :**

The registered person paying tax u/s 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

**Validity of composition levy [Rule 6]**

1. The option exercised by a registered person to pay tax u/s 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.
2. Such person shall be liable to pay tax u/s 9(1) from the day he ceases to satisfy any of the conditions mentioned in sec. 10 or the provisions of this Chapter and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in Form GST CMP-04 within 7 days of the occurrence of such event.
3. The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in Form GST CMP-04, duly signed or verified through electronic verification code, electronically on the common portal.

<sup>20</sup> ice cream and other edible ice, whether or not containing cocoa, or Pan masala or Tobacco and manufactured tobacco substitutes or aerated water, etc.

4. Where the proper officer has reasons to believe that the registered person was not eligible to pay tax u/s 10 or has contravened the provisions of the Act or provisions of this Chapter, he may issue a notice to such person in Form GSTCMP-05 to show cause within 15 days of the receipt of such notice as to why the option to pay tax under section 10 shall not be denied.
5. Upon receipt of the reply to the show-cause notice from the registered person in Form GST CMP-06, the proper officer shall issue an order in Form GST CMP-07 within a period of 30 days of the receipt of such reply, either accepting the reply, or denying the option to pay tax u/s 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.
6. Every person who has furnished an intimation or filed an application for withdrawal or a person in respect of whom an order of withdrawal of option has been passed in Form GST CMP-07, may electronically furnish at the common portal, either directly or through a Facilitation Centre, a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of 30 days from the date from which the option is withdrawn or from the date of the order passed in FORM GST CMP-07, as the case may be.
7. Any intimation or application for withdrawal or denial of the option to pay tax u/s 10 in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

**Illustration 11 :**

Mr. Ritesh of Assam, provides the following information for the preceding financial year 2021-22. You are required to find out the aggregate turnover for the purpose of eligibility of composition levy scheme and determine whether he is eligible for composition levy scheme or not, for the F.Y. 2022-23.

Particulars	₹ in lakh
Value of taxable outward supplies (out of above, ₹ 10 lakh was in course of inter-state transactions)	75.00
Value of exempt supplies (which include ₹ 30 lakh received as interest on loans & advances)	70.00
Value of inward supplies on which he is liable to pay tax under reverse charge	15.00
Value of exports	7.00

All the amounts are exclusive of GST. Further, he assured that in F.Y. 2022-23, no inter-State supply will be executed by him.

**Solution:**

Computation of aggregate turnover of Mr. Ritesh for F.Y. 2021-22 for the purpose of eligibility of composition levy scheme :

Particulars	₹ in lakh
Value of taxable outward supplies [All taxable supplies including inter-State supplies]	75
Value of exempt supplies [excluding value of supply of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount]	40
Value of inward supplies on which Mr. Ritesh is liable to pay tax under reverse charge	Nil
Value of exports	7
<b>Aggregate turnover for determining eligibility for composition scheme</b>	<b>122</b>

A registered person of Assam is eligible to opt for composition levy if his aggregate turnover does not exceed ₹ 1.5 crore in the preceding financial year. Therefore, in the given case, Mr. Ritesh is eligible to opt for composition levy for F.Y. 2022-23.

### **FAQ by CBIC on 15-12-2018**

**Q 1. A person availing composition scheme during a financial year crosses the turnover of ₹ 150 Lakhs/₹ 75 Lakhs during the course of the year i.e. say he crosses the turnover of ₹ 150 Lakhs / ₹ 75 Lakhs in December? Will he be allowed to pay tax under composition scheme for the remainder of the year i.e. till 31st March? [FAQ 23 (amended)]**

**Ans.** No. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds threshold limit. Once he crosses the threshold, he shall file an intimation for withdrawal from the scheme in Form GST CMP-04 within 7 days of the occurrence of such event. Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

**Q 2. How will aggregate turnover be computed for the purpose of composition scheme? [FAQ 24]**

**Ans.** It will be computed on the basis of turnover on all India basis. “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

However, a person supplying any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, not be ineligible for the composition scheme. In computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of the exempt services including services by way of extending deposits, loans or advances shall not be taken into account.

**Q 3. Can a person who has opted to pay tax under the composition scheme avail Input Tax Credit on his inward supplies? [FAQ 25]**

**Ans.** No. A taxable person opting to pay tax under the composition scheme is out of the credit chain. He cannot take credit on his input supplies.

**Q 4. Can a registered person, who purchases goods from a taxable person paying tax under the composition scheme, take credit on purchases made from the composition dealer? [FAQ 26]**

**Ans.** No.

**Q 5. Can a person paying tax under the composition scheme issue a tax invoice under GST? [FAQ 27]**

**Ans.** No.

**Q 6. Is monthly return required to be filed by the person opting to pay tax under the composition scheme? [FAQ 28 (amended)]**

**Ans.** No. Such persons need to file annual returns in Form GSTR-4 by 30th April of the following year. Further, he is required to file CMP-08 by 18th of the month succeeding the quarter.

**Q 7. Can a person who has already obtained registration, opt for payment under composition levy? If so,**

how? [FAQ 39]

**Ans.** Yes. Such persons need to give intimation electronically in Form GST CMP-02. But the same must be done prior to commencement of financial year.

**Q 8. In case a person has registration in multiple states? Can he opt for payment of tax under composition levy only in one state and not in other state? [FAQ 41]**

**Ans.** No. Any intimation under rule 3(3)(1) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number. Q 9. Can a person paying tax under composition levy, withdraw voluntarily from the scheme? If so, how? [FAQ 45]

**Ans.** Yes. The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in Form GST CMP-04, duly signed or verified through electronic verification code, electronically on the common portal.

Every person who has filed an application for, may electronically furnish at the common portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in Form GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.

**Others**

**Q1. Can the Composition scheme be availed if the taxable person has inter -State inward supplies?**

**Ans.** Yes. The Composition scheme is applicable subject to the condition that the taxable person does not engage in making inter-State outward supplies (subject to Notification No. 2/2019-Central Tax (Rate) dated 07th March, 2019), while there is no restriction on making any inter-State inward supplies.

**Q2. What does the term “person having the same PAN” mean?**

**Ans.** “Person having the same PAN” means all the units across India having the same PAN as is issued under the Income Tax Law.

**Q3. What happens if a taxable person who has opted to pay taxes under the composition scheme crosses the threshold limit of ₹ 1.50 crores during the year?**

**Ans.** In such case, from the day, the taxable person crosses the threshold, the permission granted earlier is deemed to be withdrawn and he shall be liable to pay taxes under the regular scheme i.e., section 9, from such day.

# Basic Concepts of Time and Value of Supply

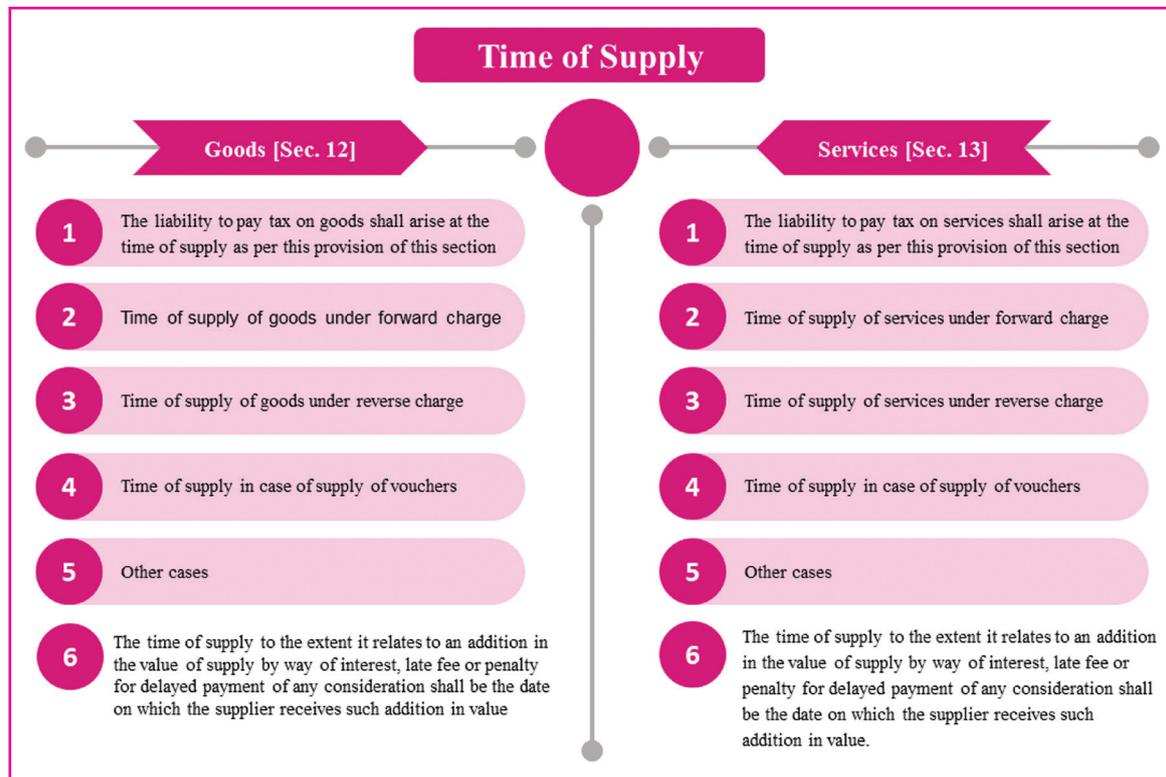
## 5.3

### 5.3.1 Time of Supply

#### Introduction

In order to calculate and discharge tax liability it is important to know the date when the tax liability arises i.e. the date on which the charging event has occurred. In GST law, it is known as Time of Supply. Time of supply means the point of time when goods/services are considered as supplied. If the seller knows the time of supply, then it will help him to recognize the due date for the payment of taxes.

GST law has provided separate provisions to determine the time of supply of goods and time of supply of services. The schema of the provisions is enumerated here in below:



**Time of Supply of Goods – Forward Charge [Sec. 12(2)]**

The time of supply of goods shall be the earlier of the following dates :

- a. the date of issue of invoice by the supplier; or
- b. the last date on which he is required to issue the invoice with respect to the supply u/s 31; or
- c. the date on which the supplier receives the payment with respect to the supply [Not relevant]

**Taxpoint :**

- The registered person who did not opt for the composition levy u/s 10 shall pay the Central tax on the outward supply of goods at the time of supply as specified in section 12(2)(a) (i.e. the date of issue of invoice by the supplier or the last date on which he is required, u/s 31(1), to issue the invoice with respect to the supply). Therefore, no GST is payable on advances received against supply of goods. (Notification No. 66/2017-CT dated 15/11/2017). However, benefit of this notification is not available in case of supply of service.
- Where the supplier of taxable goods receives an amount up to ₹ 1,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount. However, this provision is also subject to aforesaid notification.
- “The date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.
- Supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

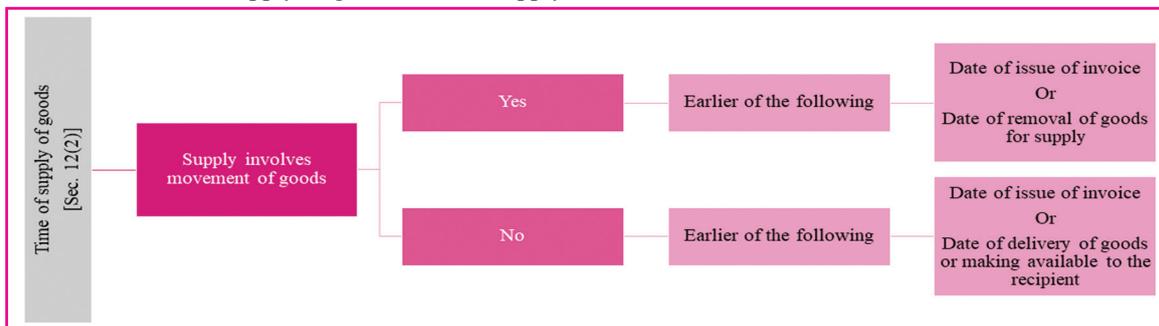
**Tax Invoice [Sec. 31]**

1. A registered person supplying taxable goods shall issue a tax invoice, before or at the time of :

Where the supply involves movement of goods	Removal of goods for supply to the recipient
Where the supply does not involve movement of goods	Delivery of goods or making available thereof to the recipient

2. In case of **continuous supply of goods**, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received [Sec. 31(4)]
3. Where the goods being **sent or taken on approval** for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier [Sec. 31(7)]

In nutshell, in case of supply of goods, time of supply is as under :



**Illustration 12 :**

Determine the time of supply in following cases :

Case	Invoice Issued on	Removal of goods for supply on	Goods made available on	Payment received on	Time of Supply
1.	15/04/2022	20/04/2022	20/04/2022	19/04/2022	15/04/2022
2.	15/05/2022	20/04/2022	20/04/2022	19/04/2022	20/04/2022
3.	15/04/2022	NA	20/04/2022	27/04/2022	15/04/2022
4.	15/05/2022	NA	20/04/2022	30/05/2022	20/04/2022
5.	15/06/2022	20/06/2022	20/04/2022	19/03/2022	15/04/2022

**Illustration 13 :**

Ramesh issues an invoice of ₹ 54,200 for supply of goods as on 10/04/2022 and received ₹ 55,000 in his bank account through NEFT on the same date which was credited into his books of account on 11/04/2022. Determine the time of supply of goods and the time of supply of excess receipt. How shall your answer differ, if he received ₹ 75,000 instead of ₹ 55,000?

**Solution:**

- Time of supply in case of supply of goods shall be 10/04/2022. Date of receipt of payment is not relevant for determining time of supply in view of the Notification No. 66/2017-CT dated 15/11/2017.
- Ramesh has received ₹ 800 in excess. He will adjust the excess amount against the next supply. The time of supply of such excess amount shall be the date of issuance of next invoice.
- In alternate situation, he has received ₹ 20,800 in excess. Even in this situation, the time of supply of such excess amount shall be the date of issuance of next invoice assuming that this excess will be adjusted in the said invoice.

**Illustration 14 :**

Certain goods are sent by Mr. X on sale on approval or return basis to Mr. Y on 22nd April 2022. The supply gets confirmed and invoice is issued on :

Case 1: 20th August 2022

Case 2: 22nd November 2022

Payment in each of the cases is made on 23rd November 2022.

Determine time of supply.

**Solution:**

Date of receipt of payment is immaterial for the purpose of calculating time of supply u/s 12 of the CGST Act 2017. Therefore, 23rd November 2022 should be ignored altogether. The time of supply should be earlier of the date of issuance of invoice or the last date of issuance of invoice. The last date of issuance of invoice will be the earlier of the confirmation of supply or 6 months from the date of removal.

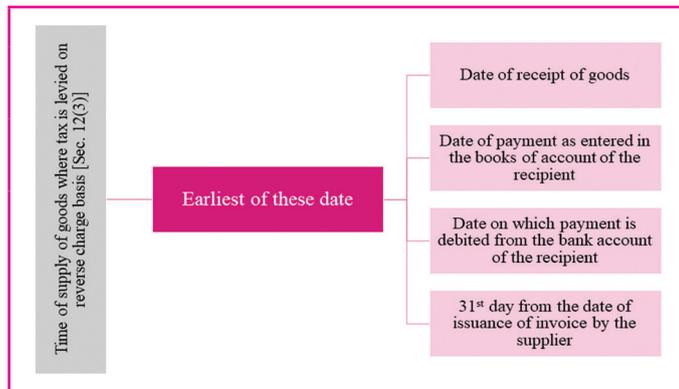
In case 1, the confirmation of supply occurred before 6 months from the date of removal. Thus, the last date of issuance of invoice was 20th August 2022. On this date, the invoice was issued. Hence, the time of supply will be 20th August 2022.

In case 2, the confirmation of supply happened after 6 months from the date of removal. The period of 6 months expired on 21st October 2022. Hence, the invoice was required to be issued by this date. Since the invoice was issued on 22nd November 2022, the actual date of issue of invoice will be considered as falling after the last date of issuance of invoice. The time of supply will be the last date of issuance of invoice i.e., 21st October 2022.

**Time of Supply of Goods in case of reverse charge [Sec. 12(3)]**

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

- a. the date of the receipt of goods; or
- b. the date of payment as entered in the books of account of the recipient; or
- c. the date on which the payment is debited in his bank account; or
- d. the date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.



**Taxpoint :**

- Where it is not possible to determine the time of supply as per aforesaid rule, the time of supply shall be the date of entry in the books of account of the recipient of supply.
- Please note that in case of reverse charge, benefit of notification no. 66/2017-CT dated 15/11/2017 is not available.

**Illustration 15 :**

Mr. Amar supplies goods (liable under reverse charge) to Mr. Nath. You are required to determine time of supply considering following details :

01.04.2022	Mr. Nath approaches Mr. Amar and places an order
10.04.2022	Mr. Nath receives the goods
15.04.2022	Mr. Amar issues an invoice
20.04.2022	Mr. Nath makes a payment by cheque and accordingly records it in his books of accounts
25.04.2022	The payment gets debited from Mr. Nath’s bank account

How shall your answer differ if the goods were received by Mr. Nath on 30.04.2022 instead of 10.04.2022

**Solution:**

The time of supply shall be the earlier of the following dates:

- a. the date of receipt of goods i.e. 10.04.2022
- b. the date of payment as recorded in the books of Mr. Nath i.e. 20.04.2022
- c. the date when the payment gets debited from the bank of Mr. Nath i.e. 25.04.2022

- d. the date immediately following 30 days from the date of issue of invoice by Mr. Amar, i.e. 15.04.2022 + 30 days + 1 day = 16.05.2022

Therefore, the time of supply will be 10.04.2022.

**Alternate case :**

The time of supply shall be the earlier of the following dates:

- a. the date of receipt of goods i.e. 30.04.2022
- b. the date of payment as recorded in the books of Mr. Nath i.e. 20.04.2022
- c. the date when the payment gets debited from the bank of Mr. Nath i.e. 25.04.2022
- d. the date immediately following 30 days from the date of issue of invoice by Mr. Amar, i.e. 15.04.2022 + 30 days + 1 day = 16.05.2022

Therefore, the time of supply will be 20.04.2022.

**Time of Supply in case of Voucher [Sec. 12(4)]**

In case of supply of vouchers by a supplier, the time of supply shall be :

If the supply is identifiable at the point at which voucher is issued	The date of issue of voucher
In all other cases	The date of redemption of voucher

**Taxpoint :**

- As per sec. 2(118), “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument.
- A shopkeeper may issue vouchers for a specific supply i.e. supply which is identifiable at the time of issuance of voucher. In trade parlance, these are known as single purpose vouchers. E.g., vouchers for pressure cookers or television or for spa or haircut. Similarly, a voucher can be a general purpose voucher which can be used for multiple purposes. E.g., a ₹ 1,000/- voucher issued by Shoppers Stop store can be used for buying any product or service at any Shoppers Stop store. The time of supply is different in case of single purpose voucher and in the case of general purpose voucher. Time of supply in the case of single purpose voucher i.e. case where supply is identifiable at the time of issuance of voucher is the date of issue of voucher. However, in all other cases of supply of vouchers, the time of supply is the date of redemption of voucher.

**Time of Supply of goods in residual cases [Sec. 12(5)]**

Where it is not possible to determine the time of supply under any of the aforesaid provisions, the time of supply shall be :

Where a periodical return has to be filed	The date on which such return is to be filed
In any other case	The date on which the tax is paid.

**Time of Supply in case of enhancement in value on account of interest, late fee, etc. [Sec. 12(6)]**

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or

penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

**Illustration 16 :**

Mr. Viswa enters into a contract for supply of goods worth ₹ 10,00,000 with Mr. Nath on 10th April 2022. Such goods are removed with an invoice dated 12th April 2022 on 13th April 2022 for delivery to Mr. Nath. The terms of the contract demanded the payment against such supply to be made within 60 days beyond which a late payment charge of ₹ 20,000 will have to be paid by Mr. Nath. Mr. Nath makes the payment of ₹ 10,00,000 along with the late payment charges on 15th July 2022. What will be the time of supply in respect of the entire amount?

**Solution:**

In sec. 12(2), the time of supply in respect of ₹ 10,00,000 will be the date of issuance of invoice or last date of issuance of invoice. Last date of issuance of invoice will be the date of removal where supply involves movement of goods.

- ◉ Date of issuance of invoice: 12th April 2022
- ◉ Last date of issuance of invoice: 13th April 2022 (date of removal)
- ◉ The date of payment is immaterial as per Notification no. 66/2017-CT dated 15th November 2017.

So, the time of supply will be 12th April, 2022 in respect of ₹ 10,00,000.

However, in respect of the time of supply for the amount of ₹ 20,000 paid as late payment charges, time of supply as per sec. 12(6) has been stated to be the date on which the supplier receives the addition in value. Here, the additional amount of ₹ 10,000 is received on 15th July 2022. Hence, the time of supply for this amount will also arise on 15th July 2022.

**Time of Supply of Services – Forward Charge [Sec. 13(2)]**

The time of supply of services shall be the earliest of the following dates, namely :

Situation	Time of Supply
If the invoice is issued within the period prescribed u/s 31	a. The date of issue of invoice by the supplier; b. The date of receipt of payment – whichever is earlier
If the invoice is not issued within the period prescribed u/s 31	a. The date of provision of service; b. The date of receipt of payment – whichever is earlier
In any other case	The date on which the recipient shows the receipt of services in his books of account.

**Taxpoint :**

- ◉ “The date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.
- ◉ The supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

- Where the supplier of taxable service receives an amount up to ₹ 1,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

**Example 20 :**

A telephone company receives ₹ 4,000 on 27th July 2022 against an invoice of ₹ 3,800 on 23rd July 2022 in respect of the services provided. The excess amount of ₹ 200 can be adjusted against the invoice to be issued in the next month. Time of supply will arise only for ₹ 3,800 on 23rd July 2022. For the balance amount of ₹ 200, the time of supply may not arise on 27th July 2022 at the option of the supplier and may be adjusted against the next month's invoice.

If the payment received was ₹ 5000 instead of ₹ 4000

Since, the amount exceeds ₹ 1000 in terms of the excess payment received, there is no option with the supplier. Here, the supply will be deemed to have been made to the extent of the invoice of ₹ 3,800 on 23rd July 2022 and the balance amount of ₹ 1,200 will be liable to tax on 27th July 2022.

- Time limit for issuance of invoice u/s 31 r.w. r. 47 :

Situation	Time limit for issuance of invoice
General cases	Within 30 days from the date of the supply of service (45 days in case of insurance/banking company or a financial institution, including NBFC).
In a case where the supply of services ceases before the completion of the supply	At the time when the supply ceases. <ul style="list-style-type: none"> <li>Such invoice shall be issued to the extent of the supply made before such cessation</li> </ul>
In case of continuous supply of services	
➤ Where the due date of payment is ascertainable from the contract	On or before the due date of payment;
➤ Where the due date of payment is not ascertainable from the contract	Before or at the time when the supplier of service receives the payment;
➤ Where the payment is linked to the completion of an event	On or before the date of completion of that event
In case of an insurance / banking company or a financial institution (including NBFC), or a telecom operator, or any other class of notified supplier of services, making taxable supplies of services between distinct persons as specified in sec. 25	Before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.
➤ A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons [Sec. 25(4)]	

**Illustration 17 :**

Case	Date of Supply of service	Date of issue of invoice	Date of entering payment in books	Date of credit of payment in bank	Time of Supply
1.	15/04/2022	20/04/2022	22/04/2022	24/04/2022	20/04/2022
2.	15/04/2022	20/05/2022	20/04/2022	20/04/2022	15/04/2022
3.	15/04/2022	20/04/2022	18/04/2022	17/04/2022	17/04/2022
4.	15/04/2022	20/04/2022	02/04/2022	03/04/2022	02/04/2022
5.	15/04/2022	20/05/2022	02/04/2022	01/04/2022	01/04/2022

**Illustration 18 :**

Mr. Kedar provides consultancy services to Mr. Nath worth ₹ 50,000.

08.04.2022	An advance of ₹ 10,000 is received from Mr. Nath
10.04.2022	The consultancy services are provided
16.05.2022	Mr. Kedar receives balance payment of ₹ 40,000 and records it in his books.

What will be the time of supply assuming Mr. Kedar issues the invoice on:

Situation 1 - 15.04.2022

Situation 2 – 15.05.2022

**Solution:**

Situation 1

In the given case,

Date of issue of invoice (which is within 30 days of the supply of service)	15.04.2022
Date of payment	
– ₹ 10,000	08.04.2022
– ₹ 40,000	16.05.2022

If the invoice is issued within the prescribed time period, the time of supply will be the date of receipt of payment or date of issue of invoice whichever is earlier. Hence, for ₹ 10,000, the time of supply will be 08.04.2022 which is the date of receipt of advance payment. For the balance amount, the time of supply will be 15.04.2022 which is earlier of 15.04.2022 (date of invoice) and 16.05.2022 (date of receipt of payment).

Situation 2

If invoice is not issued within the prescribed time period, the time of supply will be the earlier of the date of completion of service and the date of receipt of payment. Here, invoice is issued on 15.05.2022 which is after the prescribed time period. So, for ₹ 10,000, the time of supply will be 08.04.2022 which is the date of receipt of advance payment. For the balance amount, the time of supply will be 10.04.2022 which is earlier of 10.04.2022 (date of completion of service) and 16.05.2022 (date of receipt of payment).

**Illustration 19 :**

During investigation, it was found that Mr. X had provided catering services of ₹ 1,00,000 to Mr. Y during his

business convention. The payment for these services was made in cash. Mr. X had neither issued any invoice nor recognised the payment in his books of accounts. Mr. Y recorded the payment of ₹ 1,00,000 in cash in his books on 28th April 2022. What will be the time of supply in this case?

**Solution:**

Since, the date of receipt of payment or the date of invoice is not available in case of Mr. X, the date when the payment is recorded in the books of the recipient becomes relevant. Since, Mr. Y recorded this on 28th April, the time of supply for such supply will also be considered as 28th April 2022.

**Illustration 20:**

A contract for supply of professional services was entered for ₹ 10,00,000 for the period of 3 months on 20th July 2022. However, on 16th August 2022, the recipient informed the supplier that he is not willing to receive any more services under the contract. Both of them mutually agree that the services provided till date can be valued at ₹ 3,50,000. The invoice for this was issued on 20th August 2022 and the payment was made by the recipient on 25th August 2022.

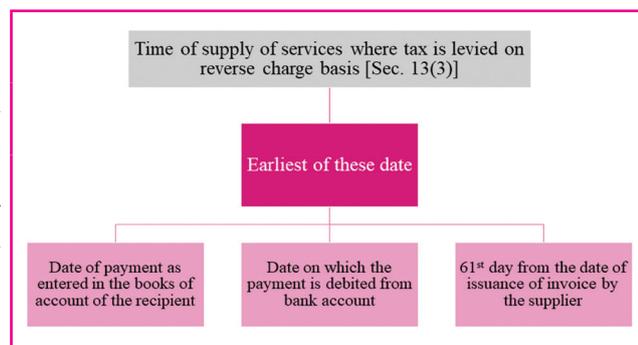
**Solution:**

In the instant case, the cessation of supply of services occurs on 16th August 2022. The date by which the invoice should have been raised was also 16th August 2022. However, the invoice was issued on 20th August 2022 which is after the prescribed time period. Therefore, the time of supply will be the earlier of the date of completion of service (16th August 2022) and the date of payment (25th August 2022) which will be 16th August 2022.

**Time of Supply of Services – Reverse Charge [Sec. 13(3)]**

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

- a. the date of payment as entered in the books of account of the recipient; or
- b. the date on which the payment is debited in his bank account; or
- c. the date immediately following 60 days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.



**Taxpoint :**

- Where it is not possible to determine the time of supply as per aforesaid rule, the time of supply shall be the date of entry in the books of account of the recipient of supply.
- In case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.
- “Associated Enterprises” shall have the same meaning as assigned to it in sec. 92A of the Income-tax Act, 1961.

**Illustration 21 :**

Mr. Ram provides certain services to Mr. Nath which fall under reverse charge basis :

10.04.2022	The services are provided to Mr. Nath
12.04.2022	Mr. Ram issues an invoice to Mr. Nath
10.07.2022	The payment is made by Mr. Nath through a cheque and recorded in his books of accounts
15.07.2022	The payment gets debited from Mr. Nath's bank account

What will be the time of supply?

**Solution:**

The time of supply shall be earlier of the following dates :

The date of payment	10.07.2022
The date on which payment is debited from bank account	15.07.2022
The date immediately following 60 days from the date of issue of invoice (12.04.2022 + 60 days + 1 day)	12.06.2022

Therefore, the time of supply shall be 12.06.2022.

**Illustration 22 :**

Mr. Rajendra provides certain services to Mr. Nath which fall under reverse charge basis.

10.10.2022	The services are provided to Mr. Nath
12.10.2022	Mr. Rajendra issues an invoice to Mr. Nath
10.03.2023	The payment is made by Mr. Nath through a cheque and recorded in his books of accounts
15.03.2023	The payment gets debited from Mr. Nath's bank account

What will be the time of supply?

**Solution:**

The time of supply shall be earlier of the following dates :

The date of payment	10.03.2023
The date on which payment is debited from bank account	15.03.2023
The date immediately following 60 days from the date of issue of invoice (12.01.2022 + 60 days + 1 day)	12.12.2022

Therefore, the time of supply shall be 12.12.2022

**Time of Supply of Services – Voucher [Sec. 13(4)]**

In case of supply of vouchers by a supplier, the time of supply shall be :

If the supply is identifiable at the point at which voucher is issued	The date of issue of voucher
In all other cases	The date of redemption of voucher

**Time of Supply of Services – Residual Cases [Sec. 13(5)]**

Where it is not possible to determine the time of supply of service under any of the aforesaid provisions, the time of supply shall be :

Where a periodical return has to be filed	The date on which such return is to be filed
In any other case	The date on which the tax is paid.

**Time of Supply in case of enhancement in value on account of interest, late fee, etc. [Sec. 13(6)]**

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

**Change in rate of tax in respect of supply of goods or services [Sec. 14]**

The time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner:

1. In case the goods or services or both have been supplied before the change in rate of tax:
  - a. where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
  - b. where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
  - c. where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;
2. In case the goods or services or both have been supplied after the change in rate of tax:
  - a. where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or
  - b. where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
  - c. where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice

In nutshell, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner :

Invoice issued	Payment received	Time of Supply	Applicable Rate
<b>A. Where the goods or services or both have been supplied before the change in rate of tax.</b>			
After	After	a. Date of receipt of payment; or b. Date of issue of invoice – whichever is earlier	New Rate
Before	After	Date of issue of invoice	Old Rate
After	Before	Date of receipt of payment	Old Rate

B. Where the goods or services or both have been supplied after the change in rate of tax.			
Before	After	Date of receipt of payment	New Rate
Before	Before	a. Date of receipt of payment; or b. Date of issue of invoice – whichever is earlier	Old Rate
After	Before	Date of issue of invoice	New Rate

**Taxpoint :**

- ◉ “The date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.
- ◉ However, the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.
- ◉ It is to be noted that in respect of supply of goods, notification no. 66/2017-CT dated 15/11/2017 is applicable.
- ◉ Rate applicability rule: There are three events viz. (a) supply; (b) issuance of invoice; (c) receipt of payment. Out of these 3 events, atleast two events are occurred after change of rate of tax, new rate is applicable. On the other hand, any of the 2 events are occurred before change of rate of tax, old rate is applicable.
- ◉ Time of supply rule :

Supply	Events being issuance of invoice or receipt of payment	Time of supply	Rate
Before	Any of the events occurred before change	Occurrence of 1st event	Old
After	Any of the events occurred before change	Occurrence of 2nd event	New
Before	Both of the events occurred after change	a. Date of receipt of payment	New
After	Both of the events occurred before change	or b. Date of issue of invoice – whichever is earlier	Old

**Illustration 23 :**

Rate of GST shall be 12% (instead of existing rate of 18%) w.e.f. 01-04-2022. In that case, time of supply and applicable rate of tax shall be determined as under :

Situations	Service Provided	Invoice Raised	Payment Received	Time of Supply	Rate
1.	25-03-2022	03-04-2022	10-04-2022	03-04-2022	12%
2.	25-03-2022	29-03-2022	12-04-2022	29-03-2022	18%
3.	25-03-2022	03-04-2022	31-03-2022	31-03-2022	18%
4.	05-04-2022	29-03-2022	07-04-2022	07-04-2022	12%
5.	05-04-2022	29-03-2022	31-03-2022	29-03-2022	18%
6.	05-04-2022	07-04-2022	31-03-2022	07-04-2022	12%

**Illustration 24 :**

Law Point Publications, a registered dealer in India, paid an advance of ₹ 5,00,000 to Mr. Vikash, an author,

for the copyright covered u/s 13(1)(a) of the Copyright Act, 1957, of his original literary work on 5-9-2022 (through RTGS). It made the balance payment of ₹ 2,50,000 on 12-12-2022 (through RTGS). You are required to determine the time of supply, if Mr. Vikash raised the invoice on:

- (i) 6-10-2022; or
- (ii) 17-12-2022

**Solution:**

Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher is liable for tax under reverse charge i.e. Law Point Publications are required to pay

The time of supply of service, on which GST is payable under reverse charge, is earlier of the following :

- a. Date of payment as entered in the books of account of the recipient or date on which payment is debited from the bank account, whichever is earlier
- Or
- b. 61st day from the date of issue of invoice by the supplier.

The time of supply shall be earlier of the following dates :

Particulars	Case (i)	Case (ii)
First Payment of ₹ 5,00,000		
The date of payment	05-09-22	05-09-22
The date on which payment is debited from bank account	05-09-22	05-09-22
The date immediately following 60 days from the date of issue of invoice (06-10-2022 + 60 days + 1 day) (17-12-2022 + 60 days + 1 day)	06-12-22	16-02-23
<b>Time of supply shall be</b>	05-09-22	05-09-22
For Payment of ₹ 2,50,000		
The date of payment	12-12-22	12-12-22
The date on which payment is debited from bank account	12-12-22	12-12-22
The date immediately following 60 days from the date of issue of invoice (06-10-2022 + 60 days + 1 day) (17-12-2022 + 60 days + 1 day)	06-12-22	16-02-23
<b>Time of supply shall be</b>	06-12-22	12-12-22

**FAQ by CBIC on 15-12-2018**

**Q 1. What is time of supply?**

**Ans.** The time of supply fixes the point when the liability to charge GST arises. It also indicates when a supply is deemed to have been made. The CGST/SGST Act provides separate time of supply for goods and services.

**Q 2. When does the liability to pay GST arise in respect of supply of goods?**

**Ans.** Section 12 of the CGST/SGST Act provides for time of supply of goods. The time of supply of goods shall be the earlier of the following namely,

- a. the date of issue of invoice by the supplier or the last date on which he is required u/s 31, to issue the invoice with respect to the supply; or
- b. the date on which the supplier receives the payment with respect to the supply.

However, vide Notification No. 66/2017-Central Tax dated 15.11.2017, liability to pay tax at the time of receipt of advance has been relaxed in case of goods.

**Q 3. When does the liability to pay GST arise in respect of supply of services?**

**Ans.** Section 13 of the CGST/SGST Act provides for time of supply of services. The time of supply of services shall be the earlier of the following namely,

- a. the date of issue of invoice by the supplier if the invoice is issued within the period prescribed under section 31 or the date of receipt of payment whichever is earlier; or
- b. the date of provision of service, if the invoice is not issued within the period prescribed under section 31 or the date of receipt of payment whichever is earlier.
- c. the date on which the recipient shows the receipt of services in his books of account, in case where the provisions of clause (a) and (b) do not apply.

**Q 4. What is time of supply in case of supply of vouchers in respect of goods and services?**

**Ans.** The time of supply of voucher in respect of goods and services shall be;

- a. the date of issue of voucher, if the supply is identifiable at that point; or
- b. the date of redemption of voucher in all other cases.

**Q 5. Where it is not possible to determine the time of supply in terms of sub-section 2, 3, 4 of Section 12 or that of Section 13 of CGST/SGST Act, how will time of supply be determined?**

**Ans.** There is a residual entry in Section 12(5) as well as 13 (5) which says that if periodical return has to be filed, then the due date of filing of such periodical return shall be the time of supply. In other cases, it will be the date on which the CGST/SGST/IGST is actually paid.

**Q 6. What does “date of receipt of payment” mean?**

**Ans.** It is the earliest of the date on which the payment is entered in the books of accounts of the supplier or the date on which the payment is credited to his bank account.

**Q 7. Suppose, part advance payment is made or invoice issued is for part payment, whether the time of supply will cover the full supply?**

**Ans.** No. The supply of services shall be deemed to have been made to the extent it is covered by the invoice or the part payment. However, for goods payment of tax will need to be made upon date of issue of invoice, irrespective of the fact whether or not advance or part payment is received.

**Q 8. What is the time of supply of goods in case of tax payable under reverse charge?**

**Ans.** The time of supply will be the earliest of the following dates:

- a) date of receipt of goods; or
- b) date on which payment is made; or
- c) the date immediately following 30 days from the date of issue of invoice by the supplier.

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

**Q 9. What is the time of supply of service in case of tax payable under reverse charge?**

**Ans.** The time of supply will be the earlier of the following dates:

- a) date on which payment is made; or
- b) the date immediately following sixty days from the date of issue of invoice by the supplier.

**Q 10. What is the time of supply applicable with regard to addition in the value by way of interest, late fee or penalty or any delayed payment of consideration?**

**Ans.** The time of supply with regard to an addition in value on account of interest, late fee or penalty or delayed consideration shall be the date on which the supplier received such additional consideration.

**Q 11. Is there any change in time of supply, where supply is completed prior to or after change in rate of tax?**

**Ans.** Yes. In such cases provisions of Section 14 will apply.

**Q 12. What is the time of supply, where supply is completed prior to change in rate of tax?**

**Ans.** In such cases time of supply will be

- i. where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; (However, for supply of goods payment of tax need to be made only at the time of issue of invoice in terms of notification 66/2017-Central Tax dated 15.11.2017) or
- ii. where the invoice has been issued prior to change in rate of tax but the payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
- iii. where the payment is received before the change in rate of tax, but the invoice for the same has been issued after the change in rate of tax, the time of supply shall be the date of receipt of payment; (However for supply of goods payment of tax need to be made only at the time of issue of invoice in terms of notification 66/2017-Central Tax dated 15.11.2017)

**Q 13. What is the time of supply, where supply is completed after the change in rate of tax?**

**Ans.** In such cases time of supply will be

- i. where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; (However for supply of goods payment of tax need to be made only at the time of issue of invoice in terms of notification 66/2017-Central

Tax dated 15.11.2017) or

- ii. where the invoice has been issued and the payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or; (However for supply of goods payment of tax need to be made only at the time of issue of invoice in terms of notification 66/2017-Central Tax dated 15.11.2017)
- iii. where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice

**Q 14. Let's say there was increase in tax rate from 18% to 20% w.e.f.1.9.2017. What is the tax rate applicable when services provided and invoice issued before change in rate in July, 2017, but payment received after change in rate in September, 2017?**

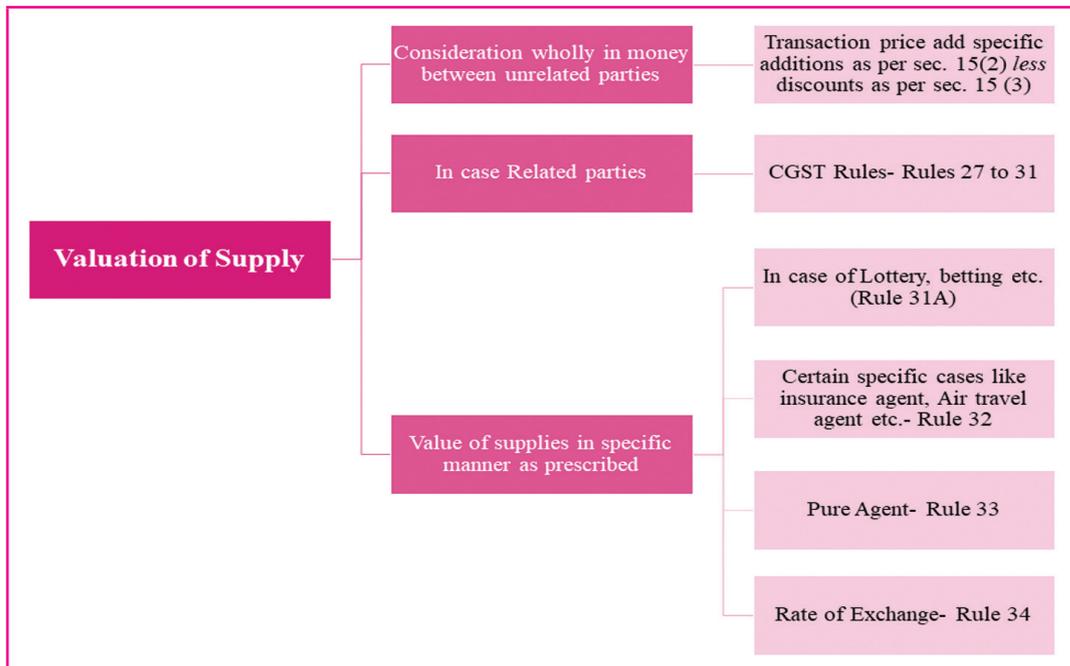
**Ans.** The old rate of 18% shall be applicable as services are provided prior to 1.9.2017.

**Q 15. Let's say there was increase in tax rate from 18% to 20% w.e.f. 1.9.2017. What is the tax rate applicable when goods are supplied and invoice issued after change in rate in September, 2017, but full advance payment was already received in July, 2017?**

**Ans.** The new rate of 20% shall be applicable as goods are supplied and invoice issued after 1.9.2017.

### 5.3.2 Value of Supply

GST is computed as a certain percentage of the value of taxable supply. Thus, valuation of such supply is utmost important aspect for determining the liability.



### Value of taxable supply [Sec. 15(1)]

The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply – Sec. 15(1)

In other words, transaction value shall be considered as a value of taxable supply provided following conditions are satisfied:

- a. the supplier and the recipient of the supply are not related; and
- b. the price is the sole consideration for the supply.

#### Taxpoint :

- If aforesaid conditions are fulfilled, the transaction value, subject to certain adjustments, shall be considered as value of taxable supply.
- As per sec. 2(75) “money” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the RBI when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value.
- Persons shall be deemed to be “related persons” if:
  - a. such persons are officers or directors of one another’s businesses;
  - b. such persons are legally recognised partners in business;
  - c. such persons are employer and employee;
  - d. any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them;
  - e. one of them directly or indirectly controls the other;
  - f. both of them are directly or indirectly controlled by a third person;
  - g. together they directly or indirectly control a third person; or
  - h. they are members of the same family;
- Person also includes legal persons;
- Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.
- As per sec. 2(31) “consideration” in relation to the supply of goods or services or both includes-
  - a. any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
  - b. the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;

However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

- ⊙ As per sec. 2(84) “person” includes:
  - a. an individual;
  - b. a Hindu Undivided Family;
  - c. a company;
  - d. a firm;
  - e. a Limited Liability Partnership;
  - f. an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
  - g. any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in sec. 2(45) of the Companies Act, 2013;
  - h. any body corporate incorporated by or under the laws of a country outside India;
  - i. a co-operative society registered under any law relating to co-operative societies;
  - j. a local authority;
  - k. Central Government or a State Government;
  - l. society as defined under the Societies Registration Act, 1860;
  - m. trust; and
  - n. every artificial juridical person, not falling within any of the above.

**Determination of Value :**

**Value of taxable supply = Transaction Value + Certain Inclusions – Certain Exclusions**

Particulars	Amount	Amount
The price actually paid or payable for the said supply of goods or services or both		xxx
Add: Inclusions as per sec. 15(2)	xxx	
Any taxes, duties, cesses, fees and charges levied under any law (excluding GST), if charged separately by the supplier		
<b>Taxpoint :</b> TCS under the Income-tax Act shall not be considered as it is an interim levy and not the final tax.		
Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both.	xxx	
Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services.	xxx	

Interest or late fee or penalty for delayed payment of any consideration for any supply	xxx	
Subsidies directly linked to the price <b>excluding</b> subsidies provided by the Central Government and State Governments.	xxx	xxx
<b>Taxpoint :</b> The amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.		
		xxx
Less: Exclusions as per sec. 15(3)		
Any discount which is given:		xxx
a. before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and		
b. after the supply has been effected, if-		
i. such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and		
ii. input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply		
<b>Value of Taxable Supply</b>		<b>xxx</b>

**Taxpoint :** No GST on interest free refundable deposits received by the supplier

**Example 21 :**

1. If the value inclusive of tax is ₹ 100/- and applicable GST tax rate is 18% then Tax amount =  $(100 \times 18) / (100 + 18) = 1800 / 118 = ₹ 15.25$
2. Mr. X is selling a product for ₹ 1,000 to Mr. B. In this example value of supply will be consideration charged i.e. ₹ 1,000 provided Mr. X and Mr. B are not related and price is the sole consideration.
3. The supplier supplies goods worth ₹ 5,00,000 to the recipient. Against this supply, ₹ 3,00,000 is paid by the recipient directly and balance ₹ 2,00,000 is paid by the recipient's debtor. Both the payments will be included in the price for the purpose of valuation under GST.
4. Mr. A is sold goods to Mr. B for ₹ 20,000. Mr. A is charging packing charges of ₹ 1,000. Mr. A is also paying freight of ₹ 3,000 from Mr. A's premises to Mr. B's premises. In this case, taxable value shall be ₹ 24,000 i.e., taxable value shall include packing charges and freight.
5. A cafeteria in X Ltd (a corporate office) provides lunch at ₹ 120 per plate to the employees of the company. However, the vendor in the cafeteria receives an amount of ₹ 70 per plate in the form of subsidy from X Ltd for providing the food at a lower rate. Here, value of ₹ 70 will be added to the taxable value of ₹ 120 for the purpose of charging GST. Had this subsidy been provided by the Government to the company against mid-day meals, such amount of ₹ 70 would not have been includible in the taxable value.
6. Mr. X enters into a contract for supply of goods worth ₹ 2,00,000 on 15th March 2022. As per the said contract, the payment of the said amount was required to be made within 2 months of the sale. If the complete payment is not made within this time period, a late penalty of ₹ 10,000 will be chargeable. Let us assume that the payment is not made within the said period. In this situation, ₹ 10,000 will be includible in the taxable value. If GST is not separately charged on this interest amount then, ₹ 10,000 shall be treated as inclusive of GST and accordingly value shall be computed.

7. M/s Nanda Bakery sells a special type of fruit cake for New Year with MRP ₹ 200/- per pound. The customer being offered a discount @ 10% per cake. In the month of Dec. 2022, M/s Nanda Bakery sold 600 nos cakes to that customer. In this case, value of supply would be ₹ 1,08,000/- i.e., 90% of (₹ 200 x 600)
8. Mr. Ram sold goods to Mr. Lakshman for ₹ 2,50,000. As per the contract of sale, Mr. Ram is required to deliver the goods in the premises of Mr. Lakshman. Mr. Ram hires transporter for transportation for delivery of goods. However, the freight paid by Mr. Lakshman to transporter. Freight paid ₹ 2,500. In this case, value of taxable supply is ₹ 2,52,500 as obligation of the seller is discharged by the buyer.

**Example 22 :**

RG Pvt. Ltd. provides the following particulars relating to goods sold by it to GK Pvt. Ltd.:

Particulars	Amount in (₹)
List price of the goods (exclusive of taxes and discounts)	10,00,000
Tax levied by Municipal Authority in the sale of such goods	1,00,000
CGST and SGST chargeable on the goods	2,00,880
Packing charges (not included in price above)	20,000

RG Pvt. Ltd. received ₹ 40,000 as a subsidy from a NGO on sale of such goods. The price of ₹ 10,00,000 of the goods is after considering such subsidy. RG Ltd. offers 2% discount on the list price of the goods which is recorded in the invoice for the goods.

Determine the value of the taxable supply made by RG Pvt. Ltd.

**Solution:**

Computation of value of taxable supply :

Particulars	₹	₹
List price of the goods (exclusive of taxes and discounts)		10,00,000
i. Tax levied by Municipal Authority on the sale of such goods [Includible in the value as per section 15(2)(a)]	1,00,000	
ii. CGST and SGST chargeable on the goods [Not includible in the value as per section 15(2)(a)]	-	
iii. Packing charges [Includible in the value as per section 15(2)(c)]	20,000	
iv. Subsidy received from a non-Government body [Since subsidy is received from a non-Government body, the same is included in the value in terms of section 15(2)(e)]	40,000	1,60,000
Total		11,60,000
Less: Discount @ 2% on ₹ 10,00,000		20,000
<b>Value of taxable supply</b>		<b>11,40,000</b>

**Clarification on issues related to treatment of sales promotion schemes under GST [Circular No. 92/11/2019 dated 07.03.2019]**

**Discounts including ‘Buy more, save more’ offers :**

- a. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase

in purchase volume). For example - Get 10 % discount for purchases above ₹ 5,000/-, 20% discount for purchases above ₹ 10,000/- and 30% discount for purchases above ₹ 20,000/-. Such discounts are shown on the invoice itself.

- b. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example - Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “**volume discounts**”. Such discounts are passed on by the supplier through credit notes.
- c. It is clarified that discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sec. 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- d. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

### Secondary Discounts :

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at ₹ 10/- per packet. Afterwards M/s A re-values it at ₹ 9/- per packet. Subsequently, M/s A issues credit note to M/s B for ₹ 1/- per packet.
- ii. The provisions of sec. 34(1) provides as under:

“Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”
- iii. Representations have been received from the trade and industry that whether credit notes(s) u/s 34(1) can be issued in such cases even if the conditions laid down in sec. 15(3)(b) are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in sec. 15(3)(b) are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.
- iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in sec. 15(3)(b) are not satisfied.
- v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above or by any other means, except in cases where the provisions contained in sec. 15(3)(b) are satisfied.
- vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case

**Value of supply of goods or services where the consideration is not wholly in money [Rule 27]**

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall:

Case	Value of supply
a. Where the open market value of the supply is available.	Open market value <b>Taxpoint :</b> “Open market value” of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and price is the sole consideration, to obtain such supply at the same time when the supply being valued is made.
b. Where the open market value of the supply is not available.	The sum total of consideration in money + any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply.
c. Where the value is not determined under (a) or (b) above	The value of supply of goods or services or both of like kind and quality <b>Taxpoint :</b> “Supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.
d. Where the value is not determinable under (a) or (b) or (c),	The sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

**Example 23 :**

- ◉ Where a new phone is supplied for ₹ 20,000 along with the exchange of an old phone and if the price of the new phone without exchange is ₹ 24,000, the open market value of the new phone is ₹ 24,000.
- ◉ Where a laptop is supplied for ₹ 40,000 along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is ₹ 4,000 but the open market value of the laptop is not known, the value of the supply of the laptop is ₹ 44,000.
- ◉ Jaya purchases a Samsung television set costing ₹ 85,000 from an electronic shop, in exchange of her existing TV set. After an hour of bargaining, the shop manager agrees to accept ₹ 78,000 instead of his quote of ₹ 81,000, as he would still be in a profitable position (the old TV can be sold for ₹ 8,000). In this case, where the price is not the sole consideration for the supply, the ‘open market value’ would be the value of the supply. Therefore, ₹ 85,000 would be the value of the supply.

**Value of taxable supply – other cases [Sec. 15(3)]**

Where the value of the supply of goods or services or both cannot be determined u/s 15(1), the same shall be determined in such manner as may be prescribed.

**Value of supply of goods or services or both between distinct or related persons, other than through an agent [Rule 28]**

The value of the supply of goods or services or both between distinct persons or where the supplier and recipient are related, other than where the supply is made through an agent, shall :

Case	Value of supply
Where the open market value of the supply is available and	
➤ Where the recipient is not eligible for full ITC	Open market value
➤ Where the recipient is eligible for full ITC	The value declared in the invoice shall be deemed to be the open market value of the goods or services. <b>Taxpoint:</b> In such case transaction is tax neutral.
Where the open market value of the supply is not available and	
Where the goods are not intended for further supply as such by the recipient.	The value of supply of goods or services or both of like kind and quality.
Where the goods are intended for further supply as such by the recipient.	The value shall, at the option of the supplier, be a. The value of supply of goods or services or both of like kind and quality b. an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

**Taxpoint :**

- If the value is not determinable in aforesaid manner, then the value shall be determined by the application of rule 30 or rule 31, in that order.
- A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons [Sec. 25(4)]
- Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act – [Sec. 25(5)]
- “Agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Sec. 2(5)].

**Value of supply of goods made or received through an agent [Rule 29]**

The value of supply of goods between the principal and his agent shall :

Case	Value of supply
Where the open market value of the supply of goods is available	The value shall, at the option of the supplier, be a. Open market value b. 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.
Where the value of a supply is not determinable as above	The value shall be determined by the application of rule 30 or rule 31 in that order.

**Example 24 :**

A principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of ₹ 5,000 per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of ₹ 4,550 per quintal. The value of the supply made by the principal shall be ₹ 4,550/- per quintal or where he exercises the option, the value shall be 90% of ₹ 5,000 i.e., ₹ 4,500 per quintal.

**Value of supply of goods or services or both based on cost [Rule 30]**

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be 110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

**Residual method for determination of value of supply of goods or services or both [Rule 31]**

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of sec. 15 and the provisions of this Chapter.

However, in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

Value of supply in case of lottery, betting, gambling and horse racing [Rule 31A]

Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

**Deemed Value of supply of lottery [Rule 31A(2)]**

The deemed value of supply of lottery shall be higher of the following:

- a. 100/128 of the face value of ticket; or
- b. 100/128 of the price as notified in the Official Gazette by the Organising State.

Lotteries are sold as goods and can be of following two types:

- ⊙ “Lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State.
- ⊙ “Lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also.

**Example 25:**

State Government authorize a lottery whose particulars are as under

- a. Face value per ticket: ₹ 1000,
- b. The price as notified by official gazette: ₹ 600.

Compute value of supply

Further, how shall your answer differ if the price mentioned in (b) is ₹ 1,050 instead of ₹ 600

**Solution:**

Higher of the following shall be considered as value of supply :

Particulars	When notified price is ₹ 600	When notified price is ₹ 1,050
100/128 of face value of ticket i.e., ₹ 1,000 x 100 / 128	781.25	781.25
100/128 of notified price i.e.,		
- ₹ 600 x 100 / 128	468.75	
- ₹ 1,050 x 100 / 128		820.31
<b>Value of supply (being higher of the above)</b>	<b>781.25</b>	<b>820.31</b>

Value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club [Rule 31A(3)]

The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

**Value of notified supplies [Sec. 15(5)]**

The value of notified supplies shall be determined in such manner as may be prescribed.

**Determination of value in respect of certain supplies [Rule 32]**

Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

**Value of supply of services in relation to the purchase or sale of foreign currency, including money changing [Rule 32(2)]**

The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely :

<b>Option 1</b>	
Where one of the currency exchanged is INR	
Value of supply =	(Difference between buying rate or the selling rate and RBI reference rate for that currency at that time) x Total units of currency
	However, where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money
	<b>Example 26:</b>
	1. US\$ 100 are sold by a customer at the rate of ₹ 78 per US\$. RBI reference rate for US\$ is Rs.77 for that day. The taxable value shall be ₹ 100 i.e., (₹ 78 – ₹ 77) x 100
	2. INR 90,000 is changed into Great Britain Pound (GBP) and the exchange rate offered is ₹ 90, thereby giving GBP 1,000. RBI reference rate for that day for GBP is ₹ 89. The taxable value shall be ₹ 1,000. However, if RBI reference rate is not available then, taxable value is ₹ 900 i.e., 1% of ₹ 90,000.
Where none of the currency exchanged is INR	
Value of supply =	1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at RBI reference rate.

Option 2		
Value of supply =	Amount Exchanged	Value of supply
	Gross amount of currency exchanged up to ₹ 1,00,000	a. 1% of the gross amount of currency exchanged; or b. ₹ 250 - whichever is higher
	Gross amount of currency exchanged exceeds ₹ 1,00,000 but does not exceed ₹ 10,00,000/- Gross amount of currency exchanged exceeds ₹ 10,00,000	₹ 1,000 + 0.5% of the gross amount of currency exchanged in excess of ₹ 1,00,000. a. ₹ 5,500 + 0.1% of the gross amount of currency exchanged in excess of ₹ 10,00,000 b. ₹ 60,000 - whichever is lower
<b>Example 27 :</b>		
<ol style="list-style-type: none"> <li>USD 100 is sold to a customer at the rate ₹ 65 per USD. The gross amount of currency exchanged is ₹ 6,500/- Taxable value of supply = ₹ 250 being higher of ₹ 250 and 1% of ₹ 6,500/-</li> <li>USD 1000 is sold to a customer at the rate ₹ 65 per USD. The gross amount of currency exchanged is ₹ 65,000/- Taxable value of supply = ₹ 650 i.e., [₹ 65,000 x 1%]</li> <li>USD 3000 is sold to a customer at the rate ₹ 65 per USD. The gross amount of currency exchanged is ₹ 1,95,000/- Taxable value of supply = ₹ 1,000 + [(1,95,000 - 1,00,000) x 0.5%] = ₹ 1,475/-</li> <li>USD 20000 is sold to a customer at the rate ₹ 65 per USD. The gross amount of currency exchanged is ₹ 13,00,000/- Taxable value of supply = ₹ 5,500 + [(13,00,000 - 10,00,000) x 0.1%] = ₹ 5,800/-</li> </ol> <p><b>Taxpoint :</b> A person supplying the services may exercise the option to ascertain the value in terms of this clause for a financial year and such option shall not be withdrawn during the remaining part of that financial year.</p>		

**Value of the supply of services in relation to booking of tickets for travel by air by an air travel agent [Rule 32(3)]**

The deemed value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be :

Case	Value of supply
In case of domestic booking	5% of the basic fare
In case of international booking	10% of the basic fare

**Taxpoint :** “Basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

**Example 28 :**

Mr. Ram is a travel agent. The following particulars are furnished by him.

Particulars	Basic Fare	Other charges and fee	Taxes	Total Ticket Value
Domestic bookings	₹ 1,00,000	₹ 5,000	₹ 4,000	₹ 1,09,000
International bookings	₹ 3,00,000	₹ 20,000	₹ 15,000	₹ 3,35,000

**Solution:**

Computation of taxable value :

Particulars	Basic Fare	Prescribed %	Value of supply
For Domestic Booking	1,00,000	5%	5,000
For International Booking	3,00,000	10%	30,000
<b>Total</b>			<b>35,000</b>

**Value of supply of services in relation to life insurance business [Rule 32(4)]**

The value of supply of services in relation to life insurance business shall be :

Case	Value of supply
Where policy also have features of investment and such an amount is intimated to the policy holder at the time of supply of service	Gross premium charged from a policy holder less The amount allocated for investment, or savings on behalf of the policy holder <b>Example 29 :</b> If the gross premium is ₹ 60,000, of which ₹ 55,000 is invested in funds, then the value of supply shall be ₹ 5,000.
Single premium annuity policies not covered above.	10% of single premium charged from the policy holder.
In all other case	First year 25% of the premium charged from the policy holder Subsequent year 12.5% of the premium charged from the policy holder in subsequent years.

**Taxpoint :** Nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

**Value of supply in buying and selling of second hand goods [Rule 32(5)]**

Where a taxable supply is provided by a person dealing in buying and selling

- of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods; and
- where no input tax credit has been availed on the purchase of such goods,

then,

the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:

**Taxpoint :** The purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by 5% for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

**Example 30 :**

M/s Hariharan is dealer of old car and engaged in purchase and sale of old cars in Bihar, furnishes the details of following transactions for the month of August 2022.

1. Purchased old car for ₹ 80,000/- and sold for ₹ 1,20,000/- in Bihar
2. Purchased old car for ₹ 75,000/- and sold for ₹ 65,000/- in Bihar
3. Purchased old car for ₹ 90,000/- but unable to sell during the month of August' 22
4. Purchased old car for ₹ 1,00,000/- and sold for ₹ 1,30,000/- in Orissa

Determine the value of taxable supply

**Solution:**

Computation of taxable value of supply :

Sl. No.	Particulars		Profit
	Purchase	Sale	
1.	80,000	1,20,000	40,000
2.	75,000	65,000	Note (i)
3.	90,000	-	Note (ii)
4.	1,00,000	1,30,000	30,000
<b>Taxable value of supply</b>			<b>70,000</b>

**Notes :**

- (i) As per Rule 32(5), no GST is payable in negative margin
- (ii) No GST is payable on unsold goods
- (iii) In case of sale of car in Orissa, IGST is applicable.

**Example 31 :**

Mr. X took a car loan of ₹ 3,00,000 from ABC Bank Ltd. on 1st September 2022 which was entirely used for the purchase of car worth the same amount. Mr. X defaults on the loan balance and thereby his car is repossessed by the bank on 1st Jan. 2023. This car is sold on 30th March 2023 by the bank for ₹ 2,50,000. Determine the valuation under GST.

How shall your answer differ if the car is sold for ₹ 2,70,000/-

**Solution:**

The purchase value to be taken will be the purchase price in the hands of the borrower – 5% per quarter or part thereof (September – March) i.e.,  $3,00,000 - (5\% \times 3 \times 300,000) = ₹ 2,55,000$ .

As the sale value of the car is below ₹ 2,55,000, the margin will be ignored for the charging of GST.

In the alternate solution, ₹ 15,000 i.e., ₹ 2,70,000 – ₹ 2,55,000, shall be treated as taxable value of supply.

Value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both [Rule 32(6)]

The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

**Example 32 :** Mr. X had purchased a voucher for ₹ 200 which was redeemable against purchase of a wallet worth ₹ 500 from Shopping Stop. Here, the valuation that should be taken is the redemption value of ₹ 500 in respect of the voucher and not the purchase value of ₹ 200.

Value of taxable services provided by notified class of service providers [Rule 32(7)]

The value of taxable services provided by notified class of service providers, as referred to in paragraph 2 of Schedule I between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

### Value of supply of services in case of pure agent [Rule 33]

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied:

- a. the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- b. the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- c. the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

#### Taxpoint :

“Pure agent” means a person who-

- a. enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- b. neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- c. does not use for his own interest such goods or services so procured; and
- d. receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

#### Example 33 :

Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

**Rate of exchange of currency, other than Indian rupees, for determination of value [Rule 34]**

1. The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board u/s 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of sec. 12 of the Act.
2. The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of sec. 13 of the Act.

**Illustration 25 :**

Following are the particulars, relating to one of the machine sold by S Ltd. to A Ltd. in the month of February 2023 at list price of ₹ 8,50,000. (exclusive of taxes and discount) Further, following additional amounts have been charged from ACD Ltd :

Sl. No.	Particulars	₹
(i)	Municipal taxes chargeable on the machine	55,000
(ii)	Outward freight charges (Contract was to deliver machine at A Ltd.'s factory i.e. F.O.R. contract)	75,000

Additional information :

- a. S Ltd. normally gives an interest-free credit period of 30 days for payment, after that it charges interest @ 1% p.m. or part thereof on list price. A Ltd. paid for the supply after 45 days, but S Ltd. waived the interest payable.
- b. S Ltd. received ₹ 50,000 as subsidy, from one non-government organization (NGO) on sale of such machine. This subsidy was not linked to the price of machine and also not considered in list price of ₹ 8,50,000.
- c. A Ltd. deducted discount of ₹ 15,000 at the time of final payment, which was not as per agreement.
- d. S Ltd. collected ₹ 8,500 as TCS (tax collected at source) under the provisions of the Income Tax Act, 1961.

Compute the value of taxable supply as per the provision of GST laws, considering that the price is the sole consideration for the supply and both parties are unrelated to each other.

**Solution:**

Computation of taxable value of supply :

Particulars	₹
List Price (exclusive of tax and discount)	8,50,000
Municipal taxes chargeable on the machine [Only GST is required to be excluded]	55,000
Outward freight charges (Contract was to deliver machine at A Ltd.'s factory i.e. F.O.R. contract)	75,000
Interest on delayed payment [as the same is waived by S Ltd.]	-
Receipt of subsidy from NGO [as it is not directly linked with the machine]	-
Discount [as it is post supply discount]	-
TCS [as it is an interim levy not having the characteristics of tax]	-
<b>Taxable value of supply</b>	<b>9,80,000</b>

**Illustration 26 :**

Ms. Sonam, a registered supplier in Mumbai has provided the following details in respect of her supplies made Intra-State for the month of March 2023 :

Particulars	₹
List price of goods supplied intra-state (without considering following items)	3,30,000
Packing expenses charged separately in the invoice	10,800
Discount of 1% on list price of goods was provided (recorded in the invoice of goods)	

Compute the value of taxable supply.

**Solution:**

Computation of value of taxable supply :

Particulars	₹
List price of goods supplied intra-state	3,30,000
Packing expenses charged separately in the invoice	10,800
Discount of 1% on list price of goods was provided (recorded in the invoice of goods)	(3,300)
Value of taxable supply	3,37,500

**Illustration 27 :**

Y Ltd., Mumbai, a registered supplier, is manufacturing Chocolates and Biscuits. It provides the following details of taxable inter-state supply made by it for the month of October, 2022.

Particulars	₹
List price of goods supplied inter-state	12,40,000
<b>Items already adjusted in the list price</b>	
Subsidy from Central Government for supply of biscuits to Government School	1,50,000
Subsidy from Trade Association for supply of quality biscuits	50,000
<b>Items not adjusted in the list price</b>	
Tax levied by Municipal Authority	25,000
Packing Charges	20,000
Late fee paid by the recipient of supply for delayed payment of invoice	5,000

Calculate the value of taxable supply made by Y Ltd. for the month of October, 2012.

**Solution:**

Computation of value of taxable supply ;

Particulars	₹
List price of goods supplied inter-state	12,40,000
Subsidy from Central Government for supply of biscuits to Government School	-
Subsidy from Trade Association for supply of quality biscuits	50,000

Tax levied by Municipal Authority	25,000
Packing Charges	20,000
Late fee paid by the recipient of supply for delayed payment of invoice	5,000
Value of taxable supply	<b>13,40,000</b>

### FAQ by CBIC on 15-12-2018

#### Q 1. What is the value of taxable supply to be adopted for the levy of GST?

**Ans.** The value of taxable supply of goods and services shall ordinarily be ‘the transaction value’ which is the price paid or payable, when the parties are not related and price is the sole consideration. Sec. 15 of the CGST/SGST Act further elaborates various inclusions and exclusions from the ambit of transaction value. For example, the transaction value shall not include refundable deposit, discount allowed subject to certain conditions before or at the time of supply.

#### Q 2. What is transaction value?

**Ans.** Transaction value refers to the price actually paid or payable for the supply of goods and or services where the supplier and the recipient are not related and price is the sole consideration for the supply. It includes any amount which the supplier is liable to pay but which has been incurred by the recipient of the supply.

#### Q 3. Are there separate valuation provisions for CGST, SGST and IGST and for Goods and Services?

**Ans.** No, section 15 is common for all three taxes and also common for goods and services.

#### Q 4. Is contract price not sufficient to determine valuation of supply?

**Ans.** Contract price is more specifically referred to as ‘transaction value’ and that is the basis for computing tax. However, when the price is influenced by factors like relationship of parties or where certain transactions are deemed to be supply, which do not have a price, the value has to be determined in accordance with the GST Valuation Rules.

#### Q 5. Is reference to GST Valuation Rules required in all cases?

**Ans.** No. Reference to GST Valuation Rules is required only in cases where value cannot be determined u/s 15(1).

#### Q 6. Can the transaction value declared under section 15(1) be accepted?

**Ans.** Yes, if all the conditions specified therein have been fulfilled.

#### Q 7. Whether post-supply discounts or incentives are to be included in the transaction value?

**Ans.** Yes. However, where the post-supply discount is established as per the agreement which is known at or before the time of supply and where such discount specifically linked to the relevant invoice and the recipient has reversed input tax credit attributable to such discount, the discount is allowed as admissible deduction u/s 15 of the CGST Act.

#### Q 8. Whether pre-supply discounts allowed before or at the time of supply are includible in the transaction value?

**Ans.** No, provided it is allowed in the course of normal trade practice and has been duly recorded in the invoice.

#### Q 9. When are the provisions of the Valuation Rules applicable?

**Ans.** Valuation Rules are applicable when (i) consideration either wholly or in part not in money terms; (ii) parties are related or supply by any specified category of supplier; and (iii) transaction value declared is not reliable.

**Q 10. When will open market value become relevant under GST? [FAQ No. 18]**

**Ans.** Open market value will be relevant in cases where consideration for the supply is not wholly in money. The open market value will be particularly relevant in cases where supply is between related persons, or between distinct persons (entities having same PAN but different GSTIN) and between principal and agent.

**Q 11. What is a del-credere agent? [FAQ No. 28]**

**Ans.** A del-credere agent is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the DCA guarantees the payment to the supplier.

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent. In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date.

# Input Tax Credit

## 5.4

**U**ninterrupted and seamless chain of input tax credit (hereinafter referred to as, “ITC”) is one of the key features of Goods and Services Tax. ITC is a mechanism to avoid cascading of taxes. Cascading of taxes, in simple language, is ‘tax on tax’. Under the earlier system of taxation, credit of taxes being levied by Central Government is not available as set-off for payment of taxes levied by State Governments, and vice versa. One of the most important features of the GST system is that the entire supply chain would be subject to GST to be levied by Central and State Government concurrently. As the tax charged by the Central or the State Governments would be part of the same tax regime, the credit of tax paid at every stage would be available as set-off for payment of tax at every subsequent stage.

Before moving ahead, we are required to understand the meaning of following terms :

Sec.	Term	Definition
2(17)	Business	Business includes - i. any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit; ii. any activity or transaction in connection with or incidental or ancillary to sub-clause (a); iii. any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction; iv. supply or acquisition of goods including capital goods and services in connection with commencement or closure of business; v. provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members; vi. admission, for a consideration, of persons to any premises; vii. services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation; viii. activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and ix. any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;
2(19)	Capital Goods	Capital goods means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;
2(34)	Conveyance	Conveyance includes a vessel, an aircraft and a vehicle;

Sec.	Term	Definition
2(59)	Input	Input means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;
2(60)	Input service	Input service means any service used or intended to be used by a supplier in the course or furtherance of business;
2(61)	Input Service Distributor	Input Service Distributor means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;
2(62)	Input tax	Input tax in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes- a. the integrated goods and services tax charged on import of goods; b. the tax payable under the provisions of sec. 9(3) and (4) [i.e., reverse charge]; c. the tax payable under the provisions of sec. 5(3) and (4) of the Integrated Goods and Services Tax Act; d. the tax payable under the provisions of sec. 9(3) and (4) of the respective State Goods and Services Tax Act; or e. the tax payable under the provisions of sec. 7(3) and (4) of the Union Territory Goods and Services Tax Act, but does not include the tax paid under the composition levy;
2(63)	Input tax credit	Input tax credit means the credit of input tax;
2(66)	invoice or tax invoice	“Invoice” or “tax invoice” means the tax invoice referred to in section 31;
2(67)	Inward supply	Inward supply in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;
2(92)	Quarter	Quarter shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;
2(93)	Recipient	Recipient of supply of goods or services or both, means- a. where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration; b. where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and c. where no consideration is payable for the supply of a service, the person to whom the service is rendered, and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

Sec.	Term	Definition
2(94)	Registered person	Registered person means a person who is registered u/s 25 but does not include a person having a Unique Identity Number;
2(105)	Supplier	Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;
2(108)	Taxable supply	Taxable supply means a supply of goods or services or both which is leviable to tax under this Act.
2(119)	Works contract	Works contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

**Eligibility and conditions for taking input tax credit [Sec. 16]**

Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in sec. 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

**Taxpoint :**

- ◉ The person is entitled for ITC if:
  - a. The person is a registered person
  - b. Goods or services or both are supplied to him are used or intended to be used in the course or furtherance of his business
  - c. He satisfies prescribed conditions
  - d. He claims for ITC in the manner prescribed u/s 49

**Conditions to be satisfied [Sec. 16(2)]**

No registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless :

(a)	he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
(aa)	the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies [i.e., GSTR 1] and such details have been communicated to the recipient of such invoice or debit note in the manner specified u/s 37;
(b)	he has received the goods or services or both
	<p><b>Taxpoint :</b></p> <p>Goods received in installment: Where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment.</p>

**Example 34 :**

A consignment of coal is to be dispatched from Kolkata to Mumbai using 5 trucks. An invoice was issued to the recipient on March 30, 2022. Four trucks reached the claimant by March 30, 2022 but the truck carrying the final lot of the consignment reached the recipient only on April 2, 2022. In this case, input tax credit for the entire consignment can be availed only in the month of April 2022.

**No ITC on advance payment :** ITC shall not be available on advance payment without receipt of goods. In case of advance payment, ITC shall be available in the month in which goods (or final lot of goods) is actually received.

**Effect of non-payment of invoice :** Where a recipient fails to pay to the supplier of goods or services or both (other than the supplies on which tax is payable on reverse charge basis), the amount towards the value of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed [Rule 37].

**Re-availment of ITC on payment to supplier :** However, the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

**Bill to ship to Model :** It shall be deemed that the registered person has received the goods or, as the case may be, services:

- i. where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
- ii. where the services are provided by the supplier to any person on the direction of and on account of such registered person.

Such cases are termed as bill to ship to cases wherein the supplier sends the invoice to the buyer and the goods to the recipient on the direction of the buyer. Even though the goods are not received by the buyer, it is presumed that he has received the goods and he is able to take the input tax credit. The buyer may further issue his invoice to the actual recipient of goods. Thus, it is a tripartite arrangement wherein there are usually three parties and two transactions.

**Example 35 :**

H Traders, a dealer in furniture, located in Maharashtra, receives an order from R Traders, also located in Maharashtra. The order is for the supply of 50 tables, with an instruction to ship the tables to P Hardwares, located in Kolkata. P Hardwares is a customer of R Traders. There are two parts to this transaction:

- First part of the transaction – between H Traders and R Traders:  
H Traders is the supplier of tables, and R Traders is the buyer. Accordingly, H Traders bills the transaction to R Traders, and as per the instruction, ships the goods to P Hardwares in Kolkata. ITC is available to the R Traders though goods were not received by it.
- The second part of the transaction – between R Traders and P Hardwares:  
R Traders is the supplier, and P Hardwares is the buyer. R Traders bills the transaction to P Hardwares.

(c)	<p>subject to the provisions of sec. 41, the tax charged in respect of such supply has been actually paid to the Government, either:</p> <ul style="list-style-type: none"> <li>- in cash or</li> <li>- through utilisation of input tax credit admissible in respect of the said supply</li> </ul> <p><b>Example 36 :</b></p> <p>Mr. Vikram acquired a laptop of ₹ 1,00,000 + GST @ 18% [i.e., 9% CGST and 9% SGST] for his professional use from X Ltd.</p> <p>ITC of ₹ 9,000 each in CGST and SGST is not available to Vikram if X Ltd fails to pay GST to the Government. X Ltd. may discharge his liability by following way:</p> <ul style="list-style-type: none"> <li>a. by utilizing balance of ITC available with X Ltd.</li> <li>b. by paying amount to the credit of the Government</li> <li>c. by any combination of aforesaid way</li> </ul>
(d)	he has furnished the return u/s 39 [GSTR 3B]

**Taxpoint :**

- ⊙ No ITC if depreciation is claimed: Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the Income tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

**Example 37 :**

Mr. Vikram acquired a laptop of ₹ 1,00,000 + GST @ 18% [i.e., 9% CGST and 9% SGST] for his professional use. He has following options :

Option 1		Option 2	
Particulars	Amount	Particulars	Amount
<b>Computation of depreciation u/s 32 of the Income-tax Act</b>			
Asset acquired during the year (without considering GST)	1,00,000	Asset acquired during the year (with GST)	1,18,000
Depreciation @ 40%	40,000		47,200
Closing WDV	60,000		70,800
<b>Effect of aforesaid computation in GST</b>			
Input tax credit available		Input tax credit available	
- CGST	9,000	- CGST	Nil
- SGST	9,000	- SGST	Nil

- ⊙ **Maximum time limit for claiming ITC:** A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after
  - a. the 30th November following the end of financial year to which such invoice or debit note pertains; or
  - b. Actual date of furnishing of the relevant annual return [i.e., GSTR 9]
    - whichever is earlier.

However, the aforesaid time limit is not applicable in case of re-availment of the ITC, which had been reversed due to non-payment to the supplier within 180 days from the date of issue of the invoice.

### **Documentary requirements and conditions for claiming input tax credit [Rule 36]**

1. The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-
  - a. an invoice issued by the supplier of goods or services or both in accordance with the provisions of sec. 31;
  - b. an invoice issued in accordance with the provisions of s. 31(3)(f), subject to the payment of tax;
  - c. a debit note issued by a supplier in accordance with the provisions of sec. 34;
  - d. a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
  - e. an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of rule 54(1).
2. Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person:

However, if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.
3. No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.
4. No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished u/s 37(1) unless:
  - a. the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in Form GSTR-1 or using the invoice furnishing facility (IFF); and
  - b. the details of such invoices or debit notes have been communicated to the registered person in Form GSTR-2B under rule 60(7).

### **Taxpoint :**

W.e.f. 01-04-2022, ITC shall not available if the same is not reflected in Form GSTR 2B of the registered person.

### **Reversal of input tax credit in the case of non-payment of consideration [Rule 37]**

1. A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within 180 days from the date of issue of invoice by the supplier, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in Form GSTR-2 for the month immediately following the period of 180 days from the date of the issue of the invoice.

The value of supplies made without consideration as specified in Schedule I shall be deemed to have been

paid for this purpose.

The value of supplies on account of any amount added in accordance with the provisions of sec. 15(2)(b) shall be deemed to have been paid for this purpose.

2. The amount of aforesaid input tax credit shall be added to the output tax liability of the registered person for the month in which the details are furnished.
3. The registered person shall be liable to pay interest at the rate not exceeding 18% for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned above, is paid.
4. The time limit specified u/s 16(4) shall not apply to a claim for re-availing of any credit that had been reversed earlier.

**Clarification on issues related to treatment of sales promotion schemes under GST [Circular No. 92/11/2019 dated 07.03.2019]**

**Buy one get one free offer**

- i. Sometimes, companies announce offers like ‘Buy One, Get One free’ For example, “buy one soap and get one soap free” or “Get one tooth brush free along with the purchase of tooth paste”. As per sec. 7(1)(a), the goods or services which are supplied free of cost (without any consideration) shall not be treated as ‘supply’ under GST (except in case of activities mentioned in Schedule I). It may appear at first glance that in case of offers like ‘Buy One, Get One Free’, one item is being ‘supplied free of cost’ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.
- ii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers

**Discounts including ‘Buy more, save more’ offers**

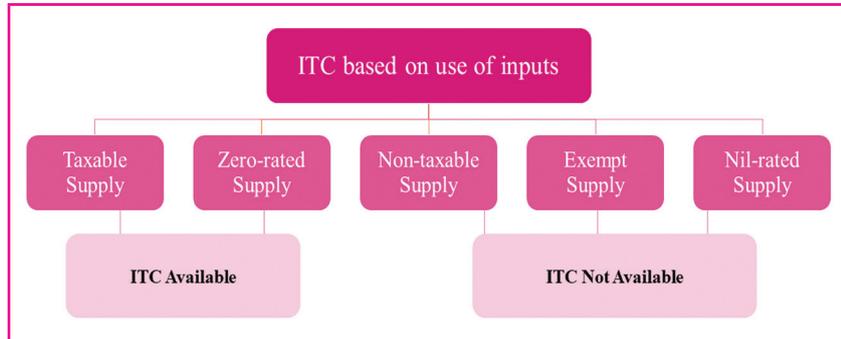
- a. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example - Get 10 % discount for purchases above ₹ 5,000/-, 20% discount for purchases above ₹ 10,000/- and 30% discount for purchases above ₹ 20,000/-. Such discounts are shown on the invoice itself.
- b. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example - Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.
- c. It is clarified that discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sec.

15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

- d. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

**Apportionment of Credit [Sec. 17(1) / (2) / (3)]**

The input tax credit eligibility is based on the fact as to whether the goods or services or both are used for taxable supplies or exempt supplies. Where the goods or services or both are used for both taxable and exempt supplies, only proportionate credit is allowed to a registered person.



1. Goods or services are used partly for business purpose and partly for other purpose: 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.
2. Goods or services are used partly for effecting taxable supply and partly for effecting exempted supply: Where the goods or services or both are used by the registered person partly for effecting taxable supplies (including zero-rated supplies) and partly for effecting exempt supplies, 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).

**Taxpoint :**

The value of exempt supply 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. It is to be noted that 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.

**Example 38 :**

Mr Akhil registered person provides the following information for the month of March 2022 :

Particulars	Amount
Input tax credit in respect of inward supply	₹2,00,000
Taxable supply (Excluding zero rated supply)	₹10,00,000
Export i.e., zero-rated supply	₹ 5,00,000
Exempt supplies	₹ 3,00,000
Inward supplies on which he is liable to pay tax on reverse charge basis	₹ 2,00,000

In this case computation of ITC available to Mr. Akhil are as under :

Particulars		Amount
Taxable supply (Excluding zero rated supply)		₹10,00,000
Export i.e., zero-rated supply		₹ 5,00,000
Exempt supplies		₹ 3,00,000
Inward supplies on which he is liable to pay tax on reverse charge basis		₹ 2,00,000
Total Supply	A	₹ 20,00,000
Total Supply Out of this taxable supply including zero rated supplies [₹ 10,00,000 + ₹ 5,00,000]	B	₹ 15,00,000
Input tax credit in respect of inward supply	C	₹2,00,000
<b>ITC available [C x B/A] for the month of March 2022</b>		₹ 1,50,000

**Manner of determination of input tax credit in respect of inputs or input services and reversal thereof [Rule 42]**

The input tax credit in respect of inputs or input services, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner:

- a The total input tax involved on inputs and input services in a tax period, be denoted as “T”;
- b The amount of input tax, out of “T”, attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as ‘T1’
- c The amount of input tax, out of “T”, attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as ‘T2’
- d The amount of input tax, out of “T”, in respect of inputs and input services on which credit is not available u/s 17(5), be denoted as ‘T3’
- e The amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as ‘C1’ and calculated as:

$$C1 = T - (T1 + T2 + T3)$$

- f The amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as ‘T4’

**Taxpoint :**

In case of supply of services covered by clause (b) of paragraph 5 of Schedule II, value of T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

- g ‘T1’, ‘T2’, ‘T3’ and ‘T4’ shall be determined and declared by the registered person at the invoice level in Form GSTR-2 and at summary level in Form GSTR-3B
- h Input tax credit left after attribution of input tax credit under clause (f) shall be called common credit, be denoted as ‘C2’ and calculated as:

$$C2 = C1 - T4$$

- i The amount of input tax credit attributable towards exempt supplies, be denoted as ‘D1’ and calculated as

$$D1 = (E / F) \times C2$$

## Indirect Taxation

where,

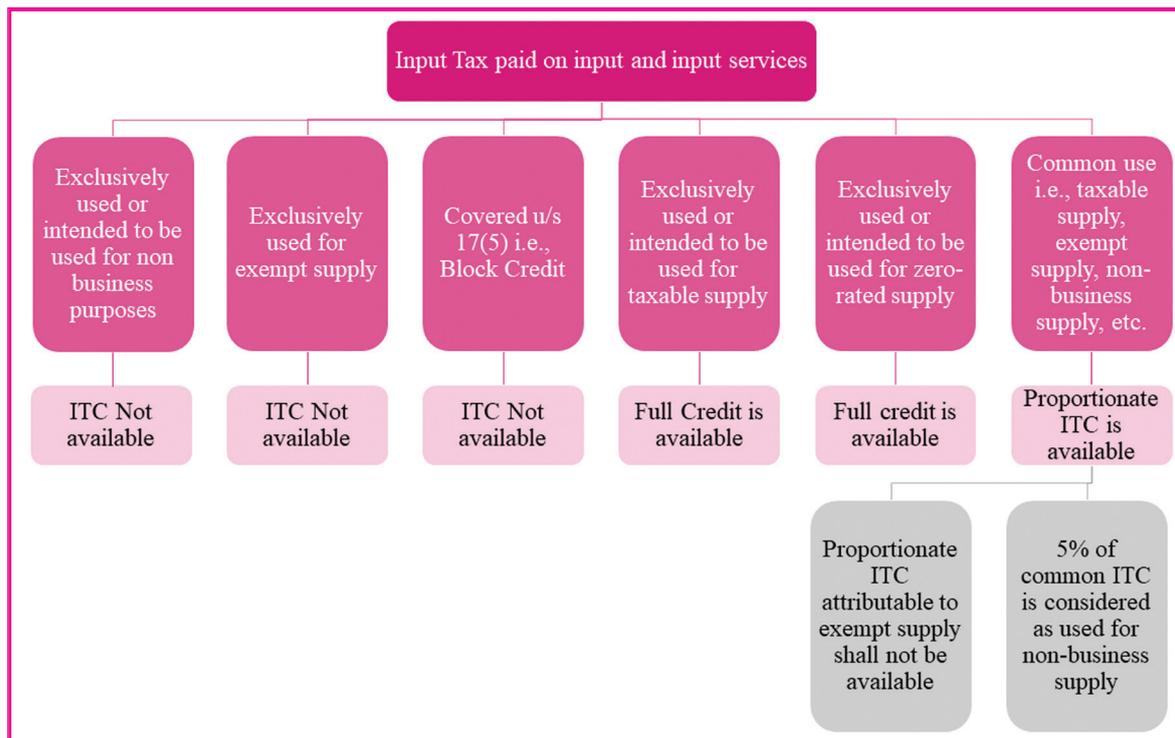
‘E’ is the aggregate value of exempt supplies during the tax period; and

‘F’ is the total turnover in the State of the registered person during the tax period:

- j The amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as ‘D2’ and shall be equal to 5% of C2
- k The remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as ‘C3’, where,-

$$C3 = C2 - (D1 + D2)$$

- l The amount ‘C3’, ‘D1’ and ‘D2’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax
- m The amount equal to aggregate of ‘D1’ and ‘D2’ shall be reversed by the registered person in Form GSTR-3B or through Form GST DRC-03.



### Example 39 :

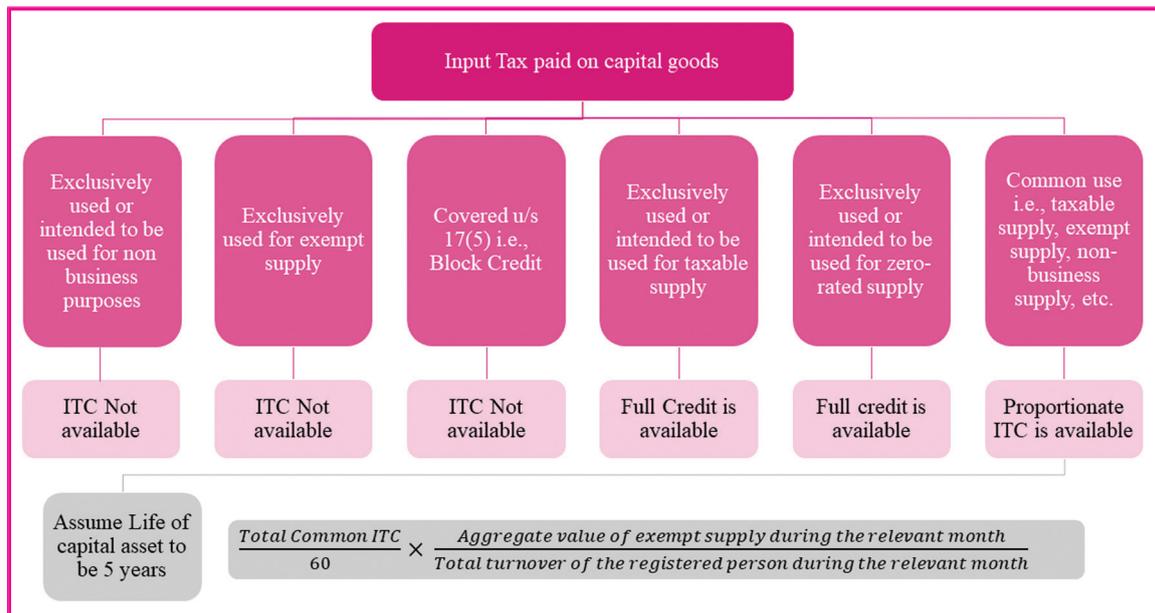
Particulars	Reference	Amount
Total input tax on inputs & input services for the tax period May 2022	T	2,00,000
Out of the total input tax (T):		
Input tax used exclusively for non-business purposes	T1	20,000
Input tax used exclusively for effecting exempt supplies	T2	20,000

Particulars	Reference	Amount
Input tax ineligible u/s 17(5)	T3	10,000
Total		50,000
ITC credited to Electronic Credit Ledger	$C1 = T - (T1 + T2 + T3)$	1,50,000
Input tax credit used exclusively for taxable supplies (including zero-rated supplies)	T4	1,00,000
Common Credit	$C2 = C1 - T4$	50,000
Aggregate Value of exempt supplies for the tax period May 2022 (Note 1 & 2)	E	10,00,000
Total Turnover of the registered person for the tax period May 2022 (Note 1)	F	40,00,000
Proportionate of Common credit not allowed	$D1 = C2 \times E/F$	12,500
5% of Common credit not allowed	$D2 = C2 \times 5\%$	2,500
ITC to be reversed out of common credit	$D1 + D2$	15,000
<b>Net ITC Available after reversal</b>	<b><math>T4 + C2 - D1 - D2</math></b>	<b>1,35,000</b>

Note 1: If the registered person does not have any turnover for May 2022, then the value of E and F shall be considered for the last tax period for which such details are available

Note 2: Aggregate value excludes taxes

**Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases [Rule 43]**



**Example 40 :**

Particulars	Reference	Amount
Total input tax on capital goods for the tax period May 2022 [Such capital goods shall be used in effecting taxable and exempt supply]		6,00,000
Common Credit	C	6,00,000
Aggregate Value of exempt supplies for the tax period May 2022	E	10,00,000
Total Turnover of the registered person for the tax period May 2022	F	40,00,000
<b>ITC to be reversed for the tax period May 2022</b>	$\frac{C}{60} \times \frac{E}{F}$	2,500

**Optional method in case of Bank, etc. for ITC [Sec. 17(4)]**

A banking company or a financial institution including a NBFC, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either

- comply with the provisions of sec. 17(2), or
- avail of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse.

However, the option once exercised shall not be withdrawn during the remaining part of the financial year. Further, the restriction of 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

**Block Credit (ITC not available on certain goods or services) [Sec. 17(5)]**

Input tax credit shall not be available in respect of the following:

- 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:
  - A. further supply of such motor vehicles; or
  - B. transportation of passengers; or
  - C. imparting training on driving such motor vehicles.

**Taxpoint :**

- ITC is available for any motor vehicles for transportation of persons having approved seating capacity of **more than 13 persons** (including the driver). However, seating capacity is not more than 13 persons, then ITC shall be available only if the said motor vehicle are used for making aforesaid supply.
- Motor vehicle means any mechanically propelled vehicle used on roads but does not include
  - a vehicle running on fixed rails or
  - a special vehicle used in a factory or an enclosed premises
  - vehicle having less than four wheels with engine capacity not exceeding 25 cc
- aa vessels and aircraft **except** when they are used-
  - i. for making the following taxable supplies:
    - A. further supply of such vessels or aircraft; or

- B. transportation of passengers; or
  - C. imparting training on navigating such vessels; or
  - D. imparting training on flying such aircraft;
  - ii. for transportation of goods.
- ab** services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa).

However, the input tax credit in respect of such services shall be available:

- i. where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
  - ii. where received by a taxable person engaged-
    - 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** 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 clause (aa) except when used for the purposes specified therein, life insurance and health insurance.

The input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply.

**Example 41 :**

A Corporate party is organized by hiring an event manager. Event manager is contracted to ensure all arrangements relating to food, guests, lighting, decoration, cab services for pick up and drop etc. Event manager uses the services of a caterer to serve food at the party and engages a rent-a-cab operator to pick-up and drop guests.

Credit to event manager for food and rent-a-cab services available since inward supplies have been used for making outward supplies

- ii. membership of a club, health and fitness centre; and
  - ii. travel benefits extended to employees on vacation such as leave or home travel concession:
- The input tax credit in respect of such goods or services or both [all types of goods or services mentioned in (b)] 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
- Construction includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property.

- Plant and machinery means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes:
  - i. land, building or any other civil structures;
  - ii. telecommunication towers; and
  - iii. pipelines laid outside the factory premises.
- d** goods or services or both received by a taxable person for construction<sup>21</sup> of an immovable property (other than plant or machinery<sup>22</sup>) 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 u/s 10 i.e. composition levy :
- 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 sec. 74, 129 and 130<sup>23</sup>

### Availability of credit in special circumstances [Sec. 18]

- 1 Subject to such conditions and restrictions as may be prescribed [Rule 40]
  - a. a person who has applied for registration within 30 days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under this Act;
  - b. a person who takes registration u/s 25(3) [i.e., voluntarily registration] shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;
  - c. where any registered person ceases to pay tax u/s 10 [i.e., composition levy], he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax u/s 9.  
However, credit on capital goods shall be reduced by such % as may be prescribed;
  - d. where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable  
However, credit on capital goods shall be reduced by such % as may be prescribed;
- 2 **Time-limit** : A registered person shall not be entitled to take input tax credit in respect of any supply of goods or services or both (in aforesaid cases) to him after the expiry of 1 year from the date of issue of tax invoice relating to such supply.

<sup>21</sup> As defined in aforesaid clause i.e., sec. 17(5)(c)

<sup>22</sup> As defined in aforesaid clause i.e., sec. 17(5)(c)

<sup>23</sup> Relating to the provision of tax paid due to evasion of taxes, or upon detention of goods or conveyance in transit, or towards resumption of confiscated goods or conveyance

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

4 **Composition levy :** Where

- any registered person who has availed of input tax credit opts to pay tax u/s 10; or
- the goods or services or both supplied by him become wholly exempt,

he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

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

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

6 In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined u/s 15, whichever is higher.

However, where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined u/s 15.

#### **Manner of claiming credit in special circumstances [Rule 40]**

1 The input tax credit claimed in accordance with the provisions of sec. 18(1) on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions:

- a. the input tax credit on capital goods, in terms of sec. 18(1)(c) and (d), shall be claimed after reducing the tax paid on such capital goods by 5% per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person
- b. the registered person shall within a period of 30 days from the date of becoming eligible to avail the input tax credit u/s 18(1), or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in Form GST ITC-01 to the effect that he is eligible to avail the input tax credit as aforesaid.

Any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner

- c. aforesaid declaration shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods-
  - i. on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim u/s 18(1)(a);

- ii. on the day immediately preceding the date of the grant of registration, in the case of a claim u/s 18(1)(b);
    - iii. on the day immediately preceding the date from which he becomes liable to pay tax u/s 9, in the case of a claim u/s 18(1)(c);
    - iv. on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim u/s 18(1)(d);
  - d. the details furnished in the declaration shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds ₹ 2,00,000
  - e. the input tax credit claimed in accordance with the provisions of sec. 18(1)(c) and (d) shall be verified with the corresponding details furnished by the corresponding supplier in Form GSTR-1 or as the case may be, in Form GSTR- 4, on the common portal.
2. The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sec. 18(6), shall be calculated by reducing the input tax on the said goods @ 5% for every quarter or part thereof from the date of the issue of the invoice for such goods.

### **Transfer of credit on sale, merger, amalgamation, lease or transfer of a business [Rule 41]**

1. A registered person shall, in the event of sale, merger, demerger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, demerger, amalgamation, lease or transfer of business, in Form GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.

In the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

“Value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

2. The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, demerger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.
3. The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in Form GST ITC-02 shall be credited to his electronic credit ledger
4. The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

### **Transfer of credit on obtaining separate registration for multiple places of business within a State or Union Territory [Rule 41A]**

1. A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of 30 days from obtaining such separate registrations, the details in Form GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner.

The input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

‘Value of assets’ means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

2. The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in Form GST ITC-02A shall be credited to his electronic credit ledger.

**Manner of reversal of credit under special circumstances [Rule 44]**

- ⦿ The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sec. 18(4) or sec. 29(5) [relating to cancellation of registration], be determined in the following manner
  - a. for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
  - b. for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as 5 years.

**Example 42 :**

Capital goods have been in use for 4 years, 6 month and 15 days.

The useful remaining life in months = 5 months ignoring a part of the month

Input tax credit taken on such capital goods = ₹ 60,000

Input tax credit attributable to remaining useful life = ₹ 60,000 x 5/60 = ₹ 5,000

- ⦿ The aforesaid amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.
- ⦿ Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under rule 44(1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sec. 18(4) or sec. 29(5)
- ⦿ The amount determined under rule 44(1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in Form GST ITC-03, where such amount relates to any event specified in sec. 18(4) and in Form GSTR-10, where such amount relates to the cancellation of registration.
- ⦿ The details furnished in accordance with rule 44(3) shall be duly certified by a practicing chartered accountant or cost accountant.
- ⦿ The amount of input tax credit for the purposes of sec. 18(6) relating to capital goods shall be determined in the same manner as specified in rule 44(1)(b) and the amount shall be determined separately for input tax credit of Central tax, State tax, Union territory tax and integrated tax.

However, where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in Form GSTR-1

### Taking input tax credit in respect of inputs and capital goods sent for job work [Sec. 19]

- The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.
- The principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.
- Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with sec. 143(1)(a) or (b) within 1 year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

However, where the inputs are sent directly to a job worker, the period of 1 year shall be counted from the date of receipt of inputs by the job worker.

As per sec. 143, a registered person (hereafter in this section referred to as the “principal”) may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,-

- bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out, to any of his place of business, without payment of tax;
  - supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within 1 year and 3 years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be.
- The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.
  - The principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.
  - Where the capital goods sent for job work are not received back by the principal within a period of 3 years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

However, where the capital goods are sent directly to a job worker, the period of 3 years shall be counted from the date of receipt of capital goods by the job worker.

- However, period of 1 year / 3 years shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

### Conditions and restrictions in respect of inputs and capital goods sent to the job worker [Rule 45]

- The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker.

The challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and

description of goods where the goods are sent by one job worker to another or are returned to the principal.

Further, the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.

- ◉ The challan issued by the principal to the job worker shall contain the details specified in rule 55.
- ◉ The details of challans in respect of goods dispatched to a job worker or received from a job worker during the specified period shall be included in Form GST ITC-04 furnished for that period on or before the 25th day of the month succeeding the said period or within such further period as may be extended by the Commissioner by a notification in this behalf.

Any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

“Specified period” shall mean -

- a. the period of 6 consecutive months commencing on the 1st day of April and the 1st day of October in respect of a principal whose aggregate turnover during the immediately preceding financial year exceeds ₹ 5 crore; and
  - b. a financial year in any other case
- ◉ Where the inputs or capital goods are not returned to the principal within the time stipulated in sec. 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in Form GSTR-1 and the principal shall be liable to pay the tax along with applicable interest.

For determining the value of an exempt supply as referred to in sec. 17(3):

- a. the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
- b. the value of security shall be taken as 1% of the sale value of such security.

### Input Service Distributor

Input Service Distributor (ISD) means an office of the supplier of goods or services or both which receives tax invoices towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax (CGST), State tax (SGST)/ Union territory tax (UTGST) or integrated tax (IGST) paid on the said services to a supplier of taxable goods or services or both having same PAN as that of the ISD.

It is important to note that the ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (inputs or capital goods). Companies may have their head office at one place and units at other places which may be registered separately. The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised on the Head Office. But the Head Office itself would not be providing any output supply so as to utilize the credit which gets accumulated on account of such input services.

Since the common expenditure is meant for the business of all units, it is but natural that the credit of input services in respect of such common invoices should be apportioned between all the consuming units. ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units.

Let's take an example to understand this concept. The corporate office of ABC Ltd., is at Bangalore, with its

business locations of selling and servicing of goods at Bangalore, Chennai, Mumbai and Kolkata. Software license and maintenance is used at all the locations, but invoice for these services (indicating CGST and SGST) are received at Corporate Office. Since the software is used at all the four locations, the input tax credit of entire services cannot be claimed at Bangalore. The same has to be distributed to all the four locations. For that reason, the Bangalore Corporate office has to act as ISD to distribute the credit. If the corporate office of ABC Ltd, an ISD situated in Bangalore receives invoices indicating ₹ 4 lakh of Central tax, ₹ 4 lakhs of State tax and ₹ 7 lakh of integrated tax, it can distribute central tax, State tax as well as integrated tax of ₹ 15 lakh as credit of integrated tax amongst its locations at Bangalore, Chennai, Mumbai and Kolkata through an ISD invoice containing the amount of credit distributed.

The credit has to be distributed only to the unit to which the supply is directly attributable to. If input services are attributable to more than one recipient of credit, the distribution shall be in the pro-rata basis of turnover in the State/Union Territory.

For example, if an ISD has 4 units across the country. However, if a particular input service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units. If the input services are common for all units, then it will be distributed according to the ratio of turnover of all the units.

### **Manner of distribution of credit by Input Service Distributor [Sec. 20]**

- The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.
- The Input Service Distributor may distribute the credit subject to the following conditions:
  - the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;
  - the amount of the credit distributed shall not exceed the amount of credit available for distribution;
  - the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;
  - the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;
  - the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

For the purposes of this section,-

- The “relevant period” shall be:
  - i. if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

- ii. if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;
- ◉ The expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;
  - ◉ The term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entries 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

**Example 43:**

M/s XYZ Ltd, having its head Office at Mumbai, is registered as ISD. It has three units in different states namely ‘Mumbai’, ‘Jabalpur’ and ‘Delhi’ which are operational in the current year. M/s XYZ Ltd furnishes the following information for the month of May, 2022 & asks for permission to distribute the below input tax credit to various units.

- i. CGST paid on services used only for Mumbai Unit: ₹ 3,00,000/-
- ii. IGST, CGST & SGST paid on services used for all units: ₹ 12,00,000/-

Total Turnover of the units are as follows :

Unit	Turnover (₹)
Total Turnover of three units	₹ 10, 00, 00,000
Turnover of Mumbai unit	₹ 5, 00, 00,000 (50%)
Turnover of Jabalpur unit	₹ 3, 00, 00,000 (30%)
Turnover of Delhi unit	₹ 2, 00, 00,000 (20%)

Computation of Input Tax Credit Distributed to various units is as follows :

Particulars	Credit distributed to all units			
	Total credit available	Mumbai	Jabalpur	Delhi
CGST paid on services used only for Mumbai Unit	3,00,000	3,00,000	-	-
IGST, CGST & SGST paid on services used in all units [Distribution on pro rata basis to all the units which are operational in the current year]	12,00,000	6,00,000	3,60,000	2,40,000
<b>Total</b>	<b>15,00,000</b>	<b>9,00,000</b>	<b>3,60,000</b>	<b>2,40,000</b>

Credit distributed pro rata basis on the basis of the turnover of all the units is as under:

- a) Unit Mumbai:  $(₹ 5,00,00,000 / ₹ 10,00,00,000) \times ₹ 12,00,000 = ₹ 6,00,000$
- b) Unit Jabalpur:  $(₹ 3,00,00,000 / ₹ 10,00,00,000) \times ₹ 12,00,000 = ₹ 3,60,000$
- c) Unit Delhi:  $(₹ 2,00,00,000 / ₹ 10,00,00,000) \times ₹ 12,00,000 = ₹ 2,40,000$

**Manner of recovery of credit distributed in excess [Sec. 21]**

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in sec. 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of sec. 73 or 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

**Availment of input tax credit [Sec. 41]**

1. Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.
2. The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

However, where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

**Illustration 28 :**

M/s. Abishek Industries Ltd., has given the following information pertaining to the month of October, 2022 :

Sl. No.	Particulars	Amount
1.	Total Input Tax Credit (ITC) on inputs and input services	18,00,000
2.	ITC attributable exclusively for non-business purposes (included in S.No. 1 above)	1,50,000
3.	ITC attributable exclusively for effecting exempt supplies (included in S. No. 1 above)	6,50,000
4.	ITC in respect of inputs on which credit is not available u/s.17(5) (included in S.No. 1 above)	50,000
5.	ITC attributable exclusively for effecting taxable supplies (included in S.No. 1 above)	5,50,000
6.	Total turnover	1,12,65,000
7.	Total value of exempt supplies	54,16,000

- a. State the quantum of common credit.
- b. State the amount of ITC to be reversed as per Rule 42.

**Solution:**

Computation of common credit and amount to be reversed as per Rule 42 :

Particulars	Reference	Amount
Total input tax on inputs & input services for the tax period	T	18,00,000
Out of the total input tax (T):		
Input tax used exclusively for non-business purposes	T1	1,50,000
Input tax used exclusively for effecting exempt supplies	T2	6,50,000

Particulars	Reference	Amount
Input tax ineligible u/s 17(5)	T3	50,000
Total		8,50,000
ITC credited to Electronic Credit Ledger	$C1 = T - (T1 + T2 + T3)$	9,50,000
Input tax credit used exclusively for taxable supplies (including zero-rated supplies)	T4	5,50,000
Common Credit	$C2 = C1 - T4$	4,00,000
Aggregate Value of exempt supplies for the tax period	E	54,16,000
Total Turnover of the registered person for the tax period	F	1,12,65,000
Proportionate of Common credit not allowed	$D1 = C2 \times E/F$	1,92,312
5% of Common credit not allowed	$D2 = C2 \times 5\%$	20,000
<b>ITC to be reversed out of common credit</b>	<b>D1 + D2</b>	<b>2,12,312</b>

**Illustration 29 :**

P Ltd. a registered manufacturer of Jaipur entered in a contract with a supplier for supply of Input 'Z' in October, 2022. As per contract it was agreed that 10,000 kgs of Input 'Z' will be supplied for ₹ 7,28,000 (inclusive of CGST and SGST @ 6% each) in 4 lots. Invoice of ₹ 7,28,000 has been issued with supply of first lot of Input 'Z'. Following further information has been provided regarding supply of Input received in subsequent lots. Briefly explain whether P Ltd. eligible to take credit on proportionate basis.

Input 'X' (in lots)	Quantity in Kgs	Date of Receipt of Supply
First Lot	2,500	19-10-2022
Second lot	3,000	21-10-2022
Third Lot	1,500	12-11-2022
Fourth Lot	3,000	01-12-2022

**Solution:**

No, P Ltd. is not eligible to take credit on proportionate basis. As per first proviso to sec. 16(2), where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment. Therefore, in the given case Input 'Z' has been received in lots hence, the credit of tax of ₹ 78,000 i.e. ( $₹ 7,28,000 \times 12 \div 112$ ) paid on such input shall be taken by P Ltd. only after receipt of fourth lot i.e., 01-12-2022.

**Illustration 30 :**

Compute the Input tax credit available with MS Motors Ltd., manufacturer of cars, in respect of the following services availed by it in the month of October, 2022 :

Sl. No.	Particulars	Amount
1.	Accounting and Auditing Services	17,200
2.	Health insurance services for employees (Services are not provided under Government obligation)	6,200
3.	Routine maintenance of the cars manufactured by MS Motors Ltd.	28,000

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4.	Repair services for office building (Cost of repairs is charged to Profit & loss Account)	28,400
5.	Hotel accommodation and conveyance facility to employees on vacation	13,360
6.	Testing services availed for car engines	19,000

### Solution:

Computation of Input tax credit available with MS Motors Ltd

Sl. No.	Particulars	Amount
1.	Accounting and Auditing Services	17,200
2.	Health insurance services for employees (Services are not provided under Government obligation)	Nil
3.	Routine maintenance of the cars manufactured by MS Motors Ltd.	28,000
4.	Repair services for office building (Cost of repairs is charged to Profit & loss Account)	28,400
5.	Hotel accommodation and conveyance facility to employees on vacation	Nil
6.	Testing services availed for car engines	19,000
	<b>Total credit available</b>	<b>92,600</b>

Note: Item 2 and 5 are covered under sec. 17(5) i.e., block credit hence credit is not available.

### Illustration 31 :

Compute the amount of Input tax credit admissible to Sonam Ltd. in respect of various inputs purchased during the month of September, 2022.

Particulars	₹
Goods purchased without invoice	75,000
Goods purchased from Akhil Ltd. (Full Payment is made by Sonam Ltd. to Akhil Ltd. against such supply but tax has not been deposited by Akhil Ltd.)	2,20,000
Purchases of goods not to be used for business purposes	38,000
Purchases of goods from Komal Ltd. (Invoice of Komal Ltd. is received in month of September 2022, but goods were received in month of October 2022)	44,000
Goods purchased against valid invoice from Vikram Ltd. Sonam Ltd. has made payment to Vikram Ltd. for such purchases in the month of October 2022	38,000

### Solution:

Computation of Input tax credit available with Sonam Ltd. for the month of Sept 2022 :

Particulars	Note	₹
Goods purchased without invoice	As document are not available	Nil
Goods purchased from Akhil Ltd. (Full Payment is made by Sonam Ltd. to Akhil Ltd. against such supply but tax has not been deposited by Akhil Ltd.)	As tax is not paid by the Akhil Ltd	Nil
Purchases of goods not to be used for business purposes	Non business purpose	Nil
Purchases of goods from Komal Ltd. (Invoice of Komal Ltd. is received in month of September 2022, but goods were received in month of October 2022)	Good yet not received	Nil

Goods purchased against valid invoice from Vikram Ltd. Sonam Ltd. has made payment to Vikram Ltd. for such purchases in the month of October 2022	38,000
<b>Total credit available for the month of Sept 2022</b>	<b>38,000</b>

**Illustration 32 :**

W Ltd., a registered supplier, is engaged in the manufacture of Tanks. The company provides the following information pertaining to GST paid on the purchases made/input services availed by it during the month of January 2023 :

Particulars	GST Paid (₹)
Purchase of Machinery where debit note is issued	2,15,000
Input purchased was directly delivered to Mr. X, a job worker and a registered supplier	1,00,000
Computers purchased (Depreciation was claimed on the said GST portion under the Income-Tax Act, 1961)	5,000
Works Contract services availed for construction of Staff quarters within the company premises	2,25,000

Determine the amount of ITC available to the company for the month of January 2023. Subject to the information given above, all the conditions necessary for availing the ITC have been fulfilled.

**Solution:**

Computation of ITC available to the company for the month of Jan 2023 :

Particulars	₹
Purchase of Machinery where debit note is issued	2,15,000
Input purchased was directly delivered to Mr. X, a job worker and a registered supplier	1,00,000
Computers purchased (Depreciation was claimed on the said GST portion under the Income-Tax Act, 1961)	-
Works Contract services availed for construction of Staff quarters within the company premises [Block credit u/s 17(5)]	-
Available ITC for the month of Jan 2023	3,15,000

**Illustration 33 :**

X Private Limited, a registered supplier is engaged in the manufacture of taxable goods. The company provides the following information of GST paid on the purchases made/input services availed by it during the month of September 2022 :

Particulars	GST Paid (₹)
Purchase of cabs used for the transportation of its employees	1,00,000
Inputs consisting of four lots, out of which second lot was received during the month	2,25,000
Capital Goods (out of three items, invoice for one item was missing and GST paid on that item was ₹ 50,000)	2,50,000
Outdoor catering service availed on Women's day	72,000

## Indirect Taxation

Determine the amount of input tax credit available with M/s X Private Limited for the month of September, 2022. All the conditions necessary for availing the input tax credit have been fulfilled.

### Solution:

Computation of ITC available to the company for the month of Sept 2022 :

Particulars	₹
Purchase of cabs used for the transportation of its employees [Block credit u/s 17(5)]	-
Inputs consisting of four lots, out of which second lot was received during the month [available on receipt of last lot]	-
Capital Goods (out of three items, invoice for one item was missing and GST paid on that item was ₹ 50,000) [Documents are not available for ₹ 50,000]	2,00,000
Outdoor catering service availed on Women's day	-
ITC available	2,00,000

### Illustration 34 :

BA Pvt. Ltd. purchased machinery worth ₹ 10,00,000 (excluding GST) on 20-07-2022 on which it paid GST @ 18% and availed the ITC. On 05-03-2023, it sold the machinery for ₹ 8,00,000 (excluding GST) to HA Pvt. Ltd. The GST rate on sale is 18%. What will be the course of action for BA Pvt. Ltd. to follow under CGST Act, 2017?

### Solution:

Where capital goods or plant and machinery on which input tax credit (ITC) has been taken are supplied outward by a registered person, he must pay an amount that is higher of the following:

- ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods; or
- tax on transaction value.

Accordingly, the amount payable on supply of machinery by BA Pvt. Ltd. shall be computed as follows :

Particulars	₹
ITC taken on acquisition of such machine [₹ 10,00,000 x 18%]	1,80,000
Time gap in quarters between date of purchase and outward supply of such machine	3 quarters
Total reduction in tax paid [5% for each quarter x 3 quarter]	15%
Amount of reduction in tax paid [₹ 1,80,000 x 15%]	27,000
Amount of GST to be Paid [being higher of the following]	
a. ₹ 1,80,000 – ₹ 27,000	1,53,000
b. GST on transaction value [₹ 8,00,000 x 18%]	1,44,000
Hence, liability of GST is	1,53,000

### Illustration 35 :

M/s. VMA, a registered taxable person under regular scheme provides following information in respect of supplies made by it during the month of April, 2022 :

	₹
Inter-state supply of goods	2,00,000
Intra-state supply of 1000 packets of detergent @ ₹ 400 each alongwith a plastic bucket worth ₹ 100 each with each packet, being a mixed supply. (Rate of GST on detergent is 18% and on plastic bucket is 28%)	
Supply of online educational journals to M/s XYZ, a private coaching centre providing tuitions to students of Class X-XII, being intra-state supply	1,00,000
M/s. VMA has also received the following inward supplies:	
Inter-state supply of goods (out of which invoice for goods worth ₹ 40,000 is missing and no other tax paying document is available)	1,40,000
Repairing of bus with seating capacity of 20 passengers used to transport its employees from their residence, being intra-state supply	1,00,000
Details of opening balances of ITC as on 1-4-2022 are as follows:	
- CGST	10,000
- SGST	10,000
- IGST	80,000

Following additional information is provided :

- Rate of GST in respect of all inward and outward supplies except item (ii) above is 18%. i.e. CGST and SGST @ 9% and IGST @ 18%.
- All figures mentioned above are exclusive of taxes.
- All the conditions for availing the ITC have been fulfilled except specifically given and M/s. VMA is not eligible for any threshold exemption.

Compute the minimum net GST payable in cash by M/s. VMA for the month of April, 2022.

**Solution:**

Computation of available ITC :

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Opening balance	80,000	10,000	10,000
ITC on Inter-state purchase of goods (excluding missing invoice) [₹ 1,00,000 x 18%]	18,000	-	-
ITC on Repairing of bus [₹ 1,00,000 x 9%]	-	9,000	9,000
<b>Available ITC</b>	<b>98,000</b>	<b>19,000</b>	<b>19,000</b>

Computation of tax payable on outward supplies :

Sl. No.	Particulars	Taxable Value	CGST @ 9%	SGST @ 9%	IGST @ 18%
(i)	Inter-State supply of goods	2,00,000	-	-	-
(ii)	Intra-state mixed supply	4,00,000	56,000	56,000	-
(iii)	Intra-State supply of services	1,00,000	9,000	9,000	-
	<b>Total</b>		<b>65,000</b>	<b>65,000</b>	<b>36,000</b>

Computation of GST payable in cash :

Particulars	CGST @ 9%	SGST @ 9%	IGST @ 18%
Total GST payable	65,000	65,000	36,000
Less : ITC-IGST	(31,000)	(31,000)	(36,000)
Less : ITC-CGST / SGST	(19,000)	(19,000)	-
<b>GST payable in cash</b>	<b>15,000</b>	<b>15,000</b>	<b>-</b>

Note : Balance credit of IGST may be first utilized in the discharging CGST of ₹ 46,000. In that case, SGST of ₹ 30,000 would be payable.

**FAQ by CBIC on 15-12-2018**

**Q 1. What is input tax? [FAQ 1]**

**Ans.** Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated tax charged on import of goods. It does not include tax paid under composition levy.

**Q 2. What is Input Tax Credit? [FAQ 2]**

**Ans.** Input Tax Credit means the credit of input tax on the supplies of goods or services or both received by a registered person.

**Q 3. Can GST paid on reverse charge basis be considered as input tax? [FAQ 3]**

**Ans.** Yes. The definition of input tax includes the tax payable under the reverse charge.

**Q 4. Does input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods? [FAQ 4]**

**Ans.** Yes, it includes taxes paid on input goods, input services and capital goods. Credit of tax paid on capital goods is permitted to be availed in one instalment.

**Q 5. Is credit of all input tax charged on supply of goods or services allowed under GST? [FAQ 5]**

**Ans.** A registered person is entitled to take credit of input tax charged on supply of goods or services or both to him which are used or intended to be used in the course or furtherance of business, subject to other conditions and restrictions.

**Q 6. Where the goods against an invoice are received in lots or instalments, how will a registered person be entitled to ITC? [FAQ 8]**

**Ans.** The registered person shall be entitled to the credit only upon receipt of the last lot or installment.

**Q 7. Can a person take input tax credit without payment of consideration for the supply along with tax to the supplier? [FAQ 9]**

**Ans.** Yes, the recipient can take ITC. But he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

**Q 8. What would happen of the ITC taken by the registered person if he has not paid the consideration along with tax within 180 days from the date of issue of invoice? [FAQ 10]**

**Ans.** The amount of ITC would be added to output tax liability of the person. He would also be required to pay interest. However, he can take ITC again on payment of consideration and tax.

**Q 9. Can the recipient reclaim the credit; in case he makes the payment any time after 180 days? [FAQ 11]**

**Ans.** Yes. The recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

**Q 10. Is there any time limit for re-claiming the credit where payment is made after 180 days from the date of issue of invoice? [FAQ 12]**

**Ans.** No. The time limit specified in section 16(4) shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or these rules, that had been reversed earlier.

**Q 11. Certain supplies mentioned in Schedule I of the Act are deemed to be supplies even if made without consideration. Will the payment within 180 days' rule for credit apply even to such cases? [FAQ 13]**

**Ans.** No. The value of supplies made without consideration as specified in Schedule I shall be deemed to have been paid for the purposes of the second proviso to section 16(2). (Proviso to Rule 37 of the CGST Rules, 2017)

**Q 12. Who will get the ITC where goods have been delivered to a person other than taxable person ('bill to'- 'ship to' scenarios)? [FAQ 15]**

**Ans.** It would be deemed that the registered person has received the goods when the goods have been delivered to a third party on the direction of such taxable person. So ITC will be available to the person on whose order the goods are delivered to third person.

**Q 13. Who will get the ITC where services are provided by the supplier to a person on the direction of and on account of such registered person? [FAQ 16]**

**Ans.** It would be deemed that the registered person has received the services where the services are provided by the supplier to any person on the direction of and on account of such registered person. [ Explanation clause to Section 16(2)(b) inserted vide CGST(Amendment) Act, 2018]

**Q 14. Sometimes goods are destroyed or lost due to various reasons? Can a person take ITC to the extent of such goods? [FAQ 21]**

**Ans.** No, a person cannot take ITC with respect to goods lost, stolen, destroyed or written off. In addition, ITC with respect of goods given as gifts or free samples are also not allowed. [Section 17(5)(h) of CGST Act]

**Q 15. Can a registered person get ITC with respect of goods or services used for construction of a building for business purposes? [FAQ 22]**

**Ans.** No. ITC on goods or services by a person for construction of immovable property, other than plant and machinery, is not allowed. Plant and machinery cover only apparatus, equipment, and machinery fixed to earth by foundation or structural support, and excludes land and building, among other things.

**Q 16. Where goods or services or both received by a taxable person are used for effecting both taxable and non-taxable supplies, whether the input tax credit is available to the registered taxable person? [FAQ 25]**

**Ans.** The input tax credit of goods or services or both attributable only to taxable supplies can be taken by registered person. The manner of calculation of eligible credit is provided in the CGST Rules.

**Q 17. If input tax credit is allowed only in respect of goods or services or both for effecting taxable supplies, would it not lead to loss of input tax credit on exempt supplies when exported? [FAQ 26]**

**Ans.** No. Zero-rated supplies have been covered within taxable supplies for the purpose of allowing input tax credit. Moreover, IGST Act specifically allows availment of input tax credit for making zero rated supplies, notwithstanding that such supply may be exempt.

**Q 18. Mr. B applies for voluntary registration on 5th July, 2017 and obtained registration on 22nd July, 2017. Mr. B is eligible for input tax credit on inputs in stock as on..... [FAQ 29]**

**Ans.** Mr. B is eligible for input tax credit on inputs held in stock and inputs contained in semi-finished or finished goods held in stock as on 21st July, 2017. This is subject to further condition that the invoices pertaining to such inputs should not be more than a year old. Mr. B cannot take input tax credit in respect of capital goods and input services

# Computation of GST Liability

5.5

## Order of utilization of ITC [Sec. 49(5) r.w.r. 88A]

The amount of ITC available in the electronic credit ledger of the registered person on account of :

ITC available on account of	Utilisation thereof
IGST	<ol style="list-style-type: none"><li>First towards payment of IGST</li><li>Then remaining credit, if any, towards payment of CGST / SGST / UTGST</li></ol>
CGST ITC on account of CGST shall be utilised only after exhausting ITC on account of IGST fully	<ol style="list-style-type: none"><li>First towards payment of CGST</li><li>Then remaining credit, if any, towards payment of IGST</li></ol> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"><li>⦿ ITC on account of CGST shall be utilised towards payment of IGST before utilizing ITC on account of SGST towards payment of integrated tax</li><li>⦿ ITC of CGST shall not be utilised towards payment of SGST / UTGST</li></ul>
SGST / UTGST ITC on account of SGST / UTGST shall be utilised only after exhausting ITC on account of IGST fully	<ol style="list-style-type: none"><li>First towards payment of SGST</li><li>Then remaining credit, if any, towards payment of IGST</li></ol> <p><b>Taxpoint :</b></p> <ul style="list-style-type: none"><li>⦿ ITC on account of SGST shall be utilised towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of integrated tax</li><li>⦿ ITC of SGST / UTGS shall not be utilised towards payment of CGST</li></ul>

## Indirect Taxation

### Taxpoint :

Summarized position is as under :

Input tax Credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax / Union Territory tax
Integrated tax	(I)	(II) – In any order and in any proportion	
(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily			
Central tax	(V)	(IV)	Not permitted
State tax / UTGST	(VII)	Not permitted	(VI)

### Utilisation of input tax credit subject to certain conditions [Sec. 49A]

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.

### Example 44 :

Amount of Input tax Credit available and output liability under different tax heads :

Head	Output Liability	Input tax Credit
Integrated tax	1000	1300
Central tax	300	200
State tax / Union Territory tax	300	200
<b>Total</b>	<b>1600</b>	<b>1700</b>

### Option 1 :

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of ITC
Integrated tax	1000	200	100	0
Input tax Credit on account of Integrated tax has been completely exhausted				
Central tax	0	100	-	100
SGST / UTGST	0	-	200	-
<b>Total</b>	<b>1000</b>	<b>300</b>	<b>300</b>	<b>100</b>

**Option 2 :**

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax / Union Territory tax	Balance of ITC
Integrated tax	1000	100	200	0
Input tax Credit on account of Integrated tax has been completely exhausted				
Central tax	0	200	-	0
SGST / UTGST	0	-	100	100
<b>Total</b>	<b>1000</b>	<b>300</b>	<b>300</b>	<b>100</b>

**Example 45 :**

From the following details, show the utilization of ITC in an optimum way :

Nature of Tax	Tax liability	ITC available
IGST	100	200 (a)
CGST	100	50 (b)
SGST	100	50 (c)

**Solution:**

Statement showing utilization of ITC :

Nature of tax	Tax liability	Option 1			Option 2		
		Paid through ITC	Paid through Cash	Balance credit	Paid through ITC	Paid through Cash	Balance credit
IGST	100	100 (a)	0	0	100 (a)		
CGST	100	50 (a)	0	0	100 (a)		50 (b)
SGST	100	50 (a)	0	0	50 (c)	50	
		50 (c)					

From the above Illustration, we can conclude that Option – 1 does not result in any cash flow issue. On the contrary, In Option 2 the registered person pays the SGST liability in cash and accumulates the ITC under the head CGST. This is because the registered person had not carried out the adjustment as per rule 88A i.e., ITC left after setting off the IGST liability can be utilized in any order.

**Example 46 :**

From the following details, show the utilization of ITC in an optimum way :

Nature of Tax	Tax liability	ITC available
IGST	100	500 (a)
CGST	100	50 (b)
SGST	100	50 (c)

**Solution:**

Statement showing utilization of ITC :

Nature of tax	Tax liability	Paid through ITC	Paid through Cash	Balance credit
IGST	100	100 (a)	0	200
CGST	100	100 (a)	0	50
SGST	100	100 (a)	0	50

ITC on account of IGST is required to be adjust first before utilizing other ITCs

**Example 47 :**

From the following details, show the utilization of ITC in an optimum way :

Nature of Tax	Tax liability	ITC available
IGST	100	150 (a)
CGST	100	175 (b)
SGST	100	150 (c)

**Solution:**

Statement showing utilization of ITC :

Nature of tax	Tax liability	Option 1	Option 2	Option 3 (Wrong way)
		Paid through ITC	Paid through ITC	Paid through ITC
IGST	100	100 (a)	100 (a)	100 (a)
CGST	100	50 (a)	100 (b)	100 (b)
		50 (b)		
SGST	100	100 (c)	50 (a)	100 (c)
			50 (c)	

- ⊙ In option 1, ITC on account of CGST ₹ 125 and SGST ₹ 50 shall be carried forward
- ⊙ In option 2, ITC on account of CGST ₹ 75 and SGST ₹ 100 shall be carried forward
- ⊙ In option 3, ITC on account of IGST ₹ 50, CGST ₹ 75 and SGST ₹ 50 shall be carried forward.

**Option 3 is wrong way to utilize ITC. In this case, ITC on account of IGST is not fully exhausted before utilizing any other ITC.**

**Illustration 36 :**

From the following information, compute the Net GST payable for the month of March, 2023 :

	Output GST	Opening ITC as per credit ledger
CGST	2,000	Nil
SGST	15,000	1,000
IGST	24,000	37,000

**Solution:**

Computation of net GST liability :

Particulars	IGST	CGST	SGST
Opening balance of ITC	37,000	-	1,000
Less : Output GST Payable	24,000	2,000	15,000
Balance ITC / (Payable)	13,000	(2,000)	(14,000)
Adjustment of ITC of IGST	13,000	2,000	11,000
Balance Payable	-	-	3,000

It is to be noted that before adjusting ITC on account of CGST/SGST, ITC of IGST should be exhausted.

**Illustration 37 :**

Kunal Ltd., a registered supplier of Kanpur is a manufacturer of heavy machines. Its outward supplies (exclusive of GST) for the month of January, 2023 are as follows :

Sl.No.	Particulars	₹
(i)	Inter-State	85,00,000
(ii)	Intra-State	15,00,000

Applicable rate of CGST, SGST and IGST on outward supply are 9%, 9% and 18% respectively. Details of GST paid on inward supplies during the month of January, 2023 are as follows :

Sl.No.	Particulars	CGST paid (₹)	SGST paid (₹)
(i)	Raw material A (of which 70% of inputs procured were used and 30% were in stock at the end of the January, 2023)	80,000	80,000
(ii)	Raw material B (of which 90% material received in factory and remaining material completely damaged due to a road accident on the way to factory. There was no negligence on the part of the Kunal Ltd.)	50,000	50,000
(iii)	Construction of pipelines laid outside the factory premises	40,000	40,000
(iv)	Insurance charges paid for trucks used for transportation of goods	55,000	55,000

**Additional Information :**

- There is no opening balance of any input tax credit and all the conditions necessary for availing the input tax credit (ITC) have been fulfilled.

## Indirect Taxation

- b. Details of GST paid on inward supplies are available in GSTR-2B except for item (i) i.e. Raw Material A, for which supplier has not filed its GSTR-1 for the month of January 2023, hence corresponding input tax credit (ITC) is not reflecting in GSTR-2B of Kunal Ltd. in January, 2023.

Compute the following :

- Amount of eligible input tax credit (ITC) available for the month of January, 2023.
- Minimum net GST payable in cash, for the month of January, 2023 after using available input tax credit.

### Solution:

Computation of eligible ITC :

Particulars	CGST (₹)	SGST (₹)
Raw material A (as not reflected in GSTR-2B)	-	-
Raw material B (as 90% material is received)	45,000	45,000
Construction of pipelines laid outside the factory premises (Block Credit)	-	-
Insurance charges paid for trucks used for transportation of goods	55,000	55,000
<b>Eligible ITC</b>	<b>1,00,000</b>	<b>1,00,000</b>

Computation of tax payable on outward supplies :

Sl.No.	Particulars	Taxable Value	CGST @ 9%	SGST @ 9%	IGST @ 18%
(i)	Inter-State	85,00,000	-	-	15,30,000
(ii)	Intra-State	15,00,000	1,35,000	1,35,000	-
	<b>Total</b>		<b>1,35,000</b>	<b>1,35,000</b>	<b>15,30,000</b>

Computation of GST payable in cash :

Particulars	CGST @ 9%	SGST @ 9%	IGST @ 18%
Total GST payable	1,35,000	1,35,000	15,30,000
Less : ITC	1,00,000	1,00,000	-
GST payable in cash	35,000	35,000	15,30,000

# Registration

5.6

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

## Need and advantages of registration

Registration will confer the following advantages to a taxpayer:

- He is legally recognized as supplier of goods or services.
- He is legally authorized to collect tax from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers / recipients.
- He can claim input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- Seamless flow of Input Tax Credit from suppliers to recipients at the national level.

## Nature of Registration

The registration in GST is PAN based and State / UT specific. Supplier has to register in each of such State or Union territory from where he effects supply. In GST registration, the supplier is allotted a 15-digit GST identification number called “GSTIN” and a certificate of registration incorporating therein this GSTIN is made available to the applicant on the GSTN common portal.

- First 2 digits of the GSTIN is the State code,
- Next 10 digits are the PAN of the legal entity,
- Next 2 digits are for entity code, and
- Last digit is checksum number.

Example of GSTIN: 19AAICM1234K1Z2 or 06AAICM1234K1ZT

19	AAICM1234K	1	Z	2
State Code	Income tax PAN	Entity number of the same PAN holder in the state	By default	Checksum digit

Registration under GST is not tax specific which means that there is single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses.

Generally, a given PAN based legal entity would have one GSTIN per State, that means a business entity having its branches in multiple States will have to take separate State wise registration for the branches in different States. But within a State an entity with different branches would have single registration wherein it can declare one place as principal place of business and other branches as additional place of business. A supplier is not liable to obtain registration in those State from where he makes an exempt or non-taxable supply.

### 5.6.1 Persons liable for registration [Sec. 22]

Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds specified threshold limits

However, where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ₹ 10 lakhs.

#### Taxpoint :

Special Category States as per article 279A(4)(g) of the Constitution are:

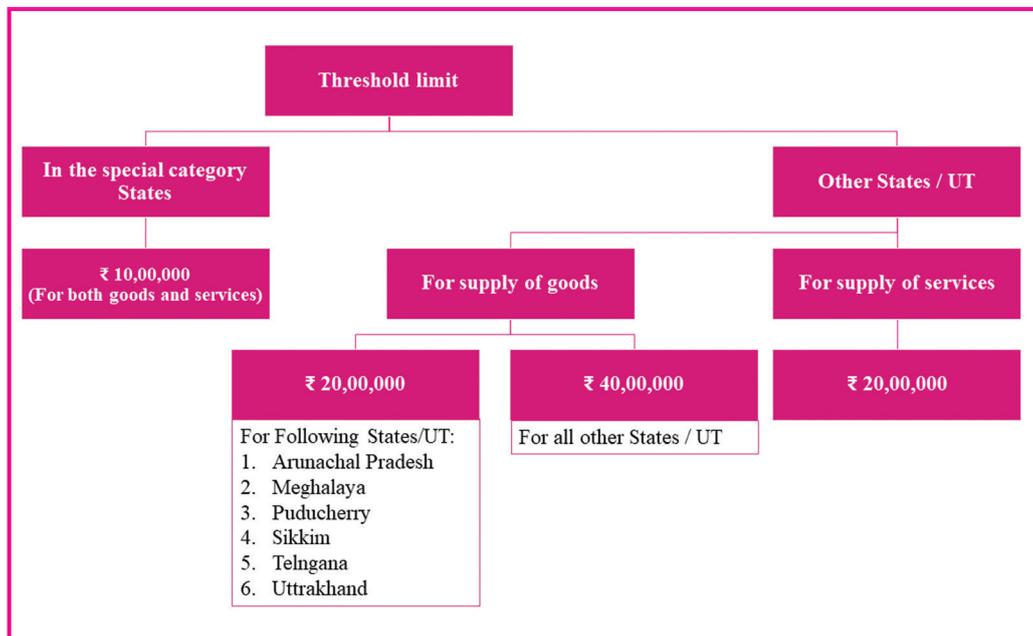
- a. Arunachal Pradesh      b. Assam      c. Manipur      d. Meghalaya      e. Mizoram      f. Nagaland
- g. Himachal Pradesh      h. Sikkim      i. Tripura      j. Uttarakhand      k. Jammu and Kashmir

However, for the **purpose of registration** under GST, following States are considered as special category States:

- 1. Manipur      2. Mizoram      3. Nagaland      4. Tripura

#### Threshold limit for registration

Threshold limit for registration for supplier of goods and services are as under:



**Taxpoint :**

- ◉ The aforesaid limit is for aggregate turnover. As per sec. 2(6), aggregate turnover means the aggregate value of
  - a. all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),
  - b. exempt supplies (excluding exempted services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount),
  - c. exports of goods or services or both; and
  - d. inter-State supplies of persons having the same PAN (i.e., stock transfer between branches, etc.) to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.
    - “Aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.
    - The supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in sec. 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker.

“Exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply – Sec. 2(47)

“Non-taxable supply” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act – Sec. 2(78)

- ◉ For the purpose of GST, Delhi and Puducherry are considered as States.
- ◉ In few cases, registration is compulsory, irrespective of size of turnover (Sec. 24)
- ◉ The limit of ₹ 40,00,000 is applicable only to a supplier who is engaged exclusively in the supply of goods. However, a person shall be considered to be person engaged exclusively in supply of goods even if he is engaged in supply of exempted services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
- ◉ A supplier may obtain voluntary registration, even though his turnover does not exceed applicable threshold limit. In this case, he is required to pay tax without considering aforesaid limit.
- ◉ In case of supplier of
  - Ice-cream and other edible ice, whether or not containing cocoa
  - Pan Masala
  - Tobacco and manufactured tobacco substitutes
  - fly ash bricks, fly ash aggregate with 90% or more fly ash content; Fly ash blocks; or
  - Bricks of fossil meals or similar siliceous earths; or
  - Building bricks; or
  - Earthen or roofing tiles

The threshold limit is ₹ 20,00,000 (₹ 10,00,000 in case of special category States) is applicable.

### 5.6.2 Persons not liable for registration [Sec. 23]

The following persons shall not be liable to registration :

1. any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
2. an agriculturist, to the extent of supply of produce out of cultivation of land.
  - An agriculturist is required to register himself if he is supply other products and value of turnover exceeds applicable threshold limit.
  - As per sec. 2(7), 'agriculturist' means an individual or HUF who undertakes cultivation of land:
    - a. By own labour, or
    - b. By the labour of family, or
    - c. By servants on wages payable in cash or kind or by hired labour under personal supervision or personal supervision of any member of the family.

**Taxpoint :** The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act. From various notification following are listed:

3. Persons engaged in rendering taxable services, who are liable to GST under reverse charges, are not required to take registration.
4. Job-workers engaged in making inter-State supply of services to a registered person except
  - a. He is liable to be registered u/s 22(1); or
  - b. He is opting for voluntary registration or persons engaged in making supply of services in relation to jewellery, goldsmiths' and silversmiths' wares and other articles
5. Persons effecting inter-State supplies of taxable services – where the aggregate value of supplies on PAN-India basis does not exceed ₹ 20 Lakhs in a year (₹ 10 Lakhs for special category States- Manipur, Mizoram, Nagaland and Tripura)
6. Categories of persons effecting inter-State taxable supplies of handicraft goods – where the aggregate value of supplies on PAN-India basis does not exceed ₹ 20 Lakhs in a year (₹ 10 Lakhs for special category States- Manipur, Mizoram, Nagaland and Tripura)
7. Persons providing services through e-commerce mode who is required to collect tax at source, provided their aggregate turnover does not exceed ₹ 20 lakh (₹ 10 lakh in special category States-Manipur, Mizoram, Nagaland and Tripura)

As per sec. 2(45), “electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

8. Categories of casual taxable persons making taxable supplies of handicraft goods- where the aggregate value of supplies on PAN-India basis does not exceed ₹ 20 Lakhs in a year (₹ 10 Lakhs for special category States- Manipur, Mizoram, Nagaland and Tripura)

As per sec. 2(20), “casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

9. The basic limit, beyond which obtaining registration becomes mandatory, has been increased from ₹ 20 lakhs to ₹ 40 lakhs for certain categories of persons i.e., any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed ₹ 40 lakh, except:
- a. persons required to take compulsory registration u/s 24
  - b. persons engaged in making supplies of the following goods,
    - Ice cream and other edible ice, whether or not containing cocoa
    - Pan masala
    - Aerated water
    - All goods, i.e. Tobacco and manufactured tobacco substitutes
    - fly ash bricks, fly ash aggregate with 90% or more fly ash content; Fly ash blocks; or
    - Bricks of fossil meals or similar siliceous earths; or
    - Building bricks; or
    - Earthen or roofing tiles
  - c. persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
  - d. persons exercising option u/s 25(3) i.e., voluntary registration or such registered persons who intend to continue with their registration.

### 5.6.3 Transfer of Business [Sec. 22(3) / (4)]

- ◉ Where a business carried on by a registered taxable person registered is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
- ◉ In a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

### 5.6.4 Compulsory registration in certain cases [Sec. 24]

The following categories of persons shall be required to be registered, irrespective of size of their turnover :

Category of Persons	Subject to following exemption
Persons making any inter-State taxable supply	a. Inter State supplies of taxable services b. Inter State supplies of handicraft goods when their turnover does not exceed ₹ 20 lakhs (or ₹ 10 lakhs)
Casual taxable persons making taxable supply	Casual taxable persons making taxable supplies of handicraft goods if the aggregate turnover does not exceed ₹ 20 lakhs (or ₹ 10 lakhs)
Persons who are required to pay tax under reverse charge	

Category of Persons	Subject to following exemption
Persons who are required to pay tax u/s 9(5) i.e., e-commerce operator in respect of intra-State supplies of specified categories of services supplied through it	
Non-resident taxable persons making taxable supply As per sec. 2(77), “non-resident taxable person” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India	
Persons who are required to deduct tax u/s 51	
Persons who supply goods or services or both on behalf of other registered taxable persons whether as an agent or otherwise	
Input service distributors	
Persons who supply goods and/or services, other than supplies specified u/s 9(5), through such electronic commerce operator who is required to collect tax at source u/s 52	Persons providing services through e-commerce mode who is required to collect tax at source, provided their aggregate turnover does not exceed ₹ 20 lakh (₹ 10 lakh in special category States-Manipur, Mizoram, Nagaland and Tripura)
Every electronic commerce operator who is required to collect tax at source u/s 52	
Every person supplying online information and database access or retrieval services (OIDAR) from a place outside India to a person in India, other than a registered taxable person	
Such other notified person	

### 5.6.5 Procedure for registration [Sec. 25]

- (1) > Every person who is liable to be registered u/s 22 or 24 shall apply for registration in every such State or Union territory in which he is so liable within 30 days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.
  - > A casual taxable person or a non-resident taxable person shall apply for registration at least 5 days prior to the commencement of business.
  - > A person having a SEZ unit or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.
  - > Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Refer Rule 8

- (2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory.  
A person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.
- (3) A person, though not liable to be registered u/s 22 or 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
- (4) A person who has obtained or is required to obtain more than one registration, whether in one State or UT or more than one State or UT shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- (5) Where a person who has obtained or is required to obtain registration in a State or UT in respect of an establishment, has an establishment in another State or UT, then such establishments shall be treated as establishments of distinct persons.
- (6) Every person shall have a PAN issued under the Income- tax Act, 1961 in order to be eligible for grant of registration.  
A person required to deduct tax u/s 51 may have, in lieu of a PAN, a Tax Deduction and Collection Account Number (TAN) issued under the said Act in order to be eligible for grant of registration.
- (6A) Aadhaar number authentication for existing person  
Every registered person shall undergo authentication, or furnish proof of possession of **Aadhaar number**, in such form and manner and within such time as may be prescribed.  
If an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification  
In case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.
- (6B) Aadhaar number authentication for new individual registrant  
Every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number.  
If an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in specified manner
- (6C) Every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as specify.  
However, where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as specify
- (6D) The provisions of Aadhaar authentication shall not apply to such person or class of persons or any State or UT or part thereof as specified.  
Following are specified:
- A person who is not a citizen of India; or
  - A class of person other than (a) individual; (ii) authorized signatory of any types; (iii) managing and authorized partner; and (iv) karta of a HUF

- (7) A non-resident taxable person may be granted registration on the basis of such other documents as may be prescribed i.e., without PAN
- (8) Where a person who is liable to be registered fails to obtain registration, the proper officer may, without prejudice to any action which may be taken, proceed to register such person in such manner as may be prescribed [Refer Rule 16]
- (9) Following person shall be granted registration / UID:
  - a. any specialised agency of the United Nations Organisation (UNO) or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and
  - b. any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number [Rule 17]
- (10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed [Rule 9]
- (11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed [Rule 10, 10A and 10B]
- (12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed u/s 25(10), if no deficiency has been communicated to the applicant within that period.

### Application for registration [Rule 8]

1. Every person who is liable to be registered u/s 25(1) and every person seeking registration u/s 25(3) (hereafter referred to as “the applicant”) shall, before applying for registration, declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in Part A of Form GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

However, this sub-rule is not applicable in case of the following :

- A non-resident taxable person,
- A person required to deduct tax at source u/s 51,
- A person required to collect tax at source u/s 52; and
- A person supplying online information and database access or retrieval services (OIDAR) from a place outside India to a non-taxable online recipient referred to in sec. 14 of the IGST, 2017

**Taxpoint :** Every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.

2.
  - (a) The PAN shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes.
  - (b) The mobile number shall be verified through a onetime password sent to the said mobile number; and
  - (c) The e-mail address shall be verified through a separate one-time password sent to the said e-mail address.
3. On successful verification of aforesaid details, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.

4. Using the reference number generated, the applicant shall electronically submit an application in Part B of Form GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Every application shall be followed by -

- (a) biometric-based Aadhaar authentication and taking photograph, unless exempted u/s 25(6D) of section 25, if he has opted for authentication of Aadhaar number; or
- (b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted u/s 25(6D) of section 25, if he has opted not to get Aadhaar authentication done,

of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in Form GST REG-01 at one of the Facilitation Centres and the application shall be deemed to be complete only after completion of the process.

5. On receipt of an application, an acknowledgement shall be issued electronically to the applicant in Form GST REG-02.
6. A person applying for registration as a casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax in accordance with the provisions of sec. 27 and the acknowledgement shall be issued electronically only after the said deposit.

#### **Verification of the application and approval [Rule 9]**

1. The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of 7 working days from the date of submission of the application.

However, where -

- a. a person, other than a person notified u/s 25(6D), fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or
- b. the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the registration shall be granted within 30 days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.

2. Where the application is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in Form GST REG-03 within a period of 7 working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in Form GST REG-04, within a period of 7 working days from the date of the receipt of such notice.

However, where -

- a. a person, other than a person notified u/s 25(6D), fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number; or
- b. the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in Form GST REG-03 may be issued not later than 30 days from the date of submission of the application.

The expression “clarification” includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in Part A of Form GST REG-01.

3. Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of 7 working days from the date of the receipt of such clarification or information or documents.
4. Where no reply is furnished by the applicant in response to the notice or where the proper officer is not satisfied with the clarification, information or documents furnished, he may, for reasons to be recorded in writing, reject such application and inform the applicant electronically in Form GST REG-05.
5. If the proper officer fails to take any action, -
  - a. within a period of 7 working days from the date of submission of the application in cases where the person is not covered under proviso to sub-rule (1); or
  - b. within a period of 30 days from the date of submission of the application in cases where a person is covered under proviso to sub-rule (1); or
  - c. within a period of 7 working days from the date of the receipt of the clarification, information or documents furnished by the applicant, the application for grant of registration shall be deemed to have been approved.

### Issue of registration certificate [Rule 10]

1. Where the application for grant of registration has been approved under rule 9, a certificate of registration in Form GST REG-06 showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal and a Goods and Services Tax Identification Number shall be assigned subject to the following characters:
  - a. 2 characters for the State code;
  - b. 10 characters for the PAN or the TAN;
  - c. 2 characters for the entity code; and
  - d. 1 checksum character.
2. The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of 30 days from such date.
3. Where an application for registration has been submitted by the applicant after the expiry of 30 days from the date of his becoming liable to registration, the effective date of registration shall be the date of the grant of registration.
4. Every certificate of registration shall be duly signed or verified through electronic verification code by the

proper officer under the Act.

5. Where the registration has been granted, the applicant shall be communicated the registration number, and the certificate of registration, duly signed or verified through electronic verification code, shall be made available to him on the common portal, within a period of 3 days after the expiry of the period specified in rule 9(5).

#### **Furnishing of Bank Account Details [Rule 10A]**

After a certificate of registration in Form GST REG-06 has been made available on the common portal and a GSTIN 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 45 days from the date of grant of registration or the date on which the return required u/s 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.

#### **Aadhaar authentication for registered person [Rule 10B]**

The registered person, other than a person notified u/s 25(6D), who has been issued a certificate of registration under rule 10 shall, undergo authentication of the Aadhaar number of the proprietor, in the case of proprietorship firm, or of any partner, in the case of a partnership firm, or of the karta, in the case of a Hindu undivided family, or of the Managing Director or any whole time Director, in the case of a company, or of any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or of the Trustee in the Board of Trustees, in the case of a Trust and of the authorized signatory, in order to be eligible for the following purposes:

- a. For filing of application for revocation of cancellation of registration in Form GST REG-21 under Rule 23
- b. For filing of refund application in Form RFD-01 under rule 89
- c. For refund under rule 96 of the integrated tax paid on goods exported out of India

However, if Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents:

- (a) her/his Aadhaar Enrolment ID slip; and
- (b) (i) Bank passbook with photograph; or
  - (ii) Voter identity card issued by the Election Commission of India; or
  - (iii) Passport; or
  - (iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988 (59 of 1988);
 Such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

#### **Separate registration for multiple places of business within a State or a Union territory [Rule 11]**

1. Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business u/s 25(2) shall be granted separate registration in respect of each such place of business subject to the following conditions:
  - a. such person has more than one place of business as defined in sec. 2(85);
  - b. such person shall not pay tax u/s 10 for any of his places of business if he is paying tax u/s 9 for any other place of business;

- c. all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case maybe, for such supply.

For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax u/s 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

2. A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business.
3. The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.

### **Grant of registration to persons required to deduct tax at source or to collect tax at source [Rule 12]**

1. Any person required to deduct tax u/s 51 or a person required to collect tax at source u/s 52 shall electronically submit an application, duly signed or verified through electronic verification code, in Form GST REG-07 for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

A person applying for registration to deduct or collect tax u/s 51 or 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in PART A of the application in Form GST REG-07 and mention the name of the State or Union territory in PART B thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in PART A.

2. The proper officer may grant registration after due verification and issue a certificate of registration in Form GST REG-06 within a period of 3 working days from the date of submission of the application.
3. Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in Form GST REG-06 has been issued is no longer liable to deduct tax at source u/s 51 or collect tax at source u/s 52, the said officer may cancel the registration and such cancellation shall be communicated to the said person electronically in Form GST REG-08

The proper officer shall follow the procedure as provided in rule 22 for the cancellation of registration.

### **Grant of registration to non-resident taxable person [Rule 13]**

1. A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code, in Form GST REG-09, at least 5 days prior to the commencement of business at the common portal either directly or through a Facilitation Centre notified by the Commissioner.

However, in the case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

2. A person applying for registration as a non-resident taxable person shall be given a temporary reference number by the common portal for making an advance deposit of tax in accordance with the provisions of sec. 27 and the acknowledgement under rule 8(5) shall be issued electronically only after the said deposit in his electronic cash ledger.

3. The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.
4. The application for registration made by a non-resident taxable person shall be duly signed or verified through electronic verification code by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.

**Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient [Rule 14]**

1. Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient shall electronically submit an application for registration, duly signed or verified through electronic verification code, in FORM GST REG-10, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
2. The applicant shall be granted registration, in FORM GST REG-06, subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.

**Extension in period of operation by casual taxable person and non-resident taxable person [Rule 15]**

1. Where a registered casual taxable person or a non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG-11 shall be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him.
2. The application shall be acknowledged only on payment of the amount specified u/s 27(2)

**Suo moto registration [Rule 16]**

1. Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in Form GST REG-12.
2. The registration shall be effective from the date of such order granting registration.
3. Every person to whom a temporary registration has been granted shall, within a period of 90 days from the date of the grant of such registration, submit an application for registration in the form and manner provided in rule 8 or rule 12

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

4. The provisions of rule 9 and rule 10 relating to verification and the issue of the certificate of registration shall, mutatis mutandis, apply to an application.
5. The GSTIN assigned, pursuant to the verification shall be effective from the date of the order granting registration

**Assignment of Unique Identity Number to certain special entities [Rule 17]**

1. Every person required to be granted a Unique Identity Number in accordance with the provisions of sec. 25(9) may submit an application electronically in Form GST REG-13, duly signed or verified through electronic verification code, in the manner specified in rule 8 at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

2. The Unique Identity Number granted to a person shall be applicable to the territory of India.
3. The proper officer may, upon submission of an application in Form GST REG-13 or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a Unique Identity Number to the said person and issue a certificate in Form GST REG-06 within a period of 3 working days from the date of the submission of the application.

### **Display of registration certificate and Goods and Services Tax Identification Number on the name board [Rule 18]**

1. Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or places of business.
2. Every registered person shall display his GSTIN on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

### **Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory [Rule 41A]**

1. A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of 30 days from obtaining such separate registrations, the details in Form GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner.

However, the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

The 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

2. The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.

### **5.6.6 Deemed registration [Sec. 26]**

- ⦿ The grant of registration or the Unique Identity Number under the SGST Act or the UTGST Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sec. 25(10).
- ⦿ Similarly, any rejection of application for registration or the Unique Identity Number under the SGST Act or the UTGST Act shall be deemed to be a rejection of application for registration under this Act.

### **5.6.7 Special provisions relating to casual taxable person and non-resident taxable person [Sec. 27]**

1. The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for
  - the period specified in the application for registration; or
  - 90 days from the effective date of registration,whichever is earlier.

**Taxpoint :**

- Such person shall make taxable supplies only after the issuance of the certificate of registration.
  - The proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of 90 days by a further period not exceeding 90 days.
2. A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.

Where any extension of time is sought, such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

**Taxpoint :**

A person applying for registration as a casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax and the acknowledgement shall be issued electronically only after the said deposit.

3. The deposited amount shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided u/s 49.

A casual taxable person has to apply for registration at least 5 days prior to the commencement of business. There is no special form to register as a casual taxable person. The normal FORM GST REG-01 which is used by other taxable persons can be used for obtaining registration by casual taxable person also. A casual taxable person, before applying for registration, should declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address. On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.

Using this reference number generated, the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The applicant will be given a temporary reference number by the Common Portal for making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger. The amount deposited shall be credited to the electronic cash ledger of casual taxable person. On depositing the amount, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

The casual taxable person can make taxable supplies only after the issuance of the certificate of registration. The certificate of registration shall be valid for the period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier.

Whereas a non-resident taxable person is not required to apply in normal application for registration being filed by other taxpayers. A simplified Form GST REG09 is required to be filled. A non-resident taxable person has to electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through EVC, in FORM GST REG-09, at least 5 days prior to the commencement of business at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

In case the non-resident taxable person is a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available. The application for registration made by a non-resident taxable person has to be signed by his authorized signatory who shall be a person resident in India having a valid PAN. On successful verification of PAN, mobile number and e-mail address the person applying for registration as a non-resident taxable person will be given a temporary reference number by the Common Portal for making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger. The amount deposited shall be credited to the electronic cash ledger of the Non-resident person.

The non-resident taxable person can make taxable supplies only after the issuance of the certificate of registration. The certificate of registration shall be valid for the period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier

### 5.6.8 Amendment of registration [Sec. 28]

- Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.
- The proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed. The proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
- However, approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed
- Any rejection or approval of amendments under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

#### **Taxpoint :**

Once the applicant is registered under GST, the need for amendments in registration may arise due to several factors such as a change in address, change in contact number, change in business details and so on. In order to amend any information post registration, the taxpayer needs to file an Application for Amendment of Registration. Application for Amendment of Registration, can be categorized in two types :

- a. Application for Amendment of Core fields in Registration like name of the Business, legal name (if there is no change in PAN), Addition / Deletion of Stakeholders, Principal Place of Business (other than change in State) or Additional Place of Business (other than change in State)
- b. Application for Amendment of Non-Core fields in Registration like e-mail ID, mobile number, etc.

No approval is required from the Tax Official if any amendments are made to these non-core fields. However, in case of change in core field, the taxpayer is required to apply for the amendments within 15 days of the event necessitating the change. If everything is in order, the tax officer will approve in the next 15 days.

### 5.6.9 Cancellation or suspension of registration [Sec. 29]

1. The proper officer may, either on his **own motion or on an application** filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:
  - a. the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
  - b. there is any change in the constitution of the business; or
  - c. the taxable person is no longer liable to be registered u/s 22 or 24 or intends to optout of the registration voluntarily made u/s 25(3)

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.

2. The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where:
  - a. a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
  - b. a person paying tax u/s 10 has not furnished the return for a financial year beyond 3 months from the due date of furnishing the said return; or
  - c. other registered person has not furnished returns for a such continuous tax period as may be prescribed<sup>24</sup>; or
  - d. any person who has taken voluntary registration u/s 25(3) has not commenced business within 6 months from the date of registration; or
  - e. registration has been obtained by means of fraud, wilful misstatement or suppression of facts

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

During pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.

3. The cancellation of registration shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.
4. The cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.
5. Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the
  - credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or
  - the output tax payable on such goods,
 whichever is higher, calculated in such manner as may be prescribed.

<sup>24</sup> 6 months

In case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such % points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery u/s 15, whichever is higher.

6. The aforesaid payable amount shall be calculated in such manner as may be prescribed.

### Registration to be cancelled in certain cases [Rule 21]

The registration granted to a person is liable to be cancelled, if the said person, -

- a. does not conduct any business from the declared place of business; or
- b. issues invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder; or
- c. violates the provisions of sec. 171 (Anti-profiteering measures) or the rules made thereunder.
- d. violates the provision of rule 10A (Furnishing of bank account details)
- e. avails input tax credit in violation of the provisions of sec. 16 or the rules made thereunder; or
- f. furnishes the details of outward supplies in Form GSTR-1 u/s 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return u/s 39 for the said tax periods; or
- g. violates the provision of rule 86B<sup>25</sup>.

### Suspension of registration [Rule 21A]

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, pending the completion of proceedings for cancellation of registration under rule 22 – [Rule 21A(1)]
2. Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled u/s 29 or under rule 21, he may, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22 - [Rule 21A(2)]
3. As per rule 21A(2A), where, a comparison of the returns furnished by a registered person u/s 39 with
  - a. the details of outward supplies furnished in Form GSTR-1; or
  - b. the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their Form GSTR-1,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in Form GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled.

4. 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 u/s 39 - [Rule 21A(3)]

<sup>25</sup> Rule 86B: The registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹50 lakhs

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.

5. A registered person, whose registration has been suspended [under sub rule 2 or 2A] shall not be granted any refund u/s 54, during the period of suspension of his registration [Rule 21A(3A)]
6. The suspension of registration 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 [Rule 21A(4)]

The suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

7. Where any order having the effect of revocation of suspension of registration has been passed, the provisions of sec. 31(3)(a) and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply - [Rule 21A(5)]

#### **Cancellation of registration [Rule 22]**

1. Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled u/s 29, he shall issue a notice to such person in Form GST REG-17, requiring him to show cause, within a period of 7 working days from the date of the service of such notice, as to why his registration shall not be cancelled.
2. The reply to the show cause notice shall be furnished in Form REG-18 within the said period.
3. Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in Form GST REG-19, within a period of 30 days from the date of application submitted under rule 20 or, as the case may be, the date of the reply to the show cause issued under this rule or under rule 21A(2A) cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid u/s 29(5).
4. Where the reply furnished in response to the notice under this rule or in response to the notice issued under rule 21(2A) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in Form GST REG -20

Where the person instead of replying to the notice served for contravention of the provisions contained in sec. 29(2), 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]

5. The provisions shall, mutatis mutandis, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

#### **5.6.10 Revocation of cancellation of registration [Sec. 30]**

1. Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within 30 days from the date of service of the cancellation order.

Such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended :

- a. by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days;

- b. by the Commissioner, for a further period not exceeding 30 days, beyond the period extended by the aforesaid authority.
2. The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application.

The application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

3. The revocation of cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

### Revocation of cancellation of registration [Rule 23]

1. A registered person, whose registration is cancelled by the proper officer on his own motion, may subject to the provisions of rule 10B submit an application for revocation of cancellation of registration, in Form GST REG-21, to such proper officer, within a period of 30 days from the date of the service of the order of cancellation of registration or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner

No application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns:

All returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of 30 days from the date of order of revocation of cancellation of registration.

Where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of 30 days from the date of order of revocation of cancellation of registration.

2. (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in Form GST REG-22 within a period of 30 days from the date of the receipt of the application and communicate the same to the applicant.
  - (b) The proper officer may, for reasons to be recorded in writing, under circumstances other than above, by an order in Form GST REG-05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.
3. The proper officer shall, before passing the order, issue a notice in Form GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation should not be rejected and the applicant shall furnish the reply within a period of 7 working days from the date of the service of the notice in Form GST REG-24.
4. Upon receipt of the information or clarification in Form GST REG-24, the proper officer shall proceed to dispose of the application within a period of 30 days from the date of the receipt of such information or clarification from the applicant.

**Illustration 38 :**

Ratul Pvt. Ltd. of West Bengal exclusively manufactures and sells product 'R' which is exempt from GST vide notifications issued under relevant GST legislations. The company sells 'R' only within West Bengal and is not registered under GST laws. The turnover of the company in the previous year 2021-22 was ₹ 50 lakh. The company expects the sales to grow by 10% in the current year 2022-23.

However, effective 01.01.2023, exemption available on 'R' was withdrawn by the Central Government and GST @ 5% was imposed thereon. The turnover of the company for the nine months ended on 31.12.2022 was ₹ 42 lakh.

Ratul Pvt. Ltd. is of the opinion that it is not required to get registered under GST for current financial year 2022-23. Advise it.

**Solution:**

When a supplier exclusively engaged in intra-State supply of goods, the threshold limit of turnover to obtain registration in the State of West Bengal is ₹ 40 lakh. However, a person exclusively engaged in the business of supplying goods and/or services that are not liable to tax or are wholly exempt from tax is not liable to registration [however, voluntary registration is allowed].

However, w.e.f. 01.01.2023, the supply of goods become taxable and the turnover of the company is more than ₹ 40 lakh. It is to be noted that for the purpose of computing threshold limit, exempt supply shall also be considered. Since the aggregate turnover limit of ₹ 40 lakh includes exempt turnover also, turnover of 'R' till 31.12.2022 will be considered for determining the threshold limit even though the same was exempt from GST. Therefore, the company needs to register within 30 days from 01.01.2023.

**Illustration 39 :**

Explain the registration requirements under GST law in the following independent cases:

- Mr. Khan of West Bengal engaged in the business of supplying tobacco based Pan Masala with an aggregate turnover of ₹ 24 lacs.
- Mr. Tipati of Mizoram is engaged in the supply of papers with an aggregate turnover of ₹ 13 lacs.

Will your answer be different if Mr. Tipati is located in Meghalaya?

**Solution:**

- In case of supply of pan masala, tobacco and manufactured tobacco substitutes, etc., the threshold limit for registration is ₹ 20 lakhs (i.e., the enhanced limit of ₹ 40 lakhs is not applicable). Hence, he is liable for registration mandatorily
- In case of Mizoram, the threshold limit for registration is ₹ 10 lakhs, hence he is liable for registration.  
However, if he is located in the State of Meghalaya where the threshold limit for registration is ₹ 20 lakhs, hence he is not liable for registration

**Illustration 40 :**

Determine the effective date of registration in the following instances :

- The aggregate turnover of M Ltd., engaged in taxable supply of services in the state of Karnataka, exceeded ₹20 lakh on 25th August, 2022. It applies for registration on 15th September, 2022 and is granted registration certificate on 30th September, 2022.

- b. What will be your answer, if in the above scenario, M Ltd. submits the application for registration on 28th September, 2022 and is granted registration on 6th October, 2022?

**Solution:**

Where the application for registration is submitted within the 30 days from the date of becoming liable for registration, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

- a. In this case, application for registration has been made within 30 days as mentioned above, hence effective date of registration shall be 25-08-2022
- b. In this case, application for registration has not been made within 30 days as mentioned above, hence effective date of registration shall be 06-10-2022

**Illustration 41 :**

Mr. Vishnu, who has started a business for supply of goods and services in Tamil Nadu, furnishes the following information pertaining to the period commencing on 01-04-2021 and ended on 31-03-2022 :

Sl. No.	Particulars	₹
(i)	Sale of diesel on which Sale Tax (VAT) is levied by Tamil Nadu Government	7,00,000
(ii)	Supply of goods, after completion of job work, from the place of Mr. Vishnu, directly by his principal under whom he is registered as job worker	4,20,000
(iii)	Export supply to Dubai	6,00,000
(iv)	Supply to its own additional place of business in Tamil Nadu, under same registration	5,00,000
(v)	Supply of goods exempt from GST	8,20,000

You are required to help him in deciding whether he has to go for registration under CGST law.

**Solution:**

Computation of aggregate turnover for CGST registration :

Sl. No.	Particulars	₹
(i)	Sale of diesel on which Sale Tax (VAT) is levied by Tamil Nadu Government (As per sec. 2(47), non-taxable supply of goods like diesel, to be also included	7,00,000
(ii)	Supply of goods, after completion of job work, from the place of Vishnu, directly by his principal (This will be treated as the supply of goods by the principal in terms of explanation (ii) to sec. 22)	Nil
(iii)	Export supply to Dubai (Specifically includible in the aggregate turnover in terms of sec. 2(6))	6,00,000
(iv)	Supply to its own additional place of business in Tamil Nadu (Supply made without consideration to units within the same State (under same registration) is a not a supply and hence not includible in aggregate turnover)	Nil
(v)	Supply of goods exempt from GST (As per sec. 2(47), supply of exempt goods shall also be included)	8,20,000
	<b>Aggregate turnover for CGST registration purposes</b>	<b>21,20,000</b>

Since the aggregate turnover exceeds Rs.20 lakh, Vishnu has to get himself registered. He should be advised accordingly.

Note: as Mr. Vishnu makes export supply, he is a person making interstate taxable supply and is liable for compulsory registration u/s 24, irrespective of whether his turnover exceeds the threshold limit of ₹ 20 lakhs or not

### FAQ by CBIC on 15-12-2018

#### Q 1. Can a person without GST registration claim ITC and collect tax? [FAQ 2]

**Ans.** No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

#### Q 2. What will be the effective date of registration? [FAQ 3]

**Ans.** Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be the date on which he became liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of a person taking registration voluntarily while being within the threshold exemption limit for paying tax, the effective date of registration shall be the date of order of registration.

#### Q 3. If a person is operating in different states, with the same PAN number, whether he can operate with a single Registration? [FAQ 9]

**Ans.** No. Every person who is liable to take a Registration will have to get registered separately for each of the States where he has a business operation and is liable to pay GST in terms of Section 22(1) of the CGST/SGST Act.

#### Q 4. Can a person obtain multiple registrations in a State? [FAQ 10]

**Ans.** Yes. In terms of the proviso to Sub-Section (2) of Section 25, a person having multiple place of businesses in a State or UT may obtain a separate registration for each such place of business, subject to such conditions as prescribed in the registration rules.

As per the CGST(Amendment) Act, 2018, the reference to requirement of separate business vertical for separate registration is not there now. The definition of “business vertical” has been omitted. However, the notification to bring the Act into effect is yet to be issued.

#### Q 5. Whether a company having a SEZ unit or developer need to have separate registration? [FAQ 11]

**Ans.** Yes. As per the second proviso to sub-section 1 of section 25 of the CGST Act, inserted vide the CGST (Amendment) Act, 2018, a person having SEZ unit or being SEZ developer shall have to apply for a separate registration, as distinct from his place of business located outside the SEZ in the same State or Union territory. (This would be brought into force from the date law amendment is notified)

#### Q 6. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST? [FAQ 12]

**Ans.** Yes. In terms of Section 25(3), a person, though not liable to be registered under Section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable

person, shall apply to such person.

The person, once registered, will have to pay GST irrespective of his aggregate turnover.

**Q 7. Is possession of a Permanent Account Number (PAN) mandatory for obtaining a Registration? [FAQ 13]**

**Ans.** Yes. As per Section 25(6) of the CGST/SGST Act every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration.

However as per the proviso to the aforesaid section 25(6), a person required to deduct tax under Section 51, may have, in lieu of a PAN, a Tax Deduction and Collection Account Number issued under the said Income Tax Act, in order to be eligible for grant of registration.

Also, as per Section 25(7) PAN is not mandatory for a non-resident taxable person who may be granted registration on the basis of self-attested copy of valid passport.

**Q 8. Whether the Department through the proper officer, can suo-moto proceed to register a Person under this Act? [FAQ 14]**

**Ans.** Yes. In terms of Section 25(8), where a person who is liable to be registered under the CGST Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act, or under any other law for the time being in force, proceed to register such person in the manner prescribed in the rule 16 of the CGST Rules, 2017.

**Q 9. What is the procedure for suo-moto registration? [FAQ 15]**

**Ans.** Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in FORM GST REG-12.

**Q 10. What is the effective date of such suo moto registrations? [FAQ 16]**

**Ans.** It shall be effective from the date of order granting registration.

**Q 11. Will such suo moto registrations be final registrations? [FAQ 17]**

**Ans.** No. Every person to whom a suo-moto (temporary) registration has been granted under rule 16(1) of the CGST Rules, 2017, shall, within ninety days from the date of the grant of such registration, submit an application for registration in the form and manner provided in rule 8 (normal taxable persons) or rule 12 (TDS/TCS deductors) unless the said person has filed an appeal against the grant of temporary registration, in that case the application for registration shall be submitted within thirty days from the date of issuance of order upholding the liability to registration by the Appellate Authority.

**Q 12. Whether the proper officer can reject an Application for Registration? [FAQ 18]**

**Ans.** Yes. In terms of section 25(10) of the CGST Act, the proper officer can reject an application for registration after due verification.

Where the application submitted under rule 8 is found to be deficient, the proper officer may issue a notice to the applicant electronically in FORM GST REG-03 within a period of three working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in FORM GST REG-04, within a period of seven working days from the date of the receipt of such notice.

Where no reply is furnished by the applicant or where the proper officer is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG 05.

**Q 13. Whether the Registration granted to any person is permanent? [FAQ 19]**

**Ans.** Yes, the registration Certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

**Q 14. Will the address of business premises mentioned in the application for registration be verified physically by the department? [FAQ 20]**

**Ans.** Only in cases where the proper officer feels the need for such verification but after the grant of registration. Wherever the proper officer feels so, he may get such verification done and the verification report along with other documents, including photographs, shall be uploaded in FORM GST REG-30 on the Common Portal within fifteen working days following the date of such verification.

**Q 15. What is the validity period of the Registration certificate issued to a Casual Taxable Person and non-Resident Taxable person? [FAQ 26]**

**Ans.** In terms of Section 27(1) read with proviso thereto, the certificate of registration issued to a “casual taxable person” or a “non-resident taxable person” shall be valid for a period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of ninety days by a further period not exceeding 90 days.

**Q 16. Who is an ISD? [FAQ 30]**

**Ans.** ISD stands for Input Service Distributor and has been defined under Section 2(61) of the CGST/SGST Act. It is basically an office meant to receive tax invoices towards receipt of input services and further distribute the credit to supplier units (having the same PAN) proportionately.

**Q 17. Will ISD be required to be separately registered other than the existing tax payer registration? [FAQ 31]**

**Ans.** Yes, the ISD registration is for one office of the taxpayer which will be different from the normal registration.

**Q 18. Can a tax payer have multiple ISDs? [FAQ 32]**

**Ans.** Yes. Different offices of a tax payer can apply for ISD registration.

**Q 19. Whether the job worker will have to be compulsorily registered? [FAQ 35]**

**Ans.** No, a Job worker is a supplier of services and will be obliged to take registration only when his turnover crosses the prescribed threshold of 20/10 Lakhs.

**Q 20. Whether the goods will be permitted to be supplied from the place of business of a job worker? [FAQ 36]**

**Ans.** Yes. But only in cases where the job worker is registered, or if not, the principal declares the place of business of the job worker as his additional place of business.

**Q 21. Is there any system to facilitate smaller dealers or dealers having no IT infrastructure? [FAQ 38]**

**Ans.** In order to cater to the needs of tax payers who are not IT savvy, following facilities shall be made available:-

**GST Practitioners:** A taxable person may prepare his registration application /returns himself or can approach the GST Practitioner for assistance. GST Practitioner will prepare the said registration document / return in prescribed format on the basis of the information furnished to him by the taxable person. The legal responsibility of the correctness of information contained in the forms prepared by the GST Practitioner will rest with the registered person only and the GST Practitioner shall not be liable for any errors or incorrect information.

**Facilitation Centre (FC):** shall be responsible for the digitization and/or uploading of the forms and documents including summary sheet duly signed by the Authorized Signatory and given to it by the taxable person. After uploading the data on common portal using the ID and Password of FC, a print-out of acknowledgement will be taken and signed by the FC and handed over to the taxable person for his records. The FC will scan and upload the summary sheet duly signed by the Authorized Signatory.

**Q 22. What will be the time of response by the applicant if any query is raised in the online application? [FAQ 43]**

**Ans.** If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query/rectify the error/ answer the query within a period of seven days from the date of receipt of deficiency intimation.

On receipt of additional document or clarification, the relevant tax authority will respond within seven common working days from the date of receipt of clarification

**Q 23. Can the registration certificate be downloaded from the GSTN portal? [FAQ 46]**

**Ans.** In case registration is granted; applicant can download the Registration Certificate from the GST common portal.

**Q 24. Whether Amendments to the Registration Certificate is permissible? [FAQ 47]**

**Ans.** Yes. In terms of Section 28, the proper officer may, on the basis of such information furnished either by the registrant or as ascertained by him, approve or reject amendments in the registration particulars within a period of 15 common working days from the date of receipt of application for amendment.

It is to be noted that permission of the proper officer for making amendments will be required for only certain core fields of information, whereas for the other fields, the certificate of registration shall stand amended upon submission of application in the GST common portal.

**Q 25. How can an application for amendment of registration be made? [FAQ 48]**

**Ans.** Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG-01 or FORM GST REG-07 or FORM GST REG-09 or FORM GST REG-10 or for UIN in FORM GST-REG-13, as the case may be, either at the time of obtaining registration or as amended from time to time, the registered person shall, within fifteen days of such change, submit an application, duly signed, electronically in FORM GST REG-14, along with documents relating to such change at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

**Q 26. Is the approval of proper officer mandatory for making amendments in registration? [FAQ 49]**

**Ans.** Once an application in FORM GST REG-14 is submitted on the Common Portal, all amendments, except the following, shall stand amended. Permission of proper officer is required only if the amendment relates to

- (i) legal name of business;

- (ii) address of the principal place of business or any additional place of business; or
- (iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

**Q 27. Is there any time limit for approving amendment by the proper officer? [FAQ 50]**

**Ans.** Yes. 15 days. The proper officer shall approve the amendment within fifteen working days from the date of receipt of application in FORM GST REG-14 after due verification and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of occurrence of the event warranting amendment.

**Q 28. Whether Cancellation of Registration Certificate is permissible? [FAQ 53]**

**Ans.** Yes. Section 29 of the CGST Act, read with rule 20 of the CGST Rules provides that a taxpayer can apply for cancellation of registration in FORM GST REG-16 in the following circumstances:

- Discontinuance of business or closure of business;
- Transfer of business on account of amalgamation, merger, de-merger, sale, lease or otherwise;
- Change in constitution of business leading to change in PAN;
- Taxable person (including those who have taken voluntary registration) is no longer liable to be registered under GST;
- Death of sole proprietor;
- Any other reason (to be specified in the application)

Application in FORM GST REG-16 has to be submitted within a period of 30 days of the “occurrence of the event warranting the cancellation”.

**Q 29. Whether cancellation of Registration under CGST Act means cancellation under SGST Act also? [FAQ 55]**

**Ans.** Yes, the cancellation of registration under one Act (say SGST Act) shall be deemed to be a cancellation of registration under the other Act (i.e. CGST Act). (Section 29 (4))

**Q 30. Whether cancellation of registration has any impact on the liabilities of the taxpayers? [FAQ 56]**

**Ans.** The 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. As per section 29(3) of the CGST Act, the cancellation of registration shall not affect the liability of the person to pay tax and other dues or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

**Q 31. What happens when the registration is obtained by means of willful mis-statement, fraud or suppression of facts? [FAQ 59]**

**Ans.** In such cases, the registration may be cancelled with retrospective effect by the proper officer. (Section 29(2) (e))

**Q 32. What is suspension of registration? [FAQ 60]**

**Ans.** Section 29 of the CGST Act has been amended by the CGST (Amendment) Act, 2018 to provide for “Suspension” of registration. The intent of the said amendment is to ensure that a taxpayer is freed from the routine compliances, including filing returns, under GST Act during the pendency of the proceedings related to cancellation. (This would be brought into force from the date law amendment is notified)

**Q 33. Can cancellation of registration order be revoked? [FAQ 61]**

**Ans.** Yes, but only in cases where the initial cancellation has been done by the proper officer suo moto, and not on the request of the taxable person or his legal heirs. A person whose registration has been cancelled suo moto can apply to the proper officer for revocation of cancellation of registration within 30 days from the date of communication of the cancellation order. The proper officer may within a period of 30 days from the date of receipt of application for revocation of cancellation or receipt of information/clarification, either revoke the cancellation or reject the application for revocation of cancellation of registration.

Such application has to be filed electronically in FORM GST REG 21. But there is a rider also. No application for revocation shall be filed if the registration has been cancelled for the failure of the taxable person to furnish returns, unless such returns are filed and any amount due as tax, in terms of such returns has been paid along with any amount payable towards interest, penalties and late fee payable in respect of the said returns.

# Tax Invoice – Electronic Way Bill

5.7

Generally speaking, an invoice is a commercial instrument issued by a seller to a buyer. It identifies both the trading parties and lists, describes, and quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and delivery and payment terms. In certain cases, (especially when it is signed by the seller or seller's agent), an invoice serves as a demand for payment and becomes a document of title when paid in full. An invoice does not bring into existence an agreement but merely records the terms of a pre-existing agreement (oral or written). An invoice can be understood as a document that is meant to serve a particular purpose.

Under GST a tax invoice is an important document.

- It not only evidences supply of goods or services, but is also an essential document for the recipient to avail Input Tax Credit (ITC). A registered person cannot avail input tax credit unless he is in possession of a tax invoice or a debit note.
- GST is chargeable at the time of supply. Invoice is an important indicator of the time of supply. Broadly speaking, the time of supply of goods or services is the date of issuance of invoice or receipt of payment whichever is earlier. However, a special procedure for payment of tax has been prescribed for registered persons (other than composition dealers) supplying goods. Such category of persons (suppliers of goods other than composition dealers) need to pay GST only at the time of issue of invoice irrespective of when they receive payment.

Suffice it to say, the tax invoice is the primary document evidencing the supply and vital for availing input tax credit.

The GST Law requires that an invoice – tax invoice or bill of supply – is issued on the occurrence of certain event, being a supply, within the prescribed timelines. Therefore, an invoice, among other documents is required to be issued for every form of supply such as sale, transfer, barter, exchange, license, rental, lease or disposal. This chapter provides an understanding of the various documents required to be issued under the GST law, timelines to issue such document and the contents of every such document. It is to be noted that GST Law does not prescribe any specific format of invoice but mandates that certain field or information should be incorporated in the invoice.

## Tax Invoice [Sec. 31(1) / (2)]

Time of issue of tax invoice for:

### A. Supply of Goods

1. A registered person supplying taxable goods shall issue a tax invoice, **before or at the time of** :

Where the supply involves movement of goods	Removal of goods for supply to the recipient
Where the supply does not involve movement of goods	Delivery of goods or making available thereof to the recipient

- In case of **continuous supply of goods**, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received [Sec. 31(4)]
- Where the goods being **sent or taken on approval** for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or **6 months** from the date of removal, whichever is earlier [Sec. 31(7)]

**Taxpoint :** The Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

**B. Supply of Services**

Situation	Time limit for issuance of invoice
General cases	Within 30 days from the date of the supply of service (45 days in case of insurance/banking company or a financial institution, including NBFC)
In a case where the supply of services ceases before the completion of the supply	At the time when the supply ceases. <ul style="list-style-type: none"> <li>Such invoice shall be issued to the extent of the supply made before such cessation</li> </ul>
In case of continuous supply of services	
➤ Where the due date of payment is ascertainable from the contract	On or before the due date of payment;
➤ Where the due date of payment is not ascertainable from the contract	Before or at the time when the supplier of service receives the payment;
➤ Where the payment is linked to the completion of an event	On or before the date of completion of that event
In case of an insurance / banking company or a financial institution (including NBFC), or a telecom operator, or any other class of notified supplier of services, making taxable supplies of services between distinct persons as specified in sec. 25 <ul style="list-style-type: none"> <li>A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons [Sec. 25(4)]</li> </ul>	Before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

**Taxpoint :**

In case of supply of taxable services, The Government may, on the recommendations of the Council, by notification,-

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

**e-Invoice**

The taxpayers must comply with e-invoicing if the turnover exceeds ₹ 20 crore<sup>26</sup> in any of the financial year from 2017-18. Also, the aggregate turnover will include the turnover of all GSTINs under a single PAN across India. However, irrespective of the turnover, e-Invoicing shall not be applicable to the following categories of registered persons for now, as notified in CBIC Notification No.13/2020 – CT:

- a. An insurer or a banking company or a financial institution, including an NBFC
- b. A Goods Transport Agency (GTA)
- c. A registered person supplying passenger transportation services
- d. A registered person supplying services by way of admission to the exhibition of cinematographic films in multiplex services
- e. An SEZ unit (excluded via CBIC Notification No. 61/2020 – CT)
- f. A government department and Local authority (excluded via CBIC Notification No. 23/2021 – CT)

e-Invoice is not required to be issued in multiple copies.

**5.7.1 Consolidated Invoice [Sec. 31(3)(b) and Proviso to Rule 46]**

A registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than ₹ 200. However, such registered person [other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens,] shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies provided:

- a. the recipient is not a registered person; and
- b. the recipient does not require such invoice

**5.7.2 Revised Invoice after Registration [Sec. 31(3)(a) r.w.r. 53(2)]**

A registered person may, within 1 month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him.

**Rule 53(2)**

- ⦿ Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration:
- ⦿ The registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period.

<sup>26</sup> W.e.f. 01-04-2022

- However, in the case of inter-State supplies, where the value of a supply does not exceed ₹ 2,50,000, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act.

### 5.7.3 Bill of Supply [Sec. 31(3)(c)]

- A registered person supplying **exempted** goods or services or both or paying tax under the provisions of sec. 10 (i.e., composition levy) shall issue, **instead of a tax invoice**, a bill of supply containing such particulars and in such manner as may be prescribed.
- However, the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than ₹ 200 subject to such conditions and in such manner as may be prescribed.
- Supplier under composition levy shall mention the words “**composition taxable person, not eligible to collect tax on supplies**” at the top of the bill of supply issued by him.
- The registered supplier of service opting for paying tax at concessional rate under Notification No. 2/2019-CT(R) shall mention at the top of the bill of supply ‘**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**’.

### 5.7.4 Receipt Voucher on receipt of advance [Sec. 31(3)(d)]

A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment.

### 5.7.5 Refund Voucher [Sec. 31(3)(e)]

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment.

### 5.7.6 Invoice in case of Reverse Charge [Sec. 31(3)(f) / (g)]

A registered person who is liable to pay tax u/s 9(3) or (4) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

A registered person who is liable to pay tax u/s 9(3) or (4) shall issue a payment voucher at the time of making payment to the supplier.

### 5.7.7 Facility of digital payment to recipient [Sec. 31A]

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.

### 5.7.8 Prohibition of unauthorised collection of tax [Sec. 32]

- A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.
- No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

### 5.7.9 Amount of tax to be indicated in tax invoice and other documents [Sec. 33]

Where any supply is made for a consideration, every person who is liable to pay tax for such supply shall **prominently** indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

### 5.7.10 Credit and debit notes [Sec. 34]

#### Credit Note

- ◉ Where
  - one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or
  - the goods supplied are returned by the recipient, or
  - goods or services or both supplied are found to be deficient,

the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

- ◉ Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return (GSTR-1) for the month during which such credit note has been issued.

Maximum time limit for such adjustment:

- a. 30th November following the end of the financial year in which such supply was made, or
- b. the date of furnishing of the relevant annual return,
  - whichever is earlier and the tax liability shall be adjusted in such manner as may be prescribed.

However, no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

#### Debit Note

- ◉ Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing such particulars as may be prescribed.
- ◉ Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return (GSTR 1) 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.

**Taxpoint :** "Debit note" shall include a supplementary invoice.

#### Secondary Discounts [Circular No. 92/11/2019 dated 07-03-2019]

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at ₹ 10/- per packet. Afterwards M/s A re-values it at ₹ 9/- per packet. Subsequently, M/s A issues credit note to M/s B for ₹ 1/- per packet.

- ii. The provisions of sec. 34(1) provides as under :
- “Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”
- iii. Representations have been received from the trade and industry that whether credit notes(s) u/s 34(1) can be issued in such cases even if the conditions laid down in sec. 15(3)(b) are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in sec. 15(3)(b) are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.
- iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in sec. 15(3)(b) are not satisfied.
- v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above or by any other means, except in cases where the provisions contained in sec. 15(3)(b) are satisfied.
- vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case

**Taxpoint :** In case of secondary discount, a person cannot issue credit notes. However, a commercial credit note shall be issued by the supplier to adjust the value.

### Tax invoice [Rule 46]

#### Content of the invoice

Subject to rule 54, a tax invoice referred to in sec. 31 shall be issued by the registered person containing the following particulars :

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year.
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number (GSTIN) or Unique Identity Number (UIN), if registered, of the recipient;
- e. name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is ₹ 50,000 or more;
- f. name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than ₹ 50,000 and the recipient requests that such details be recorded in the tax invoice;
- g. Harmonised System of Nomenclature code for goods or services;

- h. description of goods or services;
- i. quantity in case of goods and unit or Unique Quantity Code thereof;
- j. total value of supply of goods or services or both;
- k. taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
- l. rate of tax (central tax, State tax, integrated tax, Union territory tax or cess );
- m. amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess );
- n. place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;
- o. address of delivery where the same is different from the place of supply;
- p. whether the tax is payable on reverse charge basis; and
- q. signature or digital signature of the supplier or his authorised representative; and
- r. Quick Response (QR) code, having embedded Invoice Reference Number (IRN) in it, in case e-invoice has been issued in the manner prescribed under rule 48(4).

**Taxpoint :**

- ⦿ The Board may, on the recommendations of the Council, by notification, specify:
  - i. the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or
  - ii. a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and
  - iii. the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services

w.e.f. 01-04-2021, a taxpayer, whose turnover is upto ₹5 crore in the preceding financial year, is mandatorily required to mention HSN code of 4 digits on invoice in all B2B transactions and whereas in case turnover exceeds ₹ 5 crore in the preceding financial year, he is required to mention HSN code of 6 digits on invoice in all transactions.

- ⦿ However, where an invoice is required to be issued u/s 31(3)(f) [i.e., under Reverse Charge], a registered person may issue a consolidated invoice at the end of a month for supplies covered u/s 9(4), the aggregate value of such supplies exceeds ₹ 5,000 in a day from any or all the suppliers.
- ⦿ Further, in the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" or "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case maybe, and shall, in lieu of the details specified in clause (e), contain the following details :
  - i. name and address of the recipient;
  - ii. address of delivery; and
  - iii. name of the country of destination

- ◉ In the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000, the signature or digital signature of the supplier or his authorised representative shall not be required.
- ◉ **Invoice-cum-bill of supply:** Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies [Rule 46A]

### 5.7.11 Manner of issuing invoice [Rule 48]

1. The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner:
  - a. the original copy being marked as ORIGINAL FOR RECIPIENT;
  - b. the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
  - c. the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.
2. The invoice shall be prepared in duplicate, in the case of the supply of services, in the following manner:
  - a. the original copy being marked as ORIGINAL FOR RECIPIENT; and
  - b. the duplicate copy being marked as DUPLICATE FOR SUPPLIER.
3. The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in Form GSTR-1 .
4. The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in Form GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification [i.e., e-invoice]
  - However, the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice for a specified period, subject to such conditions and restrictions as may be specified in the said notification.
  - Every invoice issued by a person, to whom provision of e-invoicing is applicable, in any manner other than the manner specified in the aforesaid sub-rule shall not be treated as an invoice.
  - The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).

### 5.7.12 Bill of supply [Rule 49]

A bill of supply referred to in sec. 31(3)(c) shall be issued by the supplier containing the following details :

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

- e. Harmonised System of Nomenclature Code for goods or services;
- f. description of goods or services or both;
- g. value of supply of goods or services or both taking into account discount or abatement, if any; and
- h. signature or digital signature of the supplier or his authorised representative:

**Taxpoint :**

- ⊙ The provisos to rule 46 shall, mutatis mutandis, apply to the bill of supply issued under this rule.
- ⊙ Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of the Act.
- ⊙ The signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000.
- ⊙ The Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.

**5.7.13 Receipt voucher [Rule 50]**

A receipt voucher referred to in sec. 31(1)(d) shall contain the following particulars :

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- e. description of goods or services;
- f. amount of advance taken;
- g. rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- h. amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- i. place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
- j. whether the tax is payable on reverse charge basis; and
- k. signature or digital signature of the supplier or his authorised representative:

**Taxpoint :**

Where at the time of receipt of advance,-

- i. the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent.;
- ii. the nature of supply is not determinable, the same shall be treated as inter State supply.

### 5.7.14 Refund voucher [Rule 51]

A refund voucher referred to in sec. 31(3)(e) shall contain the following particulars:

- a. name, address and Goods and Services Tax Identification Number of the supplier;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- e. number and date of receipt voucher issued in accordance with the provisions of rule 50;
- f. description of goods or services in respect of which refund is made;
- g. amount of refund made;
- h. rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- i. amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- j. whether the tax is payable on reverse charge basis; and
- k. signature or digital signature of the supplier or his authorised representative.

### 5.7.15 Payment voucher [Rule 52]

A payment voucher referred to in sec. 31(3)(g) shall contain the following particulars:

- a. name, address and Goods and Services Tax Identification Number of the supplier if registered;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number of the recipient;
- e. description of goods or services;
- f. amount paid;
- g. rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- h. amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- i. place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
- j. signature or digital signature of the supplier or his authorised representative

### 5.7.16 Revised tax invoice and credit or debit notes [Rule 53]

A revised tax invoice referred to in section 31 shall contain the following particulars:

- a. the word "Revised Invoice", wherever applicable, indicated prominently;
- b. name, address and Goods and Services Tax Identification Number of the supplier;
- c. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
- d. date of issue of the document;
- e. name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- f. name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un- registered;
- g. serial number and date of the corresponding tax invoice or, as the case may be, bill of supply; and
- h. signature or digital signature of the supplier or his authorised representative.

#### Taxpoint :

- ◉ A credit or debit note referred to in sec. 34 shall contain the following particulars:
  - a. name, address and Goods and Services Tax Identification Number of the supplier;
  - b. nature of the document;
  - c. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as " - " and " / " respectively, and any combination thereof, unique for a financial year;
  - d. date of issue of the document;
  - e. name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
  - f. name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un- registered;
  - g. serial number(s)and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;
  - h. value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
  - i. signature or digital signature of the supplier or his authorised representative.
- ◉ Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration.
- ◉ The registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period.

- ◉ In the case of inter-State supplies, where the value of a supply does not exceed ₹ 2,50,000, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act.
- ◉ Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of sec. 74 or 129 or 130 shall prominently contain the words "INPUT TAX CREDIT NOT ADMISSIBLE".

### 5.7.17 Tax invoice in special cases [Rule 54]

#### Input Service Distributor

An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:

- a. name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- b. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash and slash symbolised as "-" , "/" respectively, and any combination thereof, unique for a financial year;
- c. date of its issue;
- d. name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
- e. amount of the credit distributed; and
- f. signature or digital signature of the Input Service Distributor or his authorised representative:

#### Taxpoint :

- ◉ However, where the ISD is an office of a banking company or a financial institution, including a NBFC, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.
- ◉ A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:
  - i. name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;
  - ii. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
  - iii. date of its issue;
  - iv. Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;
  - v. name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
  - vi. taxable value, rate and amount of the credit to be transferred; and
  - vii. signature or digital signature of the registered person or his authorised representative.
- ◉ The taxable value in the aforesaid invoice shall be the same as the value of the common services.

**An insurer or a banking company or a financial institution, including NBFC**

Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a NBFC, the said supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.

The signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000

**Goods Transport Agency (GTA)**

Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing

- ⦿ the gross weight of the consignment,
- ⦿ name of the consigner and the consignee,
- ⦿ registration number of goods carriage in which the goods are transported,
- ⦿ details of goods transported,
- ⦿ details of place of origin and destination,
- ⦿ Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency, and
- ⦿ other information as mentioned under rule 46.

**Passenger Transportation Service**

Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as mentioned under rule 46.

The signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000.

**Admission to exhibition of cinematograph films in multiplex screens**

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:

The supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.

**5.7.18 Transportation of goods without issue of invoice [Rule 55]**

1. For the purposes of -
  - a. supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,

- b. transportation of goods for job work,
- c. transportation of goods for reasons other than by way of supply, or
- d. such other supplies as may be notified by the Board

the consigner may issue a delivery challan, serially numbered not exceeding 16 characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details:

- i. date and number of the delivery challan;
  - ii. name, address and Goods and Services Tax Identification Number of the consigner, if registered;
  - iii. name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;
  - iv. Harmonised System of Nomenclature code and description of goods;
  - v. quantity (provisional, where the exact quantity being supplied is not known );
  - vi. taxable value;
  - vii. tax rate and tax amount - central tax, State tax, integrated tax, Union territory tax or cess , where the transportation is for supply to the consignee;
  - viii. place of supply, in case of inter-State movement; and
  - ix. signature.
2. The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner :
- a. the original copy being marked as ORIGINAL FOR CONSIGNEE;
  - b. the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
  - c. the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.
3. Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.
4. Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
5. Where the goods are being transported in a semi knocked down or completely knocked down condition or in batches or lots -
- a. the supplier shall issue the complete invoice before dispatch of the first consignment;
  - b. the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
  - c. each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
  - d. the original copy of the invoice shall be sent along with the last consignment.

### 5.7.19 Tax Invoice or bill of supply to accompany transport of goods [Rule 55A]

The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

### 5.7.20 E-Way Bill under GST

As per sec. 68, the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

Where such conveyance is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

Rules 138 to 138E of the CGST Rules lay down, in detail, the provisions relating to e-way bills.

E-way bill (Form GST EWB-01) is an electronic document (available to consignor (i.e. supplier) / consignee (i.e. recipient) / transporter) generated on the common portal evidencing movement of goods of consignment value more than ₹ 50,000/-.

It has two Components –

- (i) Part A comprising of details of GSTIN of supplier and - recipient, place of despatch (indicated by PIN code), place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation; and
- (ii) Part B –comprising of transport details - transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number for road.

A waybill is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route. Electronic Way Bill (E-Way Bill) is basically a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. Rule 138 of the CGST Rules, 2017 provides for the e-way bill mechanism and in this context it is important to note that “information is to be furnished prior to the commencement of movement of goods” and “is to be issued whether the movement is in relation to a supply or for reasons other than supply”.

#### Benefits of e-way bill

Following benefits are expected from e-way bill mechanism

- a. Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts.
- b. It will facilitate faster movement of goods.
- c. It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.
- d. The consignor needs to give details of consignee also. This would ensure more transparency among all stakeholders of the system.

#### When should e-way Bill be generated?

e-Way bill will be generated when there is a movement of goods in a vehicle / conveyance of value more than ₹

50,000 (either each Invoice or in aggregate of all invoices in a vehicle / conveyance) :

- In relation to a ‘supply’
- For reasons other than a ‘supply’ (say a return)
- Due to inward ‘supply’ from an unregistered person

For this purpose, a supply may be either of the following :

- a. A supply made for a consideration (payment) in the course of business
- b. A supply made for a consideration (payment) which may not be in the course of business
- c. A supply without consideration (without payment)

In simpler terms, the term ‘supply’ usually means

- Sale – sale of goods and payment made
- Transfer – branch transfers for instance
- Barter/Exchange – where the payment is by goods instead of in money

Therefore, e-way bills must be generated on the common portal for all these types of movements. For following goods, the e-way bill needs to be generated mandatorily even if the value of the consignment of Goods is less than ₹ 50,000 :

- a. Inter-State movement of goods by the Principal to the Job-worker by Principal / registered job-worker
- b. Inter-State transport of Handicraft goods by a dealer exempted from GST registration

### Who should Generate an e-way Bill?

**Registered Person** – e-way bill must be generated when there is a movement of goods of more than ₹ 50,000 in value to or from a registered person. A Registered person or the transporter may opt to generate and carry e-way bill even if the value of goods is less than ₹ 50,000.

**Unregistered Persons** – Unregistered persons are also required to generate e-way Bill. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.

**Transporter** – Transporters carrying goods by road, air, rail, etc. also need to generate e-way Bill if the supplier has not generated an e-way Bill. Unregistered transporters will be issued Transporter ID on enrolling on the e-way bill portal after which e-way bills can be generated.

### Generation of e-way bill

Who	When	Part	Form
Every Registered person under GST	Before movement of goods	Fill Part A	Form GST EWB-01
Registered person is consignor or consignee (mode of transport may be owned or hired) or is recipient of goods	Before movement of goods	Fill Part B	Form GST EWB-01

Registered person is consignor or consignee and goods are handed over to transporter of goods	Before movement of goods	Fill Part B	The registered person shall furnish the information relating to the transporter in Part B of Form GST EWB-01
Transporter of goods	Before movement of goods		Generate e-way bill on basis of information shared by the registered person in Part A of FORM GST EWB-01
An unregistered person under GST and recipient is registered	Compliance to be done by Recipient as if he is the Supplier.		<ol style="list-style-type: none"> <li>1. If the goods are transported for a distance of fifty kilometers or less, within the same State/Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.</li> <li>2. If supply is made by air, ship or railways, then the information in Part A of FORM GST EWB-01 has to be filled in by the consignor or the recipient</li> </ol>

However, if a transporter is transporting multiple consignments in a single conveyance, they can use the form GST EWB-02 to produce a consolidated e-way bill, by providing the e-way bill numbers of each consignment. If both the consignor and the consignee have not created an e-way bill, then the transporter can do so by filling out PART A of FORM GST EWB-01 on the basis of the invoice/bill of supply/delivery challan given to them.

**When e-way bill is not required**

In the following cases it is not necessary to generate e-Way Bil :

- a. where the goods being transported are specified in Annexure ;

**Taxpoint :**

- Liquefied petroleum gas for supply to household and Non domestic exempted category (NDEC) customers
- Kerosene oil sold under PDS
- Postal baggage transported by Department of Posts
- Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
- Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
- Currency
- Used personal and household effects

- Coral, unworked (0508) and worked coral (9601)
- b. where the goods are being transported by a Non-motorised conveyance;
- c. where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- d. in respect of movement of goods within such areas as are Notified under clause (d) of sub-rule (14) of rule 138 of the State or Union territory Goods and Services Tax Rules in that particular State or Union territory;
- e. where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to Notification No 2/2017- Central tax (Rate) dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 674 (E) dated the 28th June, 2017 as amended from time to time;
- f. where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel;
- g. where the supply of goods being transported is treated as No supply under Schedule III of the Act;
- h. where the goods are being transported-
  - i. under customs bond from an inland container depot or a container freight station to a custom sport, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
  - ii. under customs supervision or under customs seal ;
- i. where the goods being transported are transit cargo from or to Nepal or Bhutan;
- j. where the goods being transported are exempt from tax under Notification No 7/2017-Central Tax(Rate), dated 28th June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 679(E)dated the 28th June, 2017 as amended from time to time and Notification No 26/2017 Central Tax(Rate), dated the 21st September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1181(E)dated the 21st September, 2017 as amended from time to time;
- k. any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee;
- l. where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- m. where empty cargo containers are being transported; and
- n. where the goods are being transported upto a distance of twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.
- o. where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

### **Taxpoint :**

Part B of e-Way Bill is not required to be filled where the distance between the consignor or consignee and the transporter is less than 50 Kms and transport is within the same state.

### Validity of e-way Bill

An e-way bill is valid for periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date and time of generation of e-way bill :

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less Than 200 Kms	1 Day
	For every additional 200 Kms or part thereof	additional 1 Day
For Over dimensional cargo	Less Than 20 Kms	1 Day
	For every additional 20 Kms or part thereof	additional 1 Day

### Documents or Details required to generate e-way Bill

- Invoice/ Bill of Supply/ Challan related to the consignment of goods
- Transport by road – Transporter ID or Vehicle number
- Transport by rail, air, or ship – Transporter ID, Transport document number, and date on the document

### Bill To- Ship To/ Bill From-Dispatch From Model

Sometimes, the tax payer raises the bill to somebody and sends the consignment to somebody else as per the business requirements. There is a provision in the e-way bill system to handle this situation, called as ‘Bill to’ and ‘Ship to’.

Sometimes, the supplier prepares the bill from his business premises to consignee, but moves the consignment from some others’ premises to the consignee as per the business requirements. This is known as ‘Billing From’ and ‘Dispatching From’.

### Cancellation of E-way bill

The e-way bill once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of generation. If a particular e-way bill has been verified by the proper officer, then it cannot be cancelled. Further, e-way bill can be cancelled if either goods are not transported or are not transported as per the details furnished in the e-way bill.

**Taxpoint :** The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be

### Documents and devices to be carried by a person-in-charge of a conveyance [Rule 138A]

1. The person in charge of a conveyance shall carry-
  - a. the invoice or bill of supply or delivery challan, as the case may be; and
  - b. a copy of the e-waybill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be Notified by the Commissioner :

However, clause (b) is not applicable in case of movement of goods by rail or by air or vessel.

Further, in case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of

entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in Part A of Form GST EWB-01.

2. In case, invoice is issued in the manner prescribed under rule 48(4), the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.
3. The Commissioner may, by Notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.
4. However, where circumstances so warrant, the Commissioner may, by Notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill
  - a. tax invoice or bill of supply or bill of entry; or
  - b. a delivery challan, where the goods are transported for reasons other than by way of supply.

### Verification of documents and conveyances [Rule 138B]

1. The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.
2. The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.
3. The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf.

On receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

### Inspection and verification of goods [Rule 138C]

1. A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of Form GST EWB-03 within 24 hours of inspection and the final report in Part B of Form GST EWB-03 shall be recorded within 3 days of such inspection.

Where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of FORM EWB-03, for a further period not exceeding 3 days.

The period of 24 hours or, as the case may be, 3 days shall be counted from the midnight of the date on which the vehicle was intercepted.

2. Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently.

**Facility for uploading information regarding detention of vehicle [Rule 138D]**

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in Form GST EWB-04 on the common portal.

**FAQ by CBIC on 15-12-2018****Q 1. What is a Bill of Supply? [FAQ 52]**

**Ans.** A bill of supply is document which is issued in lieu of a tax invoices. In cases where it is not mandatory for the supplier to issue an invoice, a bill of supply can be issued.

**Q 2. Who are the persons required to issue a Bill of Supply under GST? [FAQ 53]**

**Ans.** A registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 (i.e. a composition taxable person) shall issue, instead of a tax invoice, a bill of supply.

**Q 3. Can an unregistered person collect GST? [FAQ 65]**

**Ans.** No. A person who is not a registered person shall not collect any amount by way of tax under this Act in respect of any supply of goods or services or both.

**Q 4. Does the term “invoice” include a revised invoice also? [FAQ 66]**

**Ans.** Yes. The expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply of goods or services or both made earlier.

**Q 5. Is it mandatory to show tax amount on every invoice? [FAQ 67]**

**Ans.** Yes. Where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

**Q 6. What is a Credit Note? [FAQ 68]**

**Ans.** A Credit note is a document evidencing reduction in value of a particular supply made earlier. Every credit note has to be linked to an invoice issued earlier. A credit note enables a supplier to reduce his output tax liability in relation to the invoice issued earlier.

**Q 7. What is a debit note? [FAQ 70]**

**Ans.** A debit note is a document evidencing enhancement in value of a particular supply made earlier. Every debit note has to be linked to an invoice issued earlier. A debit note enables a recipient to take further Input Tax Credit in relation to the invoice issued earlier.

**Q 8. When should an e-way bill be generated? [FAQ 110]**

**Ans.** As per Rule 138 of the CGST Rules, 2017, an e-way bill has to be generated prior to the commencement of movement of goods

**Q 9. Whether consignment value of goods shall include tax also? In case of movement other than by way of supply, value may not be available. How to value such cases? [FAQ 107]**

**Ans.** As per Explanation 2 to Rule 138(1) of CGST Rules, 2017, the consignment value shall also include the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document. Furthermore, in view of the valuation provisions in sec. 15 of the CGST Act, 2017, Customs duty shall also be includible in the value of goods.

In case of movement of goods for reasons other than supply, the movement would be occasioned by means of a delivery challan which is a mandatory document. The delivery challan has to necessarily contain the value of goods as per Rule 55 of the CGST Rules, 2017. The value given in the delivery challan should be adopted in the e-way bill.

**Q 10. Whether an e-way bill is to be issued, even when there is no supply? [FAQ 112]**

**Ans.** Yes. Even if the movement of goods is caused due to reasons others than supply, the e-way bill is required to be issued. Reasons other than supply include movement of goods due to job-work, replacement under warranty, recipient not known, supply of liquid gas where quantity is not known, supply returns, exhibition or fairs, for own use, Sale on approval basis and others etc.

**Q 11. Who should generate e-way bill? [FAQ 113]**

**Ans.** An e-way bill contains two parts- Part A to be furnished by the registered person who is causing movement of goods of consignment value exceeding Rs. 50,000/- and part B (transport details) is to be furnished by the person who is transporting the goods.

Where the goods are transported by a registered person-whether as consignor or recipient, the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) Where the e-way is not generated by registered person and the goods are handed over to the transporter, for transportation of goods by road, the registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01 on the common portal and three-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01.

In a nutshell, E-way bill is to be generated by the consignor or consignee himself (if the transportation is being done in own/hired conveyance or by railways by air or by Vessel) or the transporter (if the goods are handed over to a transporter for transportation by road). In case the goods to be transported are supplied through an e-commerce operator, the information in Part A may be furnished by such ecommerce operator.

**Q 12. Who has to generate E-way bill in case of transportation of goods by rail, air or vessel? [FAQ 114]**

**Ans.** The registered person, being the supplier or recipient, is required to generate E-way Bill by furnishing the information in part B of the E-Way bill viz. transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number).

**Q 13. Who causes movement of goods? [FAQ 115]**

**Ans.** The movement of goods can be caused by the supplier, if he is registered and he undertakes to transport the goods. In case the recipient undertakes to transport or arrange transport, the movement would be caused by him.

In case the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods

**Q 14. Is there any time gap allowed between furnishing information in Part-A and updating transport details in Part-B? [FAQ 116]**

**Ans.** On furnishing of Part-A, a unique number will be generated on the portal which shall be valid for 15 days for updating of Part B of FORM GST EWB-01.

**Q 15. Is e-way bill required when the goods are supplied by an unregistered supplier? [FAQ 118]**

**Ans.** Where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement

shall be said to be caused by such recipient if the recipient is known at the time of commencement of movement of goods. The recipient shall be liable to generate e-way bill. There could be three possibilities as below :

Situation	Movement caused by	Impact
Recipient is unknown	Unregistered person	E-way bill not required; However, the supplier has an option to generate e-way bill under “citizen” option on the e-way bill portal
Recipient is known and is unregistered	Unregistered person	E-way bill not required; However, the supplier has an option to generate e-way bill under “citizen” option on the e-way bill portal
Recipient is known and is registered	Deemed to be caused by the Registered recipient	Recipient to generate e-way bill

**Q 16. What is invoice reference number? [FAQ 121]**

**Ans.** A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in FORM GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

In the above case, the registered person will not have to upload the information in Part A of FORM GST EWB-01 for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.

**Q 17. Can the e-way bill be cancelled if the goods are not transported after generation of e-way bill? [FAQ 122]**

**Ans.** Where an e-way bill has been generated, but goods are either not being transported or are not being transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.

However, if the e-way has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017, the same cannot be cancelled.

**Q 18. What happens if the conveyance is changed en-route? [FAQ 123]**

**Ans.** Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part- A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01.

Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of the conveyance in the e-way bill on the common portal in FORM GST EWB-01.

**Q 19. Can the transporter assigned by a supplier or recipient further re-assign the e-way bill to another transporter? [FAQ 124]**

**Ans.** The consignor or the recipient, who has furnished the information in Part-A, or the transporter, may assign

the e-way bill number to another registered or enrolled transporter for updating the information in Part-B for further movement of consignment.

However once the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case maybe, who has furnished the information in Part-A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.

**Q 20. How many times can Part-B or Vehicle number be updated for an e-way bill? [FAQ 128]**

**Ans.** The Part-B (Vehicle details) can be updated as many times as one wants for movement of goods to the destination. However, the updating should be done within the validity period and at any given point of time, the vehicle number updated should be that of the one which is actually carrying the goods. The validity of e-way bill is not re-calculated for subsequent entries in Part-B.

**Q 21. What happens if multiple consignments are transported in one conveyance? [FAQ 130]**

**Ans.** Where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 may be generated by him on the common portal prior to the movement of goods. The various situations where multiple consignments are transported in one conveyance may be as under :

Situation	Impact
Multiple consignments in one conveyance; all more than ₹ 50000/-; and the consignor has generated e-way bill for all the consignments.	A consolidated e-way bill in FORM GST EWB-02 may be generated on the common portal prior to the movement
Multiple consignments in one conveyance; all more than ₹ 50000/-; but the consignor has not generated e-way bill	The relevant provision 138(7) has not been brought into force as of now, so e-way bill not required to be generated by transporter
Multiple consignments in one conveyance; a few less than ₹ 50000/- and e-way bill not generated for these consignments (less than ₹ 50,000/-)	The relevant provision 138(7) has not been brought into force as of now, so e-way bill not required to be generated by transporter

**Q 22. Can a e-way bill be modified? [FAQ 136]**

**Ans.** No. Part-A of an e-way bill once generated, cannot be modified. However, Part-B can be updated as many times as the transport vehicle is changed within the overall validity period. The validity period is not changed when the Part-B is updated.

**Q 23. Is it necessary to feed information and generate e-way bill electronically in the common portal? [FAQ 137]**

**Ans.** Yes. The facility of generation and cancellation of e-way bill is also available through SMS.

**Q 24. What is EBN? Who gives it? [FAQ 138]**

**Ans.** Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal. The common portal will generate the EBN.

**Q 25. Whether e-way bill generated in one state is valid in another state? [FAQ 139]**

**Ans.** Yes, it is valid throughout the country.

**Q 26. Can a tax payer update his business name, address, mobile number or e-mail id in the e-way bill system? [FAQ 149]**

**Ans.** No. EWB System will not allow tax payer to update these details directly. The taxpayer has to change these details at GST Common portal, from where it will be updated in EWB system.

**Q 27. What are the modes of e-way bill generation? [FAQ 150]**

**Ans.** The e-way bill can be generated through multiple modes viz. the common portal for e-waybill or Using SMS based facility or Android App or Site-to-Site integration or GSP (Goods and Services Tax Suvidha Provider).

For using the SMS facility, a person has to register the mobile numbers through which he wants to generate the e-way bill on the e-way bill system.

For using Android App, the tax payer has to register the EMEI numbers of the mobiles through which he wants to generate the e-way bill on the e-way bill system.

For site to site integration, the APIs of the e-way bill system have to be used for integrating the system.

**Q 28. Whether information submitted for e-way bill can be used for filing GST Returns? [FAQ 152]**

**Ans.** The information furnished in the Part-A of E-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in GSTR-1.

**Q 29. Whether individuals while shifting their personal belongings will have to generate E-way bill? [FAQ 153]**

**Ans.** No. Used personal and household effects are specifically exempted from the requirement of E-way Bill

**Q 30. How to handle “Bill to” - “Ship to” invoice in e-way bill system? [FAQ 158]**

**Ans.** In the e-way bill form, there are two portions under ‘TO’ section. In the left hand side - ‘Billing to’ GSTIN and trade name is entered and in the right hand side - ‘Ship to’ address of the destination of the movement is entered. The other details are entered as per the invoice.

In case ship to state is different from Bill to State, the tax components are entered as per the billing state party. That is, if the Bill to location is inter-state for the supplier, IGST is entered and if the Bill to Party location is intra-state for the supplier, the SGST and CGST are entered irrespective of movement of goods whether movement happened within state or outside the state.

**Q 31. What form of e-way bill – original printout or softcopy need to be carried by the transporter? [FAQ 159]**

**Ans.** An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid.

# Returns and Payment of Taxes

## 5.8

The basic features of the return mechanism in GST includes electronic filing of returns, uploading of invoice level information, auto-population of information relating to input tax credit from returns of supplier to that of recipient, invoice level information matching and auto-reversal of input tax credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

A return is required to be filed for the following purposes :

- Mode for transfer of information to tax administration;
- Compliance verification program of tax administration;
- Finalization of the tax liabilities of the taxpayer within stipulated period of limitation; to declare tax liability for a given period;
- Providing necessary inputs for taking policy decision;
- Management of audit and anti-evasion programs of tax administration.

Under GST, a regular taxpayer needs to furnish monthly returns and one annual return. There are separate returns for a taxpayer registered under the composition scheme, non-resident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/TCS), a person granted Unique Identification Number. It is important to note that a taxpayer is not required to file all the types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake. The GST Council has however recommended to ease the compliance requirements for small tax payers by allowing taxpayers to file details of outward supplies in Form GSTR-1 on a quarterly basis. All the returns are to be filed online. Returns can be filed using any of the following methods :

- GSTN portal ([www.gst.gov.in](http://www.gst.gov.in))
- Offline utilities provided by GSTN
- GST Suvidha Providers (GSPs).

### 5.8.1 Returns under GST Laws

Form	Particulars	Due Date	Applicable to
GSTR-3B	Monthly/ Quarterly summary return	To be filed as under : ➤ Registered persons, who are not under QRMP Scheme – 20th of the next month. ➤ Registered persons, who have opted for QRMP Scheme -	All registered persons other than : 1. Input service distributor (ISD), 2. Non-resident taxable person,

Form	Particulars	Due Date	Applicable to
	As per sec. 2(92), “quarter” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;	<p>a. Aggregate turnover up to ₹ 5 Cr. in the previous financial year and registered in category 1<sup>27</sup> States – <b>22nd</b> of the next month following the quarter.</p> <p>b. Aggregate turnover up to ₹ 5 Cr. in the previous financial year and registered in category 2<sup>28</sup> States – <b>24th</b> of the next month following the quarter</p> <p>➤ pay the tax due in each of the first two months of the quarter by depositing the due amount in Form GST PMT-06, by 25th day of the month succeeding such month under the head “Monthly payment for quarterly taxpayer”</p>	<p>3. Person paying tax u/s:</p> <p>a. 10 – Composition levy</p> <p>b. 51 – Tax deduction at source</p> <p>c. 52 - Collection of tax at source</p>
GSTR-1 / IFF	Statement for furnishing details of outward supplies	<p>To be filed by either of the following persons on or before the below given dates:</p> <p>➤ Registered person, who are not under QRMP Scheme - 11th of the next month</p> <p>➤ Registered persons, who have opted for QRMP Scheme - 13th of the subsequent quarter</p> <p>However, such persons can furnish details of outward supplies using IFF for the first 2 months of the quarter as under :</p> <ul style="list-style-type: none"> <li>– 1st month of the quarter – on or before 13th of the subsequent month (max value = ₹ 50 Lakhs)</li> <li>– 2nd month of the quarter - on or before 13th of the subsequent month (max value = ₹ 50 Lakhs)</li> </ul>	Normal / regular taxpayer

<sup>27</sup> Category – 1: States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union Territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep

<sup>28</sup> Category – 2: States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi

Form	Particulars	Due Date	Applicable to
		➤ Invoices furnished using the said facility in the first two months are not required to be furnished again in Form GSTR-1.	
GSTR-4	Return by composition tax payers	CMP-08 by 18th of the month succeeding the quarter. GSTR-4 Annually by 30th April following the end of a financial year.	Composition taxpayer
GSTR-5	Return by non-resident tax payers	13th of the next month or within 7 days after expiry of registration, whichever is earlier	Non-resident taxpayer
GSTR-5A	Monthly return by online information and database access or retrieval services (supply to a person other than a registered person i.e., online non-taxable recipient)	20th of the next month	Online information and database access or retrieval services
GSTR-6	Monthly return by input service distributors	13th of the next month	Input service distributors
GSTR-7	Monthly return for TDS	10th of the next month	Tax Deductor
GSTR-8	Monthly return (statement) for collection of tax at source	10th of the next month	E-commerce operator
GSTR-9/9A/9C	Annual return	31st December of the next financial year	Various person (Covered in Final)
GSTR-10	Final Return	Within 3 months of the date of cancellation or date of order of cancellation, whichever is later	Registered person whose registration has been cancelled
GSTR-11	Return to be filed by a person having UIN (Unique Identity Number) w.r.t inward supplies received by him to file refund of the taxes paid by him on inward supplies.		Person having UIN

### 5.8.2 Furnishing details of outward supply [Sec. 37]

Every registered person (including casual registered person) shall furnish electronically, subject to certain conditions and restrictions, in GSTR 1 the details of outward supplies of goods or services or both effected during a tax period on or before the **10th day**<sup>29</sup> of the month succeeding the said tax period.

#### Taxpoint :

- ◉ E.g. details of outward supplies pertaining to the month of September is required to be furnished in GSTR-1 on or before 10th of October (presently extended to 11th).
- ◉ **"Details of outward supplies"** shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.
- ◉ **Exceptions :** Sec. 37 is not applicable in case of the following :
  - a. Input Service Distributor,
  - b. Non-resident taxable person<sup>30</sup>; and
  - c. Person paying tax under the provisions of sec. 10 (i.e., composition scheme) or sec. 51 (i.e., TDS) or sec. 52 (i.e., TCS)
- ◉ **Communication to the recipient of the supply :** Details furnished in the GSTR 1 shall, subject to such conditions and restrictions, be communicated (in auto drafted) to the recipient of the said supplies in GSTR 2A (if the recipient is the normal registered person), GSTR 4A (if the recipient is registered under composition scheme) and GSTR 6A (if the recipient is an input service distributor)
- ◉ **"Tax period"** means the period for which the return is required to be furnished – sec. 2(106)
- ◉ **Extension of due date :** The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein. Any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.
- ◉ **Rectification of the return [Sec. 37(3)] :** Any registered person, who has furnished the details for any tax period, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period.  
However, no rectification of error or omission in respect of the details furnished shall be allowed after 30th November following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.
- ◉ **Restriction on furnishing return [Sec. 37(4)] :** A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.  
The Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even if he has not furnished the details of outward supplies for one or more previous tax periods.
- ◉ A Nil GSTR-1 can be filed through SMS using the registered mobile number of the taxpayer.
- ◉ Small taxpayers covered under Quarterly Return Monthly Payment Scheme (QRPM Scheme) may opt for quarterly filing of GSTR-1. QRPM Scheme shall be discussed in later in this chapter.

<sup>29</sup> Presently extended to 11th of the following month

<sup>30</sup> As per sec. 2(77) "non-resident taxable person" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

**Form and manner of furnishing details of outward supplies [Rule 59]**

Every registered person, other than a person referred to in section 14 of the IGST Act, 2017, required to furnish the details of outward supplies of goods or services or both u/s 37, shall furnish such details in Form GSTR-1 for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

IFF for small taxpayer covered under QRPM Scheme [Rule 59(2)]

The registered persons required to furnish return for every quarter under proviso to sec. 39(1) may furnish the details of such outward supplies of goods or services or both to a registered person, as he may consider necessary, for the first and second months of a quarter, up to a cumulative value of ₹ 50 lakhs in each of the months, using invoice furnishing facility (hereafter referred to as the "IFF") electronically on the common portal, duly authenticated in the manner prescribed under rule 26, from the 1st day of the month succeeding such month till the 13th day of the said month.

**Taxpoint :**

A small taxpayer covered under QRPM Scheme is required to file following in lieu of monthly GSTR-1 :

Invoice Furnishing Facility (IFF)	In first two month of the quarter Time limit for filing: Within 13th day of the following month
GSTR-1	For the entire quarter within 13th day of the following quarter. However, the details of outward supplies furnished using the IFF, for the first & second months of a quarter, shall not be furnished again in FORM GSTR-1 for the said quarter.

**Details to be given in GSTR-1 [Rule 59(4)]**

The details of outward supplies of goods or services or both furnished in Form GSTR-1 shall include the :

- a. invoice wise details of all -
  - i. inter-State and intra-State supplies made to the registered persons; and
  - ii. inter-State supplies with invoice value more than ₹ 2,50,000 made to the unregistered persons;
- b. consolidated details of all -
  - i. intra-State supplies made to unregistered persons for each rate of tax; and
  - ii. State wise inter-State supplies with invoice value upto ₹ 2,50,000 made to unregistered persons for each rate of tax;
- c. debit and credit notes, if any, issued during the month for invoices issued previously.

**Details to be given in IFF [Rule 59(5)]**

The details of outward supplies of goods or services or both furnished using the IFF shall include the -

- a. invoice wise details of inter-State and intra-State supplies made to the registered persons;
- b. debit and credit notes, if any, issued during the month for such invoices issued previously.

**Restriction on furnishing GSTR-1 or IFF [Rule 59(6)]**

Notwithstanding anything contained in this rule, -

- a. a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in Form GSTR-1, if he has not furnished the return in Form GSTR-3B for the preceding month

- b. a registered person, required to furnish return for every quarter under the proviso to sec. 39(1), shall not be allowed to furnish the details of outward supplies of goods or services or both u/s 37 in Form GSTR-1 or using the invoice furnishing facility (IFF), if he has not furnished the return in Form GSTR-3B for preceding tax period.

**Manner of furnishing of return or details of outward supplies by short messaging service facility [Rule 67A]**

Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return u/s 39 in Form GSTR-3B or a Nil details of outward supplies u/s 37 in Form GSTR-1 or a Nil statement in Form GST CMP-08 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service (SMS) using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based One Time Password (OTP) facility.

A nil return or nil details of outward supplies or nil statement shall mean a return u/s 39 or details of outward supplies u/s 37 or statement under rule 62, for a tax period that has nil or no entry in all the Tables in Form GSTR-3B or Form GSTR-1 or Form GST CMP-08, as the case may be.

**5.8.3 Communication of details of inward supplies and input tax credit [Sec. 38]**

1. The details of outward supplies furnished by the registered persons u/s 37(1) and of such other supplies as may be prescribed, and an auto-generated statement containing the details of input tax credit shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.
2. The auto-generated statement shall consist of :
  - a. details of inward supplies in respect of which credit of input tax may be available to the recipient; and
  - b. details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished u/s 37(1) :
    - i. by any registered person within such period of taking registration as may be prescribed; or
    - ii. by any registered person, who has defaulted in payment of tax and where such default has continued for such period as may be prescribed; or
    - iii. by any registered person, the output tax payable by whom in accordance with the statement of outward supplies furnished by him during such period, as may be prescribed, exceeds the output tax paid by him during the said period by such limit as may be prescribed; or
    - iv. by any registered person who, during such period as may be prescribed, has availed credit of input tax of an amount that exceeds the credit that can be availed by him in accordance with clause (a), by such limit as may be prescribed; or
    - v. by any registered person, who has defaulted in discharging his tax liability in accordance with the provisions of sec. 49(12) subject to such conditions and restrictions as may be prescribed; or
    - vi. by such other class of persons as may be prescribed.

**5.8.4 Furnishing of returns [Sec. 39(1)]**

Every registered person shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed.

**Taxpoint :**

- Exceptions: Sec. 39(1) is not applicable in case of the following:
  - a. Input Service Distributor as he is required to file return in GSTR-6,
  - b. Non-resident taxable person as he is required to file return in GSTR-5; and
  - c. Person paying tax under the provisions of sec. 10 (i.e., composition scheme as he is required to file return in GSTR-4) or sec. 51 (i.e., TDS as it is required to be filed in return in GSTR-7) or sec. 52 (i.e., TCS as it is required to be filed in return in GSTR-8)
- The Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.
- Even Nil return is also required to be filed.

**Form and manner of furnishing of return [Rule 61]**

Every registered person (excluding above) shall furnish a return in Form GSTR-3B, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before following time limit :

- For each month, or part thereof, on or before the 20th day of the month succeeding such month:\
- For each quarter, or part thereof, in terms of proviso to sec. 39(1), for the class of registered persons mentioned below :

Class of registered persons	Due Date
Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	22nd day of the month succeeding such quarter.
Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th day of the month succeeding such quarter.

**Discharge of liability before filing return [Rule 61(2)]**

Every registered person required to furnish return discharge his liability towards tax, interest, penalty, fees or any other amount payable by debiting the electronic cash ledger or electronic credit ledger and include the details in the return in Form GSTR-3B.

**Monthly Payment for Quarterly Return filer [Rule 61(3)/(4)]**

Every registered person required to furnish return, every quarter shall pay the tax due for each of the first 2 months of the quarter, by depositing the said amount in Form GST PMT-06, by the 25th day of the month succeeding such month.

However, the Commissioner may, on the recommendations of the Council, by notification, extend the due date for depositing the said amount.

Further, while making a deposit in Form GST PMT-06, such a registered person may -

- a. for the 1st month of the quarter, take into account the balance in the electronic cash ledger.
- b. for the 2nd month of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the first month.

The amount deposited by the registered persons in first two months of the quarter shall be debited while filing the return for the said quarter in Form GSTR-3B, and any claim of refund of such amount lying in balance in the electronic cash ledger, if any, out of the amount so deposited shall be permitted only after the return in Form GSTR-3B for the said quarter has been filed.

### 5.8.5 Furnishing of returns by person under Composition Scheme [Sec. 39(2)]

A registered person paying tax under the provisions of sec. 10 (i.e., under composition scheme), shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

#### Form and manner of submission of statement and return [Rule 62]

- ◉ Every registered person paying tax u/s 10 shall:
  - a. furnish a statement, every quarter or, as the case may be, part thereof, containing the details of payment of self-assessed tax in Form GST CMP-08, till the 18th day of the month succeeding such quarter; and
  - b. furnish a return for every financial year or, as the case may be, part thereof in Form GSTR-4, till the 30th day of April following the end of such financial year, electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- ◉ Every registered person furnishing the statement shall discharge his liability towards tax or interest payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger.
- ◉ The return shall include the :
  - a. invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and
  - b. consolidated details of outward supplies made.

### 5.8.6 Furnishing of returns by Input Service Distributor [Sec. 39(4)]

Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in Form GSTR-6 and manner as may be prescribed, a return, electronically, within 13th days after the end of such month.

### 5.8.7 Furnishing of returns by Non-Resident Taxable Person [Sec. 39(5)]

Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in Form GSTR-5 and manner as may be prescribed, a return, electronically, within 13th days after the end of a calendar month or within 7 days after the last day of the period of registration specified u/s 27(1), whichever is earlier.

The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns.

### 5.8.8 Rectification of mistake [Sec. 39(9)]

Where] any registered person after furnishing a return u/s 39 discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars in such form and manner as may be prescribed, subject to payment of interest under this Act.

**Time-limit :** No such rectification of any omission or incorrect particulars shall be allowed

- a. after the 30th day of November following the end of the financial year to which such details pertain, or
- b. the actual date of furnishing of relevant annual return,
  - whichever is earlier.

### 5.8.9 Restriction on Filing Return [Sec. 39(10)]

A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of outward supplies u/s 37(1) for the said tax period has not been furnished by him.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies u/s 37(1) for the said tax period.

### 5.8.10 First return [Sec. 40]

Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

### 5.8.11 Availment of input tax credit [Sec. 41]

Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

The credit of input tax availed by a registered person in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

However, where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

### 5.8.12 Final return [Sec. 45]

Every registered person who is required to furnish a return u/s 39(1) and whose registration has been cancelled shall furnish a final return within 3 months of the date of cancellation or date of order of cancellation, whichever is later, in Form GSTR-10 and manner as may be prescribed.

### 5.8.13 Quarterly Return, Monthly Payment of Taxes (QRMP) Scheme

Quarterly Return, Monthly Payment of Taxes (QRMP) Scheme is a scheme to simplify compliance for small taxpayers. Under this scheme, taxpayers having an aggregate turnover at PAN level up to ₹ 5 crore in the preceding financial year can opt for quarterly GSTR-1 (however, for first two months he can file IFF by 13th of the next month) and GSTR-3B filing. Payment can be made in the first 2 months by a simple challan in Form GST PMT-06. For the ease of taxpayers, system has assigned quarterly frequency to small taxpayers automatically.

#### Taxpoint :

- ◉ In case the aggregate turnover exceeds ₹ 5 crores during any quarter in the current financial year, the registered person shall not be eligible for the Scheme from the next quarter.
- ◉ The option to avail the QRMP Scheme is GSTIN wise. Therefore, some GSTINs for a PAN might be eligible for the QRMP Scheme, and the remaining GSTINs might not be able to opt for the Scheme.

#### Eligibility of QRMP Scheme

##### In Case of New Registration :

A newly registered taxpayer whose aggregate turnover is up to ₹ 5 crores can opt for the QRMP scheme based on the following conditions :

- ◉ If the registration is granted on any date during the first month of a quarter, the registered person will be able to opt for the QRMP scheme from the beginning itself.
- ◉ If the registration is granted on any of the dates during the latter two months of a quarter, then the registered person will be able to opt for the QRMP scheme only from the next quarter onwards.

##### In Case of Other :

A registered person can opt-in for any quarter from the first day of the second month of the preceding quarter to the last day of the first month of the quarter. However, there is no requirement to opt for the Scheme each quarter separately. Once the Scheme is exercised, it would be valid for future tax periods also.

#### Details of Outward Supply to be furnished through Invoice Furnishing Facility (IFF)

- ◉ The registered persons opting for the Scheme would be required to furnish the details of an outward supply in Form GSTR-1 every quarter. However, the supplier has been given an option to furnish the details monthly. For this, the Invoice furnishing facility ('IFF'), which is optional in nature, has been introduced for furnishing the details of invoices of supply made to registered persons for the first two months of the quarter.
- ◉ It is to be noted that the taxpayer can upload a maximum of ₹ 50 lakhs invoices in each of the two months of the quarter. The invoices may be uploaded at once or continuously in IFF from the 1st day of the month till the 13th day of the succeeding month.
- ◉ The details uploaded in the IFF shall be duly reflected in the Form GSTR-2A and Form GSTR-2B of the concerned recipient.

#### Quarterly Filing of Form GSTR-3B

The registered persons opting for the QRMP Scheme would be required to furnish Form GSTR-3B, for each quarter, on or before the 22nd or 24th day of the month succeeding such a quarter for the category 1 States and

the category 2 States respectively or such notified date. Any excess payment may either be claimed as a refund after filing Form GSTR-3B of that quarter or may be used for any other purpose in subsequent quarters.

### Monthly Payment of Tax

The registered person under the QRMP Scheme would be required to pay the tax due in each of the first 2 months of the quarter by depositing the due amount in Form GST PMT-06. The amount shall be deposited by the 25th day of next month.

The amount deposited by the registered person in the first two months shall be utilized for offsetting the liability furnished in that quarter's Form GSTR-3B.

### Discharge of liability in first two months of the quarter

In first two months of the quarter, payment of liability can be made by either of the following two methods :

- a. Fixed Sum Method: Portal will generate a pre-filled challan in Form GST PMT-06. The system generated pre-filled challan in this case is commonly also known as 35% challan.
- b. Self-Assessment Method: The actual tax due is to be paid through challan, in Form GST PMT-06, by considering the tax liability on inward and outward supplies and the input tax credit available for the period as per law.

### FAQ by CBIC on 15-12-2018

#### Q 1. What type of outward supply details are to be filed in the return? [FAQ 3]

**Ans.** A normal registered taxpayer has to file the outward supply details in GSTR-1 in relation to various types of supplies made in a month, namely outward supplies to registered persons, outward supplies to unregistered persons (consumers), details of Credit/Debit Notes, zero rated, exempted and non-GST supplies, exports, and advances received in relation to future supply.

#### Q 2. Is the scanned copy of invoices to be uploaded along with GSTR-1? [FAQ 5]

**Ans.** No scanned copy of invoices is to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded.

#### Q 3. Whether all invoices have to be uploaded in the returns? [FAQ 6]

**Ans.** No. It depends on whether the invoice is B2B or B2C plus whether Intra-state or Inter-state supplies.

For B2B supplies, all invoices, whether Intra-state or Inter- state supplies, will have to be uploaded. Why So? Because ITC will be taken by the recipients.

In B2C supplies, uploading in general may not be required as the buyer will not be taking ITC. However still in order to implement the destination based principle, invoices of value more than Rs.2.5 lacs in inter-state B2C supplies will have to be uploaded. For inter-state invoices below Rs. 2.5 lacs and all intra-state invoices, state wise summary will be sufficient.

#### Q 4. Whether description of each item in the invoice will have to be uploaded? [FAQ 7]

**Ans.** No. In fact, description will not have to be uploaded. Only HSN code in respect of supply of goods and classification code in respect of supply of services will have to be fed. The minimum number of digits that the filer will have to upload would depend on his turnover in the previous year.

**Q 5. Whether value for each transaction has to be fed in GSTR-1? What if no consideration? [FAQ 8]**

**Ans.** Yes. Not only value but taxable value has to be fed. In some cases, both may be different.

In case there is no consideration, but it is supply by virtue of schedule 1, the taxable value will have to be worked out as prescribed and uploaded.

**Q 6. What is the consequence of not filing the return within the prescribed date? [FAQ 15]**

**Ans.** A registered person who files return beyond the prescribed date will have to pay late fees of rupees one hundred for every day of delay subject to a maximum of rupees five thousand.

**Q 7. What is GSTR-3B? [FAQ 17]**

**Ans.** GSTR-3B is a simplified monthly return that all taxpayers need to file on monthly basis. It is a summarized return form which every taxpayer is required to file on self-declaration basis. The same needs to be filed by 20th day of subsequent month.

**Q 8. Is there any late fees for late filing of GSTR-3B? [FAQ 18]**

**Ans.** The amount of late fee payable by a taxpayer whose tax liability for that month was 'NIL' will be ₹ 20/- per day (₹ 10/- per day each under CGST & SGST Acts) and will be ₹ 50/- per day (₹ 25/- per day each under CGST & SGST Acts) for all other taxpayers.

**Q 9. What is final return? What is the need for it? [FAQ 23]**

**Ans.** Every registered person whose registration is cancelled needs to file a final return in GSTR-10 within 3 months of the date of cancellation or date of order of cancellation, whichever is later. The purpose of the final return is to ensure that the taxpayer discharges any liability that he/she may have incurred u/s 29(5) of the CGST Act.

As per sec. 29(5) of the CGST Act, read with rule 20 of the CGST Rules a taxpayer seeking cancellation of registration has to pay, by way of debiting either the electronic credit or cash ledger, the input tax contained in the stock of inputs, semi-finished goods, finished goods and capital goods or the output tax payable on such goods, whichever is higher. This requirement to debit the electronic credit and/or cash ledger by suitable amounts should not be a prerequisite for applying for cancellation of registration. This can also be done at the time of submission of final return in Form GSTR-10.

The cancellation of registration does not, in any way, affect the liability of the taxpayer to pay any dues under the GST law, irrespective of whether such dues have been determined before or after the date of cancellation (Section 45 read with rule 81)

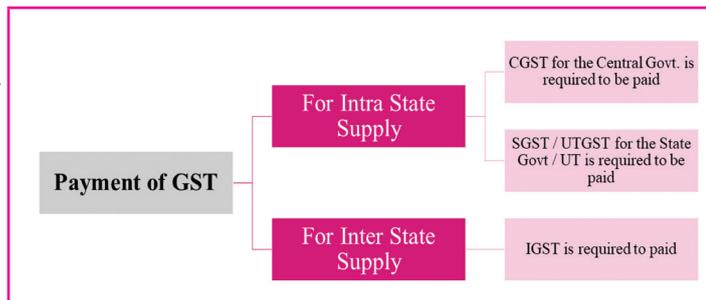
**Q 10. What if the final return is not filed within 90 days of cancellation of registration? [FAQ 24]**

**Ans.** In case the final return in FORM GSTR-10 is not filed within the stipulated date, then notice in Form GSTR-3A has to be issued to the taxpayer. If the taxpayer still fails to file the final return within 15 days of the receipt of notice in Form GSTR-3A, then an assessment order (Best Judgment Basis) in Form GST ASMT-13 u/s 62 of the CGST Act read with rule 100 of the CGST Rules shall have to be issued to determine the liability of the taxpayer u/s 29(5) on the basis of information available with the proper officer

If the taxpayer files the final return within 30 days of the date of service of the order in Form GST ASMT-13, then the said order shall be deemed to have been withdrawn. However, the liability for payment of interest and late fee shall continue.

## Payment of Tax

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government) and the State/UT GST (SGST, going into the account of the concerned State Government). For any inter-state supply, tax to be paid is Integrated GST (IGST) which will have components of both CGST and SGST.



In addition, certain categories of registered persons will be required to pay to the government account Tax Deducted at Source (TDS) and Tax Collected at Source (TCS). Further, Interest, Penalty, Fees and any other payment will also be required to be made.

### Person liable to pay

Following persons are liable to pay GST to the Government:

- ◉ The supplier of goods or services is liable to pay GST.
- ◉ In specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism.
- ◉ In some notified cases of intra-state supply of services, the liability to pay GST may be cast on e-commerce operators through which such services are supplied.
- ◉ Government Departments making payments to vendors above a specified limit [₹ 2.5 lakh under one contract as per sec. 51(1)(d)] are required to deduct tax (TDS) and
- ◉ E-commerce operators are required to collect tax (TCS) on the net value [i.e. aggregate value of taxable supplies of goods and/or services but excluding such value of services on which the operator is made liable to pay GST u/s 9(5)] of supplies made through them and deposit it with the Government.

### When does liability arise?

Liability to pay arises at the time of supply of Goods as explained in sec. 12 and at the time of supply of services as explained in sec. 13.

The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections.

### e-Ledger and Register

On the common portal (i.e. [gst.gov.in](http://gst.gov.in)) each registered taxpayer has:

- one electronic register called the Electronic liability register; and
- two electronic ledgers namely Electronic Cash Ledger and Electronic Credit Ledger.

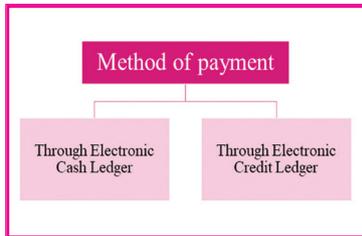
These register and ledgers reflect the liability of the taxpayer and the cash and input tax credit balance available to settle such liability. This is a handy tool provided in the GST system wherein the registered taxpayer can have information about his liabilities, cash and credits at a single location which can be viewed by him from any place by simply logging into the common portal. In case of any discrepancy in his electronic liability ledger, electronic

cash ledger or electronic credit ledger the registered person has to communicate the same to the jurisdictional officer, through the common portal in FORM GST PMT-04.

**Taxpoint :** Each ledger or register have separate sub ledgers for:

- (a) CGST                      (b) SGST                      (c) UTGST                      (d) IGST                      (e) Cess

**Electronic cash ledger**



Every deposit made by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or by over the counter deposit on account of tax, interest, penalty, fee or any other amount is credited to the respective electronic cash ledger. The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable.

The electronic cash ledger is maintained in Form GST PMT-05 for each registered person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount. The payment required to be made by an unregistered person, can be made on the basis of a temporary identification number generated through the common portal.

A challan<sup>31</sup> in Form GST PMT-06 can be generated on the common portal in which the details of the amount to be deposited towards tax, interest, penalty, fees or any other amount is to be entered. This challan is valid for a period of 15 days.

The deposit can be made through any of the following modes, namely :

- a Internet Banking through authorised banks;
- b Credit card or Debit card through the authorised bank;
- c NEFT or RTGS from any bank; or
- d Over the Counter payment through authorised banks for deposits up to ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft.

When the payment is made by way of NEFT or RTGS mode from any bank, the mandate form is generated along with the challan on the common portal and the same has to be submitted to the bank from where the payment is to be made. The mandate form remains valid for a period of 15 days from the date of generation of challan.

On successful **credit** of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number (CIN) is generated by the collecting bank and the same is indicated in the challan. On receipt of the CIN from the collecting bank, the said amount gets credited to the electronic cash ledger of the registered person on whose behalf the deposit has been made and the common portal makes available a receipt to this effect.

In case the bank account is debited but CIN has not been generated or generated but not communicated to the common portal, then the said person has to represent electronically in Form GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.

<sup>31</sup> There is a single challan prescribed for all tax, fees, penalty, interest and other payments to be made under GST. Further, manual challan is not allowed. It is mandatory to generate challan on GST portal

The amount deducted u/s 51 or collected u/s 52, as the case may be shall be credited to the electronic cash ledger of the registered person from whom the said amount was deducted or, as the case may be, collected.

The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of CGST/SGST/UTGST/IGST Act(s).

Refund from cash ledger can only be claimed only when all the return related liabilities for that tax period have been discharged. A registered person, claiming refund of any balance in the electronic cash ledger can claim such refund u/s 54.

### Electronic credit ledger

The electronic credit ledger is maintained in Form GST PMT-02 for each registered person on the common portal and every claim of input tax credit is to be credited to this ledger. The input tax credit as self-assessed in the return by a registered person is credited to his electronic credit ledger. The only way the electronic credit ledger can be credited is through filing of returns. The amount available in the electronic credit ledger can be used for making any payment towards output tax (only tax) under the CGST/SGTS/UTGST/IGST/Cess Acts.

In case a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of sec. 54, the amount to the extent of the claim is debited in the said ledger.

If there's any discrepancy in electronic liability ledger, electronic cash ledger or electronic credit ledger, the registered person can communicate the same to the officer exercising jurisdiction in the matter, through the common portal in Form GST PMT-04.

If the refund so filed is rejected, either fully or partly, the amount debited to the extent of rejection, is re-credited to the electronic credit ledger by the proper officer by an order made in Form GST PMT-03.

Unless otherwise allowed, entries are not allowed to be made directly in the electronic credit ledger under any circumstance.

### 5.8.14 Payment of tax, interest, penalty and other amounts [Sec. 49]

#### Payment :

#### A. Electronic Cash Ledger [Sec. 49(1)]

- Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.
- The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

#### Taxpoint :

- ⦿ The date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;
- ⦿ "Tax dues" means the tax payable under this Act and does not include interest, fee and penalty;
- ⦿ "Other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder

**B. Electronic Credit Ledger [Sec. 49(2)]**

- The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with sec. 41, to be maintained in such manner as may be prescribed.
- The amount available in the electronic credit ledger may be used for making any payment towards output tax (only tax) under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and restrictions within such time as may be prescribed.

**Order of utilization of ITC [Sec. 49(5) r.w.r. 88A]**

The amount of ITC available in the electronic credit ledger of the registered person on account of :

ITC available on account of	Utilisation thereof
IGST	a. First towards payment of IGST b. Then remaining credit, if any, towards payment of CGST / SGST / UTGST
CGST ITC on account of CGST shall be utilised only after exhausting ITC on account of IGST fully	a. First towards payment of CGST b. Then remaining credit, if any, towards payment of IGST <b>Taxpoint :</b> ➤ ITC on account of CGST shall be utilised towards payment of IGST before utilizing ITC on account of SGST towards payment of integrated tax ➤ ITC of CGST shall not be utilised towards payment of SGST / UTGST
SGST / UTGST ITC on account of SGST / UTGST shall be utilised only after exhausting ITC on account of IGST fully	a. First towards payment of SGST b. Then remaining credit, if any, towards payment of IGST <b>Taxpoint :</b> ➤ ITC on account of SGST shall be utilised towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of integrated tax ➤ ITC of SGST / UTGS shall not be utilised towards payment of CGST

**Taxpoint :**

Summarized position is as under :

Input tax Credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax / Union Territory tax
<b>Integrated tax</b>	(I)	(II) – In any order and in any proportion	

<b>(III) Input tax Credit on account of Integrated tax to be completely exhausted mandatorily</b>			
<b>Central tax</b>	(V)	(IV)	Not permitted
<b>State tax / UTGST</b>	(VII)	Not permitted	(VI)

**Utilisation of input tax credit subject to certain conditions [Sec. 49A]**

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.

Refer Point 5.5 (Computation of GST Liability) for examples.

**Refund [Sec. 49(6)]**

The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of sec. 54.

**Recording of liability [Sec. 49(7)]**

All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.

The electronic liability register is maintained in Form GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.

**Order of discharge of tax and other dues [Sec. 49(8)]**

Every taxable person shall discharge his tax and other dues in the following order, namely :

- a. self-assessed tax, and other dues related to returns of previous tax periods;
- b. self-assessed tax, and other dues related to the return of the current tax period;
- c. any other amount payable under this Act or the rules made thereunder including the demand determined u/s 73 or 74.

**Other Points**

- ◉ Deemed Pass on of incidence of GST [Sec. 49(9)]: Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.
- ◉ Inter-Act Transfer [Sec. 49(10)]: A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act, to the electronic cash ledger for, :
  - a. integrated tax, central tax, State tax, Union territory tax or cess; or
  - b. integrated tax or central tax of a distinct person as specified in sec. 25(4) or (5), 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 the CGST Act.

However, no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

Where any amount has been transferred to the electronic cash ledger under the CGST Act, the same shall be deemed to be deposited in the said ledger – Sec. 49(11)

- ◉ Usage of Cash Ledger [Sec. 49(12)]: Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the Integrated Goods and Services Tax Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.

Restrictions on use of amount available in electronic credit ledger [Rule 86B]

Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds ₹ 50 lakhs.

The said restriction shall not apply where -

- a. the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than ₹ 1 lakh as income tax under the Income-tax Act, 1961 in each of the last two financial years for which the time limit to file return of income u/s 139(1) of the said Act has expired; or
- b. the registered person has received a refund amount of more than ₹ 1 lakh in the preceding financial year on account of unutilised input tax credit under first proviso of sec. 54(3)(i); or
- c. the registered person has received a refund amount of more than ₹ 1 lakh in the preceding financial year on account of unutilised input tax credit under first proviso of sec. 54(3)(ii); or
- d. the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
- e. the registered person is -
  - i. Government Department; or
  - ii. a Public Sector Undertaking; or
  - iii. a local authority; or
  - iv. a statutory body:

The Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit

#### **Interest on delayed payment of tax paid through electronic cash ledger [Sec. 50]**

Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding 18% (present rate), as may be notified by the Government on the recommendations of the Council.

### Taxpoint :

- ◉ In general, interest is payable on that portion of the tax that is paid by **debiting the electronic cash ledger**. However, in case of proceeding u/s 73 and 74, this relaxation is not available.
- ◉ The interest shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
- ◉ Where ITC has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding 24% as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.

### FAQ by CBIC on 15-12-2018

#### Q 1. What happens if the taxable person files the return but does not make payment of tax? [FAQ 8]

**Ans.** In such cases, the return is not considered as a valid return. Sec. 2(117) defines a valid return to mean a return furnished u/s 39(1) on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

#### Q 2. Which date is considered as date of deposit of the tax dues – Date of presentation of cheque or Date of payment or Date of credit of amount in the account of government? [FAQ 9]

**Ans.** It is the date of credit to the Government account.

#### Q 3. What are E-Ledgers? [FAQ 10]

**Ans.** Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register. Once a taxpayer is registered on Common Portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dash board at all times.

#### Q 4. What is a tax liability register? [FAQ 11]

**Ans.** Tax Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

#### Q 5. What is a Cash Ledger? [FAQ 12]

**Ans.** The cash ledger will reflect all deposits made in cash, and TDS/TCS made on account of the taxpayer. The information will be reflected on real time basis. This ledger can be used for making any payment on account of GST.

#### Q 6. What is an ITC Ledger? [FAQ 13]

**Ans.** Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of TAX ONLY and no other amounts such as interest, penalty, fees etc.

#### Q 7. What is the linkage between GSTN and the authorized Banks? [FAQ 14]

**Ans.** There will be real time two-way linkage between the GSTN and the Core Banking Solution (CBS) of the Bank. CPIN is automatically routed to the Bank via electronic string for verification and receiving payment and a challan identification number (CIN) is automatically sent by the Bank to the Common Portal confirming payment receipt. No manual intervention will be involved in the process by any one including bank cashier or teller or the tax payer.

**Q 8. Can a tax payer generate challan in multiple sittings? [FAQ 15]**

**Ans.** Yes, a taxpayer can partially fill in the challan form and temporarily “save” the challan for completion at a later stage. A saved challan can be “edited” before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes. The remitter will have option of printing the challan for his record.

**Q 9. Can a challan generated online be modified? [FAQ 16]**

**Ans.** No. After logging into GSTN portal for generation of challan, payment particulars have to be fed in by the tax payer or his authorized person. He can save the challan midway for future updation. However once the challan is finalized and CPIN generated, no further changes can be made to it by the taxpayer.

**Q 10. Is there a validity period of challan? [FAQ 17]**

**Ans.** Yes, a challan will be valid for fifteen days after its generation and thereafter it will be purged from the System. However, the tax payer can generate another challan at his convenience.

**Q 11. What is a CPIN? [FAQ 18]**

**Ans.** CPIN stands for Common Portal Identification Number (CPIN) given at the time of generation of challan. It is a 14-digit unique number to identify the challan. As stated above, the CPIN remains valid for a period of 15 days.

**Q 12. What is a CIN and what is its relevance? [FAQ 19]**

**Ans.** CIN stands for Challan Identification Number. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code. CIN is generated by the authorized banks/ Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

**Q 13. What is the sequence of payment of tax where that taxpayer has liabilities for previous months also? [FAQ 20]f**

**Ans.** Sec. 49(8) prescribes an order of payment where the taxpayer has tax liability beyond the current return period. In such a situation, the order of payment to be followed is: First self-assessed tax and other dues for the previous period; thereafter self-assessed tax and other dues for the current period; and thereafter any other amounts payable including any confirmed demands u/s 73 or 74. This sequence has to be mandatorily followed.

**Q 14. What does the expression “Other dues” referred to above mean? [FAQ 21]**

**Ans.** The expression “other dues” means interest, penalty, fee or any other amount payable under the Act or the rules made thereunder.

**Q 15. What is an E-FPB? [FAQ 22]**

**Ans.** E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Govt.) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB.

For NEFT/RTGS Transactions, RBI will act as E-FPB.

**Q 16. Is the pre-registration of credit card necessary in the GSTN portal for the GST payment? [FAQ 28]**

**Ans.** Yes. The taxpayer would be required to pre-register his credit card, from which the tax payment is intended, with the Common Portal maintained on GSTN. GSTN may also attempt to put in a system with banks in getting the credit card verified by taking a confirmation from the credit card service provider. The payments using credit cards can therefore be allowed without any monetary limit to facilitate ease of doing business.

**Q 17. In what manner the liabilities of the registered person are recorded and maintained in the Electronic Liability Register? [FAQ 29]**

**Ans.** The electronic liability register is maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the Common Portal and all amounts payable by him are debited to the said register.

**Q 18. What are the debits made to the Electronic Liability Register? [FAQ 30]**

**Ans.** The electronic liability register of the person is debited by:-

- a. the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;
- b. the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;
- c. the amount of tax and interest payable as a result of mismatch u/s 42 or 43 or 50; or
- d. any amount of interest that may accrue from time to time.

**Q 19. What are the Credits made to the Electronic Liability Register? [FAQ 31]**

**Ans.** The Electronic Liability Register is credited with the following amounts:

- a. Payment of every liability made by the registered person by way of debit from electronic credit ledger or electronic cash ledger;
- b. the amount of TDS deducted by the Deductor in terms of sec. 51 and paid by way of debit from electronic cash ledger;
- c. the amount of TCS collected by the E-Commerce operator in terms of sec. 52 and paid by way of debit from electronic cash ledger;
- d. the amount of tax payable on reverse charge basis and paid by way of debit from electronic cash ledger;
- e. Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.

**Q 20. In what manner is the electronic cash ledger be maintained? [FAQ 32]**

**Ans.** The electronic cash ledger is maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the Common Portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

**Solved Case 1:**

M/s. Ajanta Ltd., has given the following information pertaining to the month of October, 2022:

Sl. No.	Particulars	Amount
1.	Total Input Tax Credit (ITC) on inputs and input services	9,00,000
2.	ITC attributable exclusively for non-business purposes (included in S.No. 1 above)	75,000
3.	ITC attributable exclusively for effecting exempt supplies (included in S. No. 1 above)	3,25,000
4.	ITC in respect of inputs on which credit is not available u/s.17(5) (included in S.No. 1 above)	25,000
5.	ITC attributable exclusively for effecting taxable supplies (included in S.No. 1 above)	2,75,000
6.	Total turnover	56,32,500
7.	Total value of exempt supplies	27,08,000

- State the quantum of common credit.
- State the amount of ITC to be reversed as per Rule 42

**Solution:**

Computation of common credit and amount to be reversed as per Rule 42:

Particulars	Reference	Amount
Total input tax on inputs & input services for the tax period	T	9,00,000
Out of the total input tax (T):		
Input tax used exclusively for non-business purposes	T1	75,000
Input tax used exclusively for effecting exempt supplies	T2	3,25,000
Input tax ineligible u/s 17(5)	T3	25,000
Total		4,25,000
ITC credited to Electronic Credit Ledger	$C1 = T - (T1 + T2 + T3)$	4,75,000
Input tax credit used exclusively for taxable supplies (including zero-rated supplies)	T4	2,75,000
Common Credit	$C2 = C1 - T4$	2,00,000
Aggregate Value of exempt supplies for the tax period	E	27,08,000
Total Turnover of the registered person for the tax period	F	56,32,500
Proportionate of Common credit not allowed	$D1 = C2 \times E/F$	96,156
5% of Common credit not allowed	$D2 = C2 \times 5\%$	10,000
<b>ITC to be reversed out of common credit</b>	<b>D1 + D2</b>	<b>1,06,156</b>

## Exercise

### A. Theoretical Questions:

➤ **Multiple Choice Questions:**

1. Under which article of the Constitution of India, GST council has been constituted?
  - a. 246
  - b. 246A
  - c. 279A
  - d. 265
2. GSTN is:
  - a. 51% government owned company with paid up capital of ₹ 10 crore
  - b. 50% government owned company with paid up capital of ₹ 10 crore
  - c. 100% government owned company with paid up capital of ₹ 10 crore
  - d. None of the above
3. The term supply includes:
  - a. Sale
  - b. Transfer
  - c. Barter
  - d. All of the above
4. Which of the following activities or transactions shall be treated neither as supply of goods nor a supply of services?
  - a. Sale of land and building
  - b. Lease of land
  - c. Rent of building
  - d. All of the above
5. Gifts not exceeding ..... in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
  - a. ₹ 50,000
  - b. ₹ 25,000
  - c. ₹ 30,000
  - d. None of the above
6. A hotel provides a 4-D/3-N package with the facility of breakfast. This is a .....
  - a. Mixed supply
  - b. Composite supply

- c. Both mixed and composite supply
  - d. None of the above
7. Which of the following is / are the essential elements of a mixed supply?
- a. Supply is made by taxable person to a recipient
  - b. Supply consists of two or more individual supplies of goods or services or both or any combination thereof but it is not naturally bundled
  - c. Supply is made for a single price
  - d. All of the above
8. In case of import of goods, which type(s) of GST is applicable?
- a. CGST
  - b. SGST
  - c. Both CGST and SGST
  - d. IGST
9. Reverse charge means the liability to pay tax by the ..... of supply of goods or services or both.
- a. recipient
  - b. supplier
  - c. partly by the recipient and partly by the supplier
  - d. None of the above
10. Which of the following can be issued by Government to exempt goods and/or services on which tax is leviable in exceptional cases?
- a. Exemption Notification
  - b. Special order
  - c. Other notifications
  - d. None of the above
11. Renting of precincts of a religious place meant for general public owned or managed by a charitable or religious trust u/s 12AA of the Income Tax Act 1961 shall be exempt if:
- a. Renting of rooms where per day charges are less than ₹ 1,000
  - b. Renting of shops or other spaces for business or commerce where charges per month are less than ₹10,000
  - c. Renting of premises, community halls or open area, where charges per day are less than ₹ 10,000
  - d. All of the above
12. For which of the following goods, the manufacturer is not allowed to opt for composition scheme:
- a. Pan masala
  - b. Ice cream

- c. Topical and manufactured tobacco substitutes
  - d. All of the above
13. The time of supply of goods, where supplier is liable to pay tax under forward charge shall be:
- a. The date of actual issue of invoice by the supplier
  - b. The last date on which he is required u/s 31(1) to issue the invoice with respect to the supply
  - c. The date on which the supplier receives the payment with respect to the supply
  - d. (a) or (b), whichever is earlier
14. The transaction value for computation of value of supply can be rejected if -
- a. The buyer and seller are related and price is not the sole consideration
  - b. Products are sold at very low margins
  - c. Maximum retail price is greater than the transaction value
  - d. All of the above
15. In case goods disposed off by way of free sample:
- a. recipient can claim ITC
  - b. supplier can claim ITC
  - c. supplier can not claim ITC
  - d. ITC can be claimed if value is more than ₹ 1,000/-
16. If the goods are received in installment then ITC can be availed:
- a. Proportionately on receipt of each installment
  - b. 100% ITC can be taken on receipt of first installment
  - c. ITC can be taken on receipt of last installment
  - d. 50% ITC can be taken on receipt of first installment and balance 50% on receipt of last installment
17. Person who is liable to be registered u/s 22 or 24 shall apply for registration in every such State or Union Territory in which he is so liable within:
- a. 30 days from the date on which he becomes liable to registration
  - b. 15 days from the date on which he becomes liable to registration
  - c. 7 days from the date on which he becomes liable to registration
  - d. None of the above
18. Tax invoice shall be prepared in \_\_\_\_\_ in case of supply of goods and in \_\_\_\_\_ in case of supply of services.
- a. Duplicate, Duplicate
  - b. Duplicate, Triplicate
  - c. Triplicate, Duplicate
  - d. Triplicate, Triplicate

19. Annual return is summary of:
  - a. GSTR 1
  - b. GSTR 3B
  - c. GSTR 4
  - d. All of the above
20. Payment of tax is required \_\_\_\_\_ filing return.
  - a. Before
  - b. After
  - c. Before or after
  - d. Before or at the time of

[Answer : 1- c ; 2- c; 3-d; 4-a; 5-a ; 6-b; 7-d; 8-d; 9-a; 10-b; 11-d; 12-d; 13-d; 14-a; 15-c; 16-c; 17-a; 18-c; 19-d; 20-d]

➤ **State True or False**

1. The President shall, within 60 days from the date of commencement of the Constitution (101st Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.
2. Union Finance Minister is the chairperson of the GST Council.
3. The taxable event in GST is supply of goods or services or both.
4. Schedule III of the CGST Act is also termed as negative list.
5. A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a composite supply.
6. In case of composite supply, supplies are naturally bundled.
7. Services supplied by an insurance agent to any person carrying on insurance business is liable for forward charge.
8. Service by way of access to a road or a bridge on payment of toll charges is a taxable supply.
9. Services provided to the Reserve Bank of India is exempt.
10. A manufacturer of building bricks cannot opt for composition scheme.
11. Where the supplier of taxable goods receives an amount up to ₹ 5,000 in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.
12. Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.
13. The value of a supply of goods or services or both shall be the transaction value.
14. In respect of purchase of food and beverages for office staff, ITC credit is available .
15. Persons, who is liable to pay tax under reverse charge, is required to get registration mandatorily.
16. A registered person cannot avail input tax credit unless he is in possession of a tax invoice or a debit note.

17. Input service distributors is required to file GSTR 7 by 13th of the next month.
18. CPIN stands for Common Portal Identification Number (CPIN) given at the time of generation of challan.

[Answer: 1-True; 2-True;3-True;4-True; 5-False; 6-True; 7-False; 8-False; 9-False; 10- True; 11-False; 12-True; 13-True; 14- False; 15-True; 16-True; 17-False; 18-True]

➤ **Fill in the blanks:**

1. \_\_\_\_\_ of the total number of Members of the Goods and Services Tax Council shall constitute the quorum at its meetings.
2. As per sec. 2(52), goods means every kind of movable property other than \_\_\_\_\_ but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.
3. A shopkeeper selling storage water bottles along with refrigerator, is an example of \_\_\_\_\_ supply
4. Export of goods or services or both is treated as \_\_\_\_\_
5. Services by way of loading, unloading, packing, storage or warehousing of \_\_\_ is exempt supply
6. The person is allowed to opt for composition scheme in the current financial year if his aggregate turnover of the \_\_\_\_\_ did not exceed threshold limit.
7. Any taxes, duties, cesses, fees and charges levied under any law excluding \_\_\_\_, if charged separately by the supplier shall form part of the value of supply
8. No input tax credit shall be availed by a registered person in respect of invoices, etc. the details of which are not available in Form GSTR \_\_\_\_\_
9. 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 \_\_\_\_\_.
10. In GST registration, the supplier is allotted a 15-digit GST identification number called \_\_\_\_\_
11. Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act is \_\_\_\_\_ (also liable / not liable) to registration
12. In case of \_\_\_\_\_, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received
13. All the return shall be filed through common portal www. \_\_\_\_\_
14. Monthly GSTR 3B shall be filed within \_\_\_\_\_ by a registered person whose turnover exceeds ₹ 5 crore
15. In case where a person is paying tax Over the Counter through authorised banks, the maximum limit is \_\_\_\_\_ per challan per tax period

[Answer:1-One-half; 2-money and securities; 3-mixed; 4-Zero rated supply; 5-Rice6-preceding financial year; 7- GST; 8- 2B ; 9- Business; 10 - GSTIN; 11 - not liable; 12 - continuous supply of goods; 13 - gst.gov.in; 14- 20th of the next month ; 15 - ₹ 10,000/-]

➤ **Short Essay Type Questions**

1. What are the benefits of GST?
2. State any 3 transactions which are deemed as supply.
3. What are composite supply and mixed supply?
4. What is meant by Reverse Charge?
5. When exemption from whole of tax on goods or services or both has been granted absolutely, can a person pay tax?
6. Does the GST Law empower the Government to exempt supplies from the levy of GST?
7. What are the advantages and disadvantages of the composition scheme?
8. When does the liability to pay GST arise in respect of supply of goods?
9. When does the liability to pay GST arise in respect of supply of services?
10. What is the value of taxable supply to be adopted for the levy of GST?
11. Is credit of all input tax charged on supply of goods or services allowed under GST?
12. What is the procedure for suo-moto registration?
13. What are the modes of e-way bill generation?
14. What is final return? What is the need for it?
15. What is a CIN and what is its relevance?

## B. Numerical Questions

➤ **Comprehensive Numerical Problems**

1. M/s. DNA, a registered taxable person under regular scheme provides following information in respect of supplies made by it during the month of May, 2022:

	₹
Inter-state supply of goods	1,00,000
Intra-state supply of 500 packets of detergent @ ₹ 400 each alongwith a plastic bucket worth ₹ 100 each with each packet, being a mixed supply. (Rate of GST on detergent is 18% and on plastic bucket is 28%)	
Supply of online educational journals to M/s XYZ, a private coaching centre providing tuitions to students of Class X-XII, being intra-state supply	50,000
M/s. DNA has also received the following inward supplies:	
Inter-state supply of goods (out of which invoice for goods worth ₹ 20,000 is missing and no other tax paying document is available)	70,000
Repairing of bus with seating capacity of 20 passengers used to transport its employees from their residence, being intra-state supply	50,000
Details of opening balances of ITC as on 1-4-2022 are as follows:	
- CGST	5,000
- SGST	5,000
- IGST	40,000

Following additional information is provided:

- Rate of GST in respect of all inward and outward supplies except item (ii) above is 18%. i.e. CGST and SGST @ 9% and IGST @ 18%.
- All figures mentioned above are exclusive of taxes.
- All the conditions for availing the ITC have been fulfilled except specifically given and M/s. DNA is not eligible for any threshold exemption.

Compute the minimum net GST payable in cash by M/s. VMA for the month of April, 2022.

[Hints: ₹ 15,000]

➤ **Unsolved Case:**

M/s. Pioneer Agro Ltd., has provided the following information:

Sl. No.	Particulars	₹ in Lakhs
1	Sale of Rice (Unbranded)- On own account	18.00
2	Sale of Branded Rice- On own account	5.00
3	Commission Received (for dealing in unbranded rice)	2.50
4	Commission Received (for dealing in branded rice)	1.00
5	Commission Received (for dealing in tobacco leaves)	5.00
6	Sale of Egg	25.00
7	Sale of dried coconut	5.00
8	Sale of desiccated coconut	3.00

On the basis of aforesaid information, you are requested to answer the following:

- Does sale of Rice (Unbranded) – On own account exempted supply?
- Does Sale of dried coconut exempted supply?
- State the quantum of exempted supply
- State the quantum of taxable supply

[Hints: (a) and (b) Yes; (c) ₹ 53 lakhs (d) ₹ 11.50 lakhs]

➤ **References:**

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

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

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

# Customs Act & Rules

# 6

**This module includes :**

- 6.1 Customs Act-Basic Concepts and Definitions**
- 6.2 Types of Duties**
- 6.3 Valuation Rules**
- 6.4 Computation of Assessable Value and Duties**

# Customs Act & Rules

## **SLOB Mapped against the Module:**

1. To acquire knowledge of legal provisions enshrined in laws related to GST and Customs Duty and appreciate their applicability in business operations.
2. To gather understanding of legal provisions of said two indirect tax laws about matters of compliance while conducting business operations.

## **Module Learning Objectives:**

After studying this module, the students will be able to –

- ◉ Appreciate the Constitutional power
- ◉ Understand the basic concepts of the Customs Act
- ◉ Appreciate the different types of duties
- ◉ Understand the provision relating to determination of assessable value
- ◉ Apply the knowledge in computing duty liability.

Customs, as a major source of revenue, plays a very important role in the economy of our country.

The terms ‘customs’ derives its colour and essence from the term ‘custom’, which means a habitual practice or course of action that characteristically repeated in like circumstances. The collection of revenue through Customs is known in India, from the time immemorial. Laws for collection of revenue and punishments for violation thereof are indicated as early as in Kautilya’s “Arthasasthra”. The modern system of taxation is, however, a British legacy. It was in England, during the days of King John, in the 13th Century, the ‘customary dues’ that were till then collected by local sheriffs and chieftains as protection money for the police service rendered to foreign traders came to be collected as revenue to the state . The other major forms of revenue viz. the Excise and Income Tax came to be conceived much later during the 17th Century.

In India, the “Customs” in the modern form was introduced soon after the consolidation of British rule. The trade in this country was then mainly by sea and with England and other European countries and an enactment known as Sea Customs Act, 1878, was brought forth for collection of revenue and control on the movement of goods. This was followed about 50 years later by an act known as Land Customs Act, 1924, to cover the goods coming by land routes. The Indian Aircraft Act, 1934, covered the export/import by air, which, by then, had made a beginning. The laws then, had however been designed with an eye to protect the British interests only, but independent India allowed these statutes to continue in force, till 1963, when the Customs Act, 1962, repealing all the earlier enactment was passed.

# Customs Act – Basic Concepts and Definitions

6.1

**E**ntry No. 83 of the List I to the Schedule VII of the Constitution empowers the Union Government to legislate and collect duties on imports and exports. Accordingly, the Customs Act, 1962, effective from 1-2-1963 provides vide its section 12 for the levy of duties on goods imported into or exported from India. The items and the rates of duties leviable thereon are specified in two Schedules to the Customs Tariff Act, 1975. The First Schedule specifies the various import items in systematic and well considered categories, in accordance with an international scheme of classification of internationally traded goods known as ‘Harmonized System of Commodity Classification’ and specifies the rates of import duties thereon, as prescribed by the legislature. The duties on imported items are usually levied either on specific or ad-valorem basis, but in few cases specific-cum-ad valorem duties are also levied. The Second Schedule incorporates items that are subject to exports duties and the rates of duties thereof.

Levy of duties on ad-valorem (i.e., with reference to value) basis is the predominant mode of levy. For this purpose the value of the imported goods is required to be determined as per provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Prices of Imported Goods) Rules, 2007. These provisions are essentially the adoption of GATT based valuation system (now termed WTO Valuation Agreement) that is followed internationally. Likewise, in respect of export of the goods, the value is to be determined as per provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.

## 6.1.1 Source of Customs Law

### Customs Act, 1962

The Customs Act contains the provisions governing the import and export duty imposed on imports and exports of goods.

### Customs Tariff Act, 1975

It contains rate of customs duty levied on imports or exports of a goods.

### Rules & Regulation

There are various rules and regulation has been issued. Few of them are Customs Valuation (Determination of Value of Export Goods) Rules, 2007; Customs Valuation (Determination of Value of Imported Goods) Rules, 2007; Baggage Rules, 2016; Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995; etc.

## 6.1.2 Levy of Customs Duty

### Applicability

The Customs Act, 1962 extends to whole of India<sup>1</sup>.

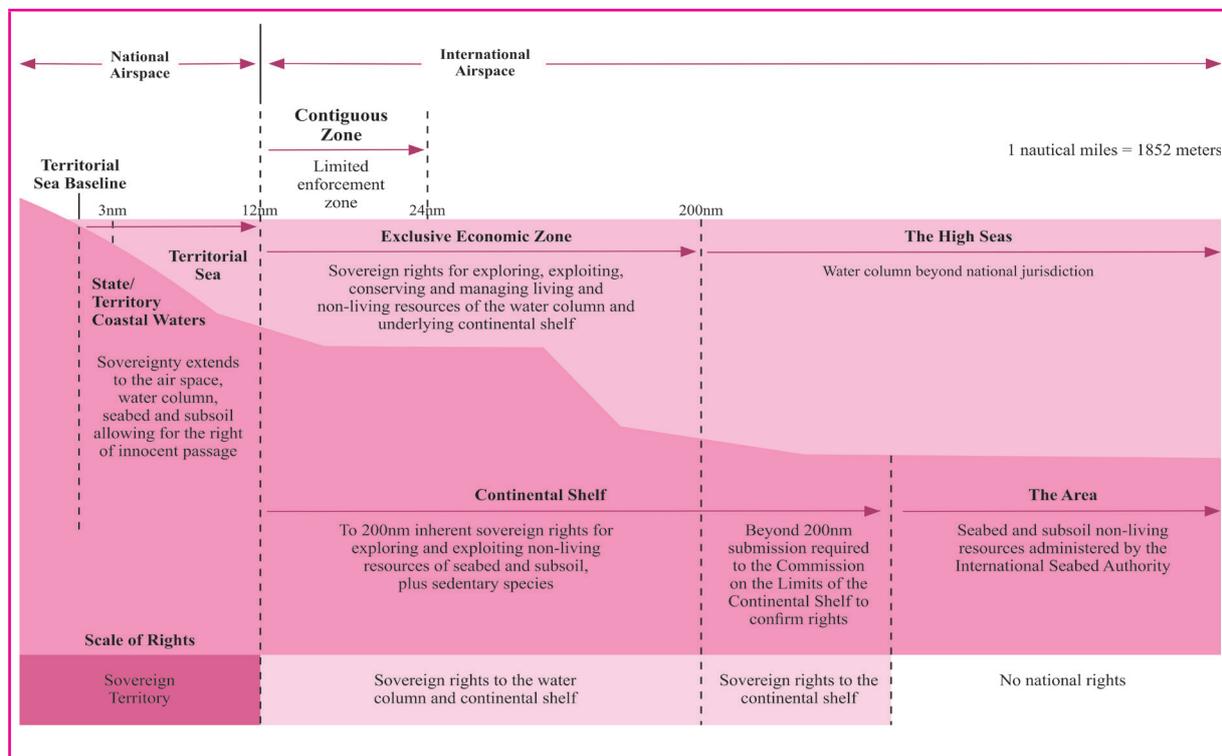
<sup>1</sup> Save as otherwise provided in this Act, it applies also to any offence or contravention thereunder committed outside India by any person

**Taxpoint**

- ◉ India includes the territorial waters of India [Sec. 2(27)]
- ◉ As per sec. 3 of the Territorial Water, Continental Shelf, Exclusive Economic Zone and Other Maritime Zone Act, 1976, territorial water extends to 12 nautical miles (1 nautical miles = 1.1515 miles = 1.852 km) into the sea from the base line on the coast of India and include any bay, gulf, harbour, creek or tidal river. Further note that, India includes not only the surface of sea but also to the seabed and subsoil underlying, and the air space over, such waters.
- ◉ India has sovereignty in its territorial waters. That means all the provisions of the Customs Act and rules and regulations are applicable in Indian Territorial Waters.

**Meaning of terms**

- ◉ **Baseline:** It is lower water mark along the coast.
- ◉ **Exclusive Economic Zone of India (EEZI):** The exclusive economic zone of India is an area beyond and adjacent to the territorial waters, and the limit of such zone is 200 nautical miles from the baseline.
- ◉ **Continental Shelf of India (CSD):** The continental shelf of India comprises the seabed and subsoil of the submarine areas that extend beyond the limit of its territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin or to a distance of 200 nautical miles from the baseline, where the outer edge of the continental margin does not extend up to that distance.



### Extension of the Customs Act, 1962 and the Customs Tariff Act, 1975 to EEZ and Continental Shelf

- i. The **notified designated areas** in the Continental Shelf of India (CSI) and Exclusive Economic Zone of India (EEZI); and
- ii. **Whole** of the EEZ and Continental Shelf of India for following purposes:
  - a. the prospecting for extraction or production of mineral oils (including petroleum and natural gas) in the Continental Shelf and EEZ of India, and
  - b. the supply of any goods in connection with any of the aforesaid activities.

#### Taxpoint

Implication of the extension of the Act to whole of CSI and EEZI is that bringing of any goods from any other country to any place in EEZ or Continental Shelf of India in connection with any activity related to extraction or production of mineral oils shall be treated as import under the Customs Act, 1962 and would be charged to duty accordingly. Further, mineral oils produced in the EEZ or Continental Shelf of India would be deemed to be produced in India and subject to levy of central excise duties under the Central Excise Act, 1944.

### Indian Customs Waters [Sec. 2(28)]

It means the water extending into the sea upto the limit of Exclusive Economic Zone u/s 7 of the Territorial Water, Continental Shelf, Exclusive Economic Zone and Other Maritime Zone Act, 1976 and includes any bay, gulf, harbour, creek or tidal river.

#### Taxpoint

- ◉ In the exclusive economic zone, the Union has,—
  - a. sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living as well as for producing energy from tides, winds and currents;
  - b. exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the zone or for the convenience of shipping or for any other purpose;
  - c. exclusive jurisdiction to authorise, regulate and control scientific research;
  - d. exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution; and
  - e. such other rights as are recognised by International Law.
- ◉ The Union has in the continental shelf:
  - a. sovereign rights for the purposes of exploration, exploitation, conservation and management of all resources;
  - b. exclusive rights and jurisdiction for the construction, maintenance or operation of artificial islands, off-shore terminals, installations and other structures and devices necessary for the exploration and exploitation of the resources of the continental shelf or for the convenience of shipping or for any other purpose;
  - c. exclusive jurisdiction to authorise, regulate and control scientific research; and
  - d. exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution

**Chargeability [Sec. 12]**

Duties of customs shall be levied at the rate specified under the Customs Tariff Act, 1975 or any other law for the time being in force on goods imported into or exported from India.

**Taxpoint:**

- ⦿ Duty of custom is leviable on goods and not on the person importing / exporting it.
- ⦿ The goods shall be such as are imported to or exported from India.
- ⦿ The duty shall be at such rate as may be specified under the Customs Tariff Act, 1975.

**Notes**

1. Goods [Sec. 2(22)]: It includes –
  - a. vessels, aircraft and vehicles;
  - b. stores;
  - c. baggage;
  - d. currency and negotiable instrument; and
  - e. any other kind of movable property
2. Import means bringing into India from a place outside India [Sec. 2(23)]
3. Imported goods means any goods brought into India from a place outside India but does not include goods, which have been cleared for home consumption [Sec. 2(25)]
4. Dutiable goods means any goods which are chargeable to duty and on which duty has not been paid. [Sec. 2(14)]
5. Importer in relation to any goods at any time between their importation and the time when they are cleared for home consumption includes any owner or any person holding himself out to be the importer [Sec. 2(26)]
  - Taxpoint: The term importer also include a person who cleared the goods from warehouse even though he is not the actual importer.
6. Export means taking out of India to a place outside India. [Sec. 2(18)]
7. Export goods means any goods which are to be taken out of India to a place outside India. [Sec. 2(19)]
8. Exporter in relation to any goods at any time between their entry for export and the time when they are exported includes -
  - owner; or
  - any person holding himself out to be the exporter. [Sec. 2(20)]
9. The provision shall also apply in respect of goods belonging to the Government. However, imports by Indian Navy, specific equipment required by police, Ministry of Defence, Costal Guard, etc. are fully exempt from duty by virtue of specific notification. Such exemption is subject to fulfillment or conditions and / or procedure set out in the said notifications.
10. **Taxable Event in case of imports:** Import of goods will commence when they cross the territorial waters but continues and is completed when they become part of the mass of goods within the country [Garden Silk Mills Ltd. vs UOI (1999) 113 ELT 358 (SC)]

**In case of goods cleared for home consumption<sup>2</sup>:** The taxable event being reached at the time when the goods reach the customs barriers and bill of entry for home consumption is filed

**In case of goods cleared for warehousing<sup>3</sup>:** If imported goods are taken into warehouse, goods continue to be in custom bond. Thus in case of warehouse also, import takes place when the goods are cleared for home consumption.

11. **Taxable Event in case of exports:** Export of goods is complete when they cross the territorial waters. That means, if goods sink within the territorial water, export is not complete.
12. The object of the Act is to tax only those goods which get mixed up with the mass of goods in India – [M. Jamal Co. vs Union of India (1985) 21 ELT 369 (Mad.)]
13. The rate of import duty is specified in the First Schedule to the Customs Tariff Act, 1975 and the rate of export duty is specified in the Second Schedule to the said Act.

### Some Important Definitions

Sec.	Term	Definition
2(1)	Adjudicating authority	Adjudicating authority means any authority competent to pass any order or decision under this Act, but does not include <ol style="list-style-type: none"> <li>i. the Board,</li> <li>ii. Commissioner (Appeals) or</li> <li>iii. Appellate Tribunal</li> </ol>
2(2)	Assessment	Assessment means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force, with reference to: <ol style="list-style-type: none"> <li>a. the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;</li> <li>b. the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;</li> <li>c. exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;</li> <li>d. the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;</li> <li>e. the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;</li> </ol>

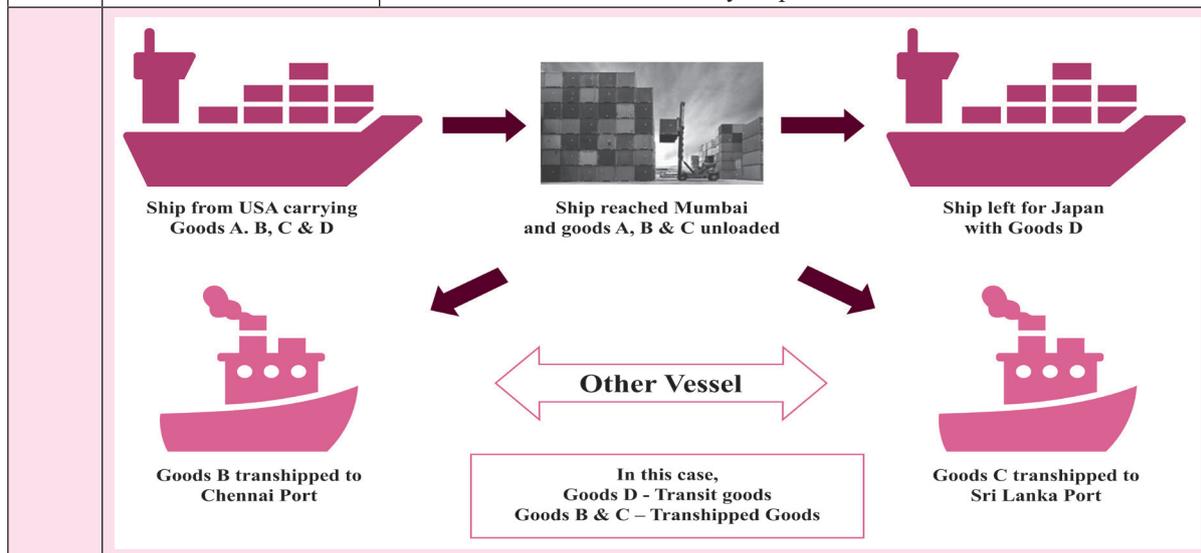
<sup>2</sup> Clearance for home consumption implies that customs duty on imported goods has been paid and goods can be taken out by importer for utilization or consumption within the country.

<sup>3</sup> If the goods are cleared to be stored in warehouse, payment of duty is required at the time of clearance of goods from warehouse. That means, payment of duty is deferred till the time of clearance from warehouse.

Sec.	Term	Definition
		f. any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil ;
2(3)	Baggage	Baggage includes unaccompanied baggage but does not include motor vehicles;
2(3A)	Beneficial owner	Beneficial owner means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;
2(4)	Bill of entry	Bill of entry means a bill of entry referred to in sec. 46. Sec. 46 provides that the importer of any goods, other than goods intended for transit or transshipment, shall make entry thereof by presenting electronically on the customs automated system to the proper officer a bill of entry for home consumption or warehousing in such form and manner as may be prescribed.
2(5)	Bill of export	Bill of export means a bill of export referred to in sec. 50. Sec. 50 provides that the exporter of any goods shall make entry thereof by presenting electronically on the customs automated system to the proper officer in the case of goods to be exported in a vessel or aircraft, a shipping bill, and in the case of goods to be exported by land, a bill of export in such form and manner as maybe prescribed.
2(6)	Board	Board means the Central Board of Indirect Taxes and Customs (CBIC) constituted under the Central Boards of Revenue Act, 1963
2(7)	Coastal Goods	Coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another
2(9)	Conveyance	Conveyance includes a vessel (for sea), an aircraft (for air) and a vehicle (for land) <i>Taxpoint:</i> Vehicle means conveyance of any kind used on land and includes a railway vehicle – sec. 2(42)
2(13)	Customs Station	Customs station means any customs port, customs airport, international courier terminal, foreign post office or land customs station
2(10)	Customs Airport	Customs airport means any airport appointed u/s 7(a) to be a customs airport and includes a place appointed u/s 7(aa) to be an air freight station
2(11)	Customs Area	Customs area means the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities;
2(12)	Customs Port	Customs port means any port appointed u/s 7(a) to be a customs port and includes a place appointed u/s 7(aa) to be an inland container depot;
2(21)	Foreign-going vessel or aircraft	Foreign-going vessel or aircraft means any vessel or aircraft for the time being engaged in the carriage of goods or passengers between any port or airport in India and any port or airport outside India, whether touching any intermediate port or airport in India or not, and includes -

Sec.	Term	Definition						
		i. any naval vessel of a foreign Government taking part in any naval exercises; ii. any vessel engaged in fishing or any other operations outside the territorial waters of India; iii. any vessel or aircraft proceeding to a place outside India for any purpose whatsoever						
2(24)	Arrival manifest or import manifest or import report	Arrival manifest or import manifest or import report means the manifest or report required to be delivered u/s 30. Sec. 30 provides that the person-in-charge (or any other notified person) of- i. a vessel; or ii. an aircraft; or iii. a vehicle, carrying imported goods or export goods shall deliver following document (in the prescribed form and manner) to the proper officer: <table border="1" data-bbox="598 900 1410 1181"> <thead> <tr> <th>In the case of</th> <th>Document</th> </tr> </thead> <tbody> <tr> <td>a vessel or an aircraft</td> <td>an arrival manifest or import manifest (in case of export, departure manifest or export manifest) by presenting electronically prior to the arrival (in case of export, before departure) of the vessel or the aircraft</td> </tr> <tr> <td>a vehicle</td> <td>an import report (in case of export, export report) within 12 hours after its arrival in the customs station (in case of export, before departure)</td> </tr> </tbody> </table>	In the case of	Document	a vessel or an aircraft	an arrival manifest or import manifest (in case of export, departure manifest or export manifest) by presenting electronically prior to the arrival (in case of export, before departure) of the vessel or the aircraft	a vehicle	an import report (in case of export, export report) within 12 hours after its arrival in the customs station (in case of export, before departure)
In the case of	Document							
a vessel or an aircraft	an arrival manifest or import manifest (in case of export, departure manifest or export manifest) by presenting electronically prior to the arrival (in case of export, before departure) of the vessel or the aircraft							
a vehicle	an import report (in case of export, export report) within 12 hours after its arrival in the customs station (in case of export, before departure)							
2(31)	Person-in-charge	Person-in-charge means: a. in relation to a vessel, the master of the vessel; b. in relation to an aircraft, the commander or pilot-in-charge of the aircraft; c. in relation to a railway train, the conductor, guard or other person having the chief direction of the train; d. in relation to any other conveyance, the driver or other person-in-charge of the conveyance						
2(33)	Prohibited goods	Prohibited goods means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with;						
2(38)	Stores	Stores means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting;						

Sec.	Term	Definition
53	Transit of goods	Where any goods imported in a conveyance and mentioned in the arrival manifest or import manifest or the import report, as the case may be, as for transit in the same conveyance to any place outside India or to any customs station, the proper officer may allow the goods and the conveyance to transit without payment of duty, subject to such conditions, as may be prescribed.
54	Transshipment of goods	Where any goods imported into a customs station are intended for transshipment, a bill of transshipment shall be presented to the proper officer in such form and manner as may be prescribed.



### Determination of duty where goods consist of articles liable to different rate [Sec. 19]

Where the goods consist of a set of articles, duty shall be calculated on the following basis:

Articles	Basis of chargeability
1. Articles liable to duty on the basis of quantity	Such articles shall be chargeable on the basis of quantity
2. Articles liable to duty on the basis of value:	
➤ If they are liable to duty at same rate	Such articles shall be chargeable at that rate
➤ If they are liable to duty at different rates	Such articles shall be chargeable at the highest of such rates
3. Articles not liable to duty	Such articles shall be chargeable on the basis mentioned in (2) above.

### Other points

- Accessories of and spare parts or maintenance and repairing implements for, any article shall be chargeable at the same rate of duty as that article. E.g. where a machine is chargeable at the rate of 30%, then repairing implements with that machine shall also be charged at the rate of 30%.
- Where the importer produces evidence to the satisfaction of the proper officer (or the evidence is available) regarding the value of any of the articles liable to different rates of duty, such article shall be chargeable to duty separately at the rate applicable to it.

### 6.1.3 Re-importation of goods [Sec. 20]

If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.

### 6.1.4 Duty on Goods derelict, wreck, jetsam and flotsam [Sec. 21]

Meaning :

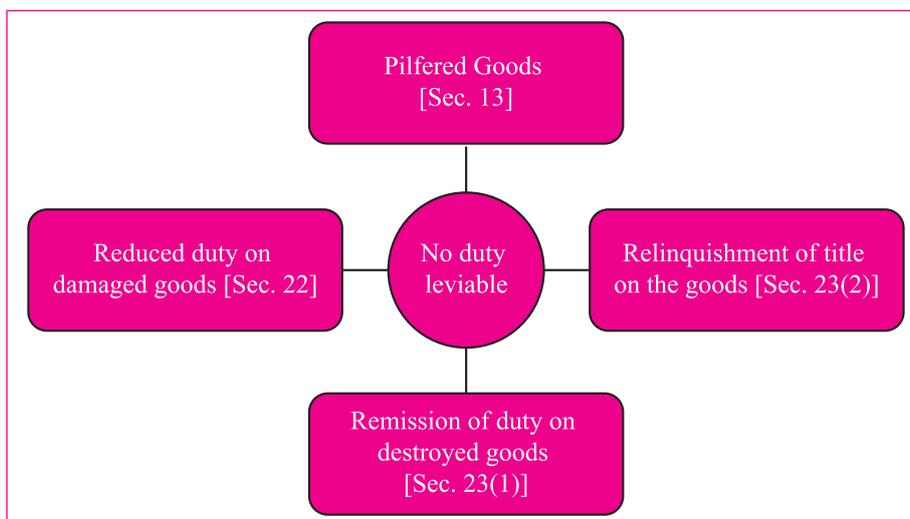
Derelict	Derelict means property abandoned at sea without hope of recovering.
Wreck	Wreck is the property cast ashore by tide after shipwreck.
Jetsam	Where goods are cast into the sea for lighten the ship to prevent it from sinking.
Flotsam	Goods separated from ship by some peril, which continue to float on sea.

Treatment

Goods being derelict, wreck, jetsam and flotsam brought or coming into India shall be dealt with as if they were imported into India. However, where it is shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free, then proper officer may admit it as duty-free.

### 6.1.5 Customs Duty not leviable in certain cases

In following cases, duty is not leviable or leviable at reduced amount:



#### No Duty on pilfered goods [Sec. 13]

Conditions :

- Imported goods are pilfered
- Such goods are pilfered after the unloading thereof and before the proper officer has made an order for clearance for home consumption or deposit in a warehouse
- The pilfered goods are not re-stored

**Treatment :**

The importer shall not be liable to pay the duty leviable on such pilfered goods<sup>4</sup>.

**Taxpoint :**

- ◉ Pilfer means to steal something, typically of small value or in small quantities; petty theft. It does not mean total destruction or complete lost.
- ◉ If such goods are re-stored to the importer after pilferage, the importer becomes liable to pay duty.
- ◉ The principle governed this provision is that “when the goods are not in the control of the importer; he is not liable to pay duty thereon”.
- ◉ Sec. 13 does not deal in the situation
  - a. where goods are lost or destroyed.
  - b. Where goods are pilfered before unloading thereof
  - c. Where goods are pilfered after the order for clearance for home consumption or deposit in a warehouse, sec. 13 is not applicable.
- ◉ Where sec. 13 is applicable, sec. 23(1) is not applicable.

**Abatement of duty on damaged or deteriorated goods [Sec. 22]**

**Circumstances :**

Where it is shown to the satisfaction of Assistant Commissioner of Customs or Deputy Commissioner of Customs –

1. That any imported goods had been damaged or had deteriorated at any time before or during the unloading of goods in India; or
2. That any imported goods (other than warehoused goods) had been damaged at any time after the unloading of goods in India but before its examination on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent; or
3. That any warehoused goods had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent.

**Treatment :**

The duty to be charged on the goods shall bear the same proportion to the duty chargeable on the goods before the damage or deterioration, which the value of the damaged or deteriorated goods bears to the value before the damage or deterioration.

Mathematically,

$$\text{Duty on damaged goods} = \frac{\text{Value of damage / deteriorated goods} * \text{Duty on goods before damage}}{\text{Value of goods before damage / deterioration}}$$

**Note :**

The value of damaged or deteriorated goods may be ascertained by either of the following methods at the option of the owner -

<sup>4</sup> in case any imported goods which are pilfered while in custody, the custodian is required to pay duty on such goods.

## Indirect Taxation

- The value of such goods may be ascertained by the proper officer; or
- Such goods may be sold by the proper officer by public auction or by tender or with the consent of the owner in any other manner and the gross sale proceeds shall be deemed to be the value of such goods.

### Taxpoint

- “Damage” denotes physical damage i.e., goods are not fit for the purpose for which they are intended.
- “Deterioration” denotes reduction in the quality of goods due to natural cause.

### Example 1:

Value of goods before damage	₹ 1,00,000
Duty liability before damage	₹ 10,000
Value of goods after damage	₹ 40,000
Revised Duty liability after damage	₹ 4,000 [i.e., ₹ 10,000 * ₹ 40,000 / ₹ 1,00,000]

### Remission of duty on lost or destroyed goods [Sec. 23(1)]

Where it is shown to the satisfaction of the Assistant Commissioner or Deputy Commissioner that any imported goods have been **lost (otherwise than as a result of pilferage) or destroyed** at any time **before** clearance for home consumption, then the Assistant Commissioner or Deputy Commissioner shall remit the duty on such goods.

### Taxpoint :

- The remission of duty is permissible only when there is total loss or loss is forever and beyond recovery. E.g., imported goods is destroyed before clearance for home consumption destroyed due to fire in the warehouse.
- In case of pilferage, sec. 13 is applicable.

### Distinction between sec. 13 and sec. 23(1)

In Hindustan Petroleum Corporation –vs.- CC 1984 (18) ELT 358 (Tri Mumbai), following essential difference between the situations contemplated u/s 13 & 23(1) are stated:

Point of difference	Pilferage of goods u/s 13	Loss or destruction of goods u/s 23(1)
Meaning	Pilferage denotes stealing in small quantities i.e., petty theft	Lost or destruction denotes total loss or loss is forever and beyond recovery
Duty liability	The importer is not made liable to pay the duty on pilfered imported goods. However, if goods are restored, importer is liable to pay the duty.	The duty paid on the goods shall be remitted to the importer.
Time of occurrence	The imported goods must have been pilfered after the unloading, but before the proper officer has made an order for clearance for home consumption	Imported goods have been lost or destroyed at any time before physical clearance of the goods for home consumption
Warehoused goods	Sec. 13 is not applicable where goods are pilfered after warehousing	The provision is applicable on warehoused goods also

Point of difference	Pilferage of goods u/s 13	Loss or destruction of goods u/s 23(1)
Burden to prove	No such burden is cast on the importer u/s 13	U/s 23(1) the burden is cast on the importer to satisfy the Assistant / Deputy Commissioner that imported goods have been lost or destroyed at any time before physical clearance of the goods for home consumption

### Remission of duty on relinquishment of title to the goods [Sec. 23(2)]

The owner of any imported goods may, before an order for clearance of the goods for home consumption or an order for permitting the deposit of goods in a warehouse, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

#### Taxpoint

- Relinquish literally means ‘to withdraw from’ or ‘to abandon’ or ‘to give up any thing or any right’ or ‘to cease to hold’ or ‘to surrender’ or ‘to give over the possession or control of, to leave off’.
- Such relinquishment should be unconditional
- It is open to the importer to exercise the above option at any time before the passing of the order for clearance for home consumption or before order permitting the deposit of goods in a warehouse.
- However, the owner of any such imported goods shall not be allowed to relinquish his title to such goods regarding which an offence appears to have been committed under this Act or any other law.
- Few situations where importer is unwilling or unable to take delivery of imported goods:
  - a. The imported goods are not according to the specifications
  - b. The goods are so damaged during voyage and as such may not be useful to the importer
  - c. There may be breach of contract

### 6.1.6 Power to make rules for denaturing or mutilation of goods [Sec. 24]

The Central Government may make rules for permitting at the request of the owner the denaturing or mutilation of imported goods which are ordinarily used for more than one purpose so as to render them unfit for one or more of such purposes; and where any goods are so denatured or mutilated they shall be chargeable to duty at such rate as would be applicable if the goods had been imported in the denatured or mutilated form.

### 6.1.7 Exemption from Customs Duty

#### Power to grant exemption from duty [Sec. 25]

If the Central Government is satisfied that it is necessary in the public interest so to do -

- a. It may by **notification** in the Official Gazette exempt **generally** (either absolutely or subject to certain conditions), goods of any specified description from the whole (or any part) of duty.
- b. It may by **special order** exempt from the payment of duty under circumstances of an exceptional nature (being stated in such order) any goods on which duty is leviable.

#### Notes

- a. An exemption from duty in respect of any goods may be granted by providing for the levy of the duty at a rate expressed in a form or method different from the form or method in which duty is leviable. Such duty shall in

no case exceed the original duty.

Form or method means the basis, namely, valuation, weight, number, length, area, volume or other measure with reference to which the duty is leviable.

- b. Duty shall not be collected where the amount of duty leviable does not exceed ₹ 100.

### 6.1.8 Classification of imported / export goods

Import and export of goods are required to be assessed to duty which may include an assessment of nil duty. For this purpose, it is necessary to determine the classification of the goods, which basically means the categorization of the goods in a specific heading or sub-heading of the Schedules to the Customs Tariff Act, 1975.

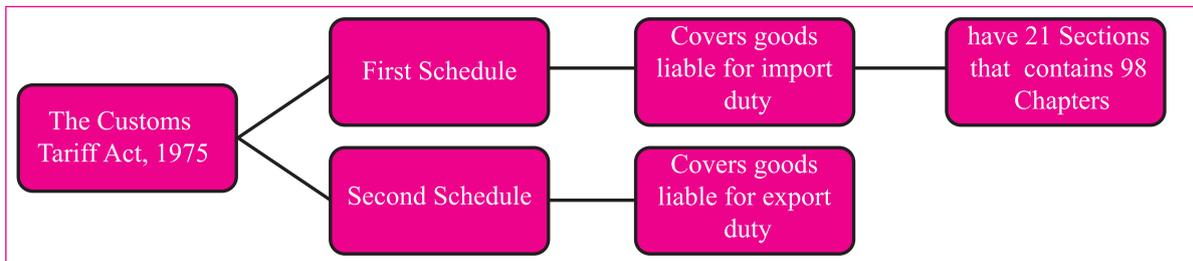
#### Why Classification

Following is the importance of correct classification:

- i. For determining rate of duty;
- ii. For determining the eligibility of exemption notification, which are with reference to the tariff heading or sub headings. Wrong classification would either cause loss of revenue to the Central Government or impose unjustifiable loss to assessee.
- iii. For applicability of other duties on goods like anti-dumping duty, safeguard duty, etc.
- iv. For applicability of any restriction and control on import or export of goods

#### Scheme of Classification

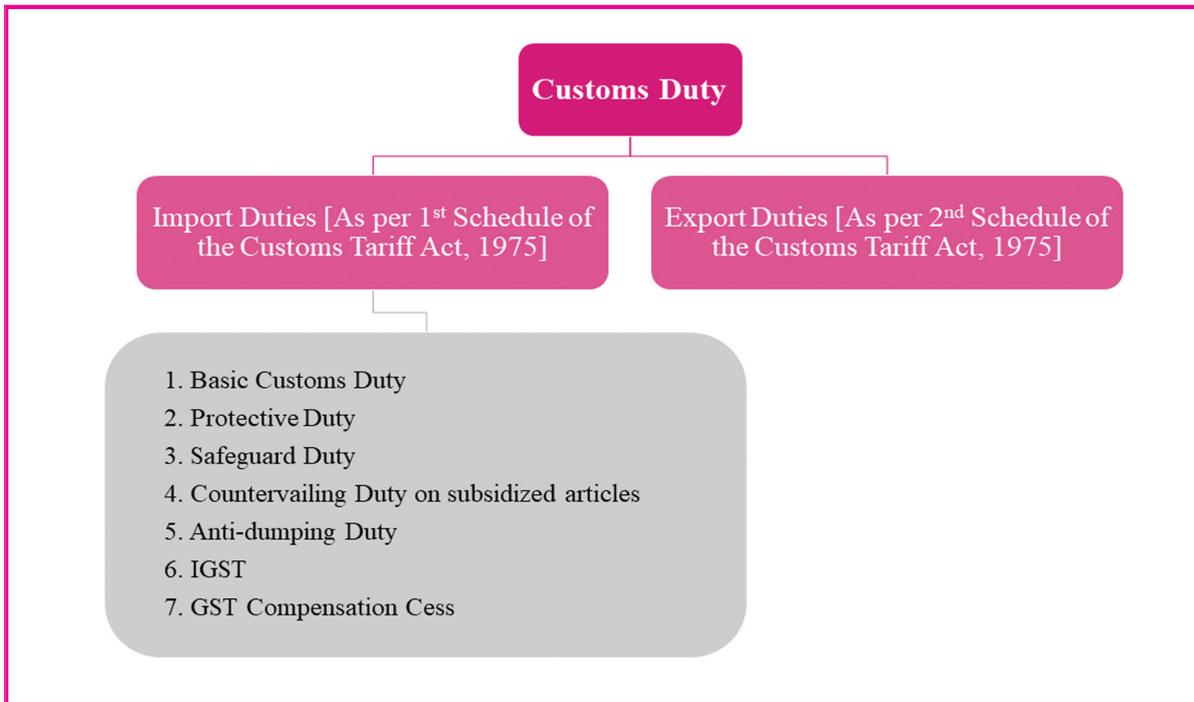
In the Tariff Schedule, commodities/products are arranged in a fixed pattern with the duty rates specified against each of them. It contains 2 Schedules:



- **First Schedule:** The First Schedule contains description of goods chargeable to import duty. It specifies the nomenclature that is based on the Harmonized Commodity Description and Coding System generally referred to as “Harmonized System of Nomenclature” or simply “HSN”, developed by the World Customs Organization (WCO) which is applied uniformly by more than 137 countries the world over. The First Schedule has 21 Sections and 98 Chapters. A Section is a group consisting of a number of Chapters which codify a particular class of goods. The Section notes explain the scope of chapters / headings, etc. The Chapters consist of chapter notes, brief description of commodities arranged at four digit, six digit and eight digit levels. Every four-digit code is called a ‘heading’ and every six digit code is called a ‘subheading’ and 8-digit code is called a ‘Tariff Item’.
- **Second Schedule:** The Second Schedule contains description of goods chargeable to export duty.

# Types of Duties

## 6.2



### Taxpoint :

- ◉ Apart from that, Social Welfare Surcharge (SWS) @ 10%<sup>5</sup> of total customs duties (excluding few) is also applicable on imported goods. Such surcharge is not levied on export.

**Example 2:** Goods of ₹ 1,00,000 has been imported and the applicable rate of basic customs duty is 10%. Then customs duty shall be:

Assessable Value	₹ 1,00,000
Basic Customs Duty @ 10%	₹ 10,000
Add: Social Welfare Surcharge @ 10% of aforesaid	₹ 1,000
Total duty payable	₹ 11,000

<sup>5</sup> 3% in case of goods being gold, silver including that plated with platinum unwrought or in semi-manufactured form or in powder form

- ◉ However, for the purpose of computing SWS following are not to be considered:
  - Safeguard Duty
  - Countervailing duty on subsidized article
  - Anti-dumping duty
  - IGST
  - Compensation cess
- ◉ Similarly, Government imposes certain surcharge or cess on specific goods from time to time. Example, Road and Infrastructure cess on motor spirit and high speed diesel, Health cess on medical equipment, etc.

### Basic Customs Duty (BCD) [Sec. 12 of the Customs Act r.w.s. 2 of the Customs Tariff Act]

Duty is levied as per sec. 12 of the Customs Act. Sec. 2 of the Customs Tariff Act, 1975 provides the rate at which duties of customs shall be charged. First schedule to Customs Tariff Act enlists the goods liable to duty on importation whereas second schedule enlists the goods liable to duty on exportation. The duty charged by this system may be specific duty (i.e. duty based on measures like quintal, meters, etc.) or ad valorem (i.e. duty based on certain percentage of assessable value<sup>6</sup>). Further, Customs Tariff Act provides two types of basic rate -

- a. **Standard rate of duty:** Generally, all goods are liable to duty at this rate. This rate is higher than preferential rate of duty. This rate is mentioned in fourth column of the schedule.
- b. **Preferential rate of duty:** Where goods are imported from notified preferential area, then preferential rate of duty is applicable. It is a concessional rate (given in column 5 of the schedule) for importation from preferential area. Importer should make a specific claim for this concessional rate and satisfy specified conditions. If importer fails to satisfy those conditions, then goods shall be liable to standard rate even if such goods are imported from preferential area.

### Integrated Goods and Services Tax (IGST) [Sec. 3(7) of Customs Tariff Act, 1975]

- ◉ Any article which is imported into India shall, in addition, be liable to integrated tax.
- ◉ IGST shall be levied at such rate as leviable u/s 5 of the Integrated Goods and Services Tax Act, 2017 on a like article on its supply in India.
- ◉ For the purpose of levying IGST, value of the imported article shall be determined as under:
  - The value of the imported article determined u/s 14(1) of the Customs Act, 1962 or the tariff value of such article fixed u/s 14(2), as the case may be;
  - Any duty of customs chargeable on that article u/s 12 of the Customs Act, 1962;
  - Any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs like anti-dumping duty, safeguard duty, etc.;
  - but does not include this IGST and the Compensation cess;

#### Example 3:

Goods of ₹ 1,00,000 has been imported and the applicable rate of basic customs duty is 10%. On such goods applicable rate of IGST is 18%. Then computation of duty shall be as under:

<sup>6</sup> Assessable value is transaction value u/s 14(1) / tariff value determined u/s 14(2)

Assessable Value [A]	₹ 1,00,000
Basic Customs Duty [B = 10% of A]	₹ 10,000
Add: Social Welfare Surcharge [C = 10% of B]	₹ 1,000
<b>Value for computing IGST [D = A + B + C]</b>	<b>₹ 1,11,000</b>
Add: IGST [E = D x 18%]	₹ 19,980
<b>Total Duty payable [B + C + E]</b>	<b>₹ 30,980</b>

For aforesaid payment of IGST, ITC under GST law is available.

### Taxpoint

Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under the said Act, the value of such goods for the purpose of calculating the integrated tax shall be,-

Where the whole of the goods are sold	the value determined as per aforesaid provision or the transaction value of such goods, whichever is higher
Where any part of the goods is sold	the proportionate value of such goods as per aforesaid provision or the transaction value of such goods, whichever is higher.
However, where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the aforesaid purposes	

### GST Compensation Cess [Sec. 3(9) of Customs Tariff Act, 1975]

Under GST regime, Compensation Cess will be charged on luxury products like high-end cars and demerit commodities like pan masala, tobacco and aerated drinks for the period of 5 years in order to compensate states for loss of revenue

Any article which is imported into India shall, in addition, be liable to the goods and services tax compensation cess at such rate, as is leviable u/s 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017 on a like article on its supply in India.

Where such cess is leviable at any percentage of its value, the value of the imported article shall be the aggregate of the following:

- the value of the imported article determined u/s 14(1) of the Customs Act, 1962 or the tariff value of such article fixed u/s 14(2), as the case may be;
- any duty of customs chargeable on that article u/s 12 of the Customs Act, 1962;
- any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs like anti-dumping duty, safeguard duty, etc.;
- but does not include the IGST or this cess

**Taxpoint:** In respect of warehoused goods, similar provision is applicable as applicable in case of levying IGST.

### Example 4:

Goods of ₹ 1,00,000 has been imported and the applicable rate of basic customs duty is 10%. On such goods applicable rate of IGST is 18% and GST Compensation cess is 28%. Then computation of duty shall be as under:

Assessable Value [A]	₹ 1,00,000
Basic Customs Duty [B = 10% of A]	₹ 10,000
Add: Social Welfare Surcharge [C = 10% of B]	₹ 1,000
<b>Value for computing IGST [D = A + B + C]</b>	<b>₹ 1,11,000</b>
Add: IGST [E = D x 18%]	₹ 19,980
Add: Compensation Cess [F = D x 28%]	₹ 31,080
<b>Total Duty payable [B + C + E + F]</b>	<b>₹ 62,060</b>

For aforesaid payment of IGST and compensation cess, ITC under GST law is available.

### Other Customs Duties

#### Protective Duties [Sec. 6 of the Customs Tariff Act, 1975]

In order to protect the interests of any industry established in India, Central Government may impose protective duty on any goods imported into India.

#### Taxpoint:

1. Government imposes such duty on recommendation made to it by the Tariff Commission established under the Tariff Commission Act, 1951.
2. This duty is effective only and inclusive of the date, if any, specified in the First Schedule of the Tariff [Sec. 7 of the Customs Tariff Act, 1975]

#### Safeguard Duty [Sec. 8B of Customs Tariff Act]

#### Condition to impose:

Where the Central Government is satisfied that -

- a. An article is imported into India in increased quantities; and
  - b. Such article is imported so as to cause or threaten to cause serious injury to the domestic industry,
- then it may apply such safeguard measures on that article, as it deems appropriate.

#### Taxpoint :

1. The safeguard measures shall include imposition of safeguard duty, application of tariff-rate quota or such other measure, as the Central Government may consider appropriate, to curb the increased quantity of imports of an article to prevent serious injury to domestic industry.
2. If the following conditions are satisfied then safeguard duty shall not be imposed –
  - a. Such article is originating from a developing country or countries; and
  - b. Aggregate import from country or countries shall not exceed –

Where the article is originating from one developing country	The share of imports of that article from that country does not exceed 3% of the total imports of that article into India
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Where the article is originating from more than one developing country	The aggregate of the imports from all such countries does not exceed 9% of the total imports of that article into India
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3. However, the Central Government may exempt such quantity of any article, when imported from any country or territory into India, from payment of the whole or part of the safeguard duty leviable thereon.
4. Where tariff-rate quota is used as a safeguard measure, the Central Government shall not fix such quota lower than the average level of imports in the last 3 representative years for which statistics are available, unless a different level is deemed necessary to prevent or remedy serious injury.
5. The Central Government may allocate such tariff-rate quota to supplying countries having a substantial interest in supplying the article concerned, in such manner as may be provided by rules.
6. **Provisional Safeguard Duty:** The Central Government may, pending the determination of safeguard measures, apply provisional safeguard measures on the basis of a preliminary determination that increased imports have caused or threatened to cause serious injury to a domestic industry. However, any provisional safeguard measure shall not remain in force for more than 200 days from the date on which it was applied.  
Further, where, on final determination, the Central Government is of the opinion that increased imports have not caused or threatened to cause serious injury to a domestic industry, it shall refund the safeguard duty so collected.
7. **Duration of imposition:** Safeguard duty shall be ceased to have effect on the expiry of 4 years (unless revoked earlier) from the date of its imposition. However, the Central Government may extend the period of levy to 10 years.
8. Safeguard duty or provisional safeguard duty shall not apply to articles imported by a 100% export-oriented undertaking or a unit in a special economic zone unless:
  - a. it is specifically made applicable in such notification or to such undertaking or unit; or
  - b. such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, safeguard measures shall be applied on the portion of the article so cleared or used, as was applicable when it was imported into India.
9. The safeguard duty is product specific and it is in addition to any other duty imposed under this Act or under any other law for the time being in force.
10. Developing country means a country notified by the Central Government in the Official Gazette;
11. Domestic industry means the producers:
  - a. as a whole of the like article or a directly competitive article in India; or
  - b. whose collective output of the like article or a directly competitive article in India constitutes a major share of the total production of the said article in India;
12. Serious injury means an injury causing significant overall impairment in the position of a domestic industry
13. Threat of serious injury means a clear and imminent danger of serious injury.

**Countervailing Duty on Subsidized articles [Sec. 9 of the Customs Tariff Act, 1975]**

**Condition to impose :**

- a. Any country or territory pays, or bestows, directly or indirectly, any subsidy upon the manufacture or production

- therein or the exportation therefrom of any article including any subsidy on transportation of such article;
- b. Such article is imported into India;
  - c. Such article is imported directly / indirectly from the country of manufacture, production; and
  - d. The article is imported in the same condition as when exported from the country of manufacture or production or has been changed in condition by manufacture, production or otherwise.

### Quantum of duty:-

The Central Government may impose a countervailing duty not exceeding the amount of such subsidy.

### Taxpoint

- ◉ **Duration of imposition:** Such duty shall be in force for 5 years (unless revoked earlier) from the date of its imposition. However, it can be further extended for another 5 years.

However, where a review initiated before the expiry of the aforesaid period of 5 years has not come to a conclusion before such expiry, the countervailing duty may continue to remain in force pending the outcome of such a review for a further period not exceeding 1 year. Further, if the said duty is revoked temporarily, the period of such revocation shall not exceed 1 year at a time.

- ◉ Such countervailing duty shall be in addition to any other duty imposed under this Act or any other law.
- ◉ A subsidy shall be deemed to exist if -
  - a. there is financial contribution by a Government, or any public body in the exporting or producing country or territory, that is, where -
    - i. a Government practice involves a direct transfer of funds (including grants, loans and equity infusion), or potential direct transfer of funds or liabilities, or both;
    - ii. Government revenue that is otherwise due is foregone or not collected (including fiscal incentives);
    - iii. a Government provides goods or services other than general infrastructure or purchases goods;
    - iv. a Government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions specified in clauses (i) to (iii) above which would normally be vested in the Government and the practice in, no real sense, differs from practices normally followed by Governments; or
  - b. a Government grants or maintains any form of income or price support, which operates directly or indirectly to increase export of any article from, or to reduce import of any article into, its territory, and a benefit is thereby conferred.
- ◉ Where the Central Government, on such inquiry as it considers necessary, is of the opinion that circumvention of imposed countervailing duty has taken place, either by altering the description or name or composition of the article on which such duty has been imposed or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the countervailing duty so imposed is rendered ineffective, it may extend the countervailing duty to such other article also from such date, not earlier than the date of initiation of the inquiry, as specified – Sec. 9(1A)
- ◉ Where the Central Government, on such inquiry as it considers necessary, is of the opinion that absorption of countervailing duty imposed has taken place whereby the countervailing duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as specifies. – Sec. 9(1B)

- ◉ Absorption of countervailing duty is said to have taken place:
  - a. if there is a decrease in the export price of an article without any commensurate change in the resale price in India of such article imported from the exporting country or territory; or
  - b. under such other circumstances as may be provided by rules.
- ◉ The Central Government may, pending the determination in accordance with the provisions of this section and the rules made thereunder of the amount of subsidy, impose a countervailing duty not exceeding the amount of such subsidy as provisionally estimated by it and if such countervailing duty exceeds the subsidy as so determined, -
  - a. the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such countervailing duty; and
  - b. refund shall be made of so much of such countervailing duty which has been collected as is in excess of the countervailing duty as so reduced. – Sec. 9(2)
- ◉ A notification issued or any countervailing duty imposed shall not apply to article imported by a 100% export-oriented undertaking or a unit in a special economic zone, unless, -
  - i. it is specifically made applicable in such notification or to such undertaking or unit; or
  - ii. such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, countervailing duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.
- ◉ Further, the countervailing duty shall not be levied unless it is determined that -
  - a. the subsidy relates to export performance;
  - b. the subsidy relates to the use of domestic goods over imported goods in the export article; or
  - c. the subsidy has been conferred on a limited number of persons engaged in manufacturing, producing or exporting the article unless such a subsidy is for -
    - i. research activities conducted by or on behalf of persons engaged in the manufacture, production or export;
    - ii. assistance to disadvantaged regions within the territory of the exporting country; or
    - iii. assistance to promote adaptation of existing facilities to new environmental requirements.
- ◉ **Levy from retrospective effect:** If the Central Government, is of the opinion that the injury to the domestic industry which is difficult to repair, is caused by massive imports in a relatively short period, of the article benefiting from subsidies paid or bestowed and where in order to preclude the recurrence of such injury, it is necessary to levy countervailing duty retrospectively, the Central Government may levy countervailing duty from a date prior to the date of imposition of countervailing duty but not beyond 90 days from the date of such notification
- ◉ The amount of any such subsidy shall, from time to time, be ascertained and determined by the Central Government, after such inquiry as it may consider necessary and the Central Government may make rules for the identification of such article and for the assessment and collection of any countervailing duty imposed upon the importation thereof under this section.

### Anti-Dumping duty [Sec. 9A of Customs Tariff Act]

**Dumping** is said to occur when the goods are exported by a country to another country at a price lower than its normal value. This is an unfair trade practice which can have a distortive effect on international trade. Anti dumping

is a measure to rectify the situation arising out of the dumping of goods and its trade distortive effect. Thus, the purpose of anti dumping duty is to rectify the trade distortive effect of dumping and re-establish fair trade. The use of anti dumping measure as an instrument of fair competition is permitted by the WTO. In fact, anti dumping is an instrument for ensuring fair trade and is not a measure of protection per se for the domestic industry. It provides relief to the domestic industry against the injury caused by dumping.

### Condition to impose :

- a. Any article is exported by an exporter or producer from any country or territory to India at less than its normal value; and
- b. Such article is imported into India;

### Quantum of Anti-Dumping Duty :

The Central Government may impose an anti-dumping duty not exceeding the margin of dumping in relation to such article.

- ◉ **Margin of dumping** = Normal Value less Export Price
- ◉ Export price, in relation to an article, means
  - a. the price of the article exported from the exporting country or territory; and
  - b. in cases where there is no export price or where the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed on the basis of the price at which the imported articles are first resold to an independent buyer or if the article is not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as may be determined in accordance with the rules made u/s 9A(6);
- ◉ Normal value, in relation to an article, means -
  - i. the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country or territory as determined in accordance with the rules made u/s 9A(6); or
  - ii. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country or territory, or when because of the particular market situation or low volume of the sales in the domestic market of the exporting country or territory, such sales do not permit a proper comparison, the normal value shall be either:
    - a. comparable representative price of the like article when exported from the exporting country or territory to an appropriate third country as determined in accordance with the rules made u/s 9A(6); or
    - b. the cost of production of the said article in the country of origin along with reasonable addition for administrative, selling and general costs, and for profits, as determined in accordance with the rules made u/s 9A(6)

However, in the case of import of the article from a country other than the country of origin and where the article has been merely transhipped through the country of export or such article is not produced in the country of export or there is no comparable price in the country of export, the normal value shall be determined with reference to its price in the country of origin

### Taxpoint :

- ◉ **Duration of imposition:** Such duty shall be in force for 5 years (unless revoked earlier) from the date of its imposition. However, if the Central Government, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of dumping and injury, it may, from time to time, extend the

period of such imposition for a further period upto 5 years and such further period shall commence from the date of order of such extension.

- ◉ Where a review initiated before the expiry of the aforesaid period of 5 years has not come to a conclusion before such expiry, the anti-dumping duty may continue to remain in force pending the outcome of such a review for a further period not exceeding 1 year.

If the said duty is revoked temporarily, the period of such revocation shall not exceed 1 year at a time.

- ◉ Such countervailing duty shall be in addition to any other duty imposed under this Act or any other law.
- ◉ Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that circumvention of anti-dumping duty imposed has taken place, either by altering the description or name or composition of the article subject to such anti-dumping duty or by import of such article in an unassembled or disassembled form or by changing the country of its origin or export or in any other manner, whereby the anti-dumping duty so imposed is rendered ineffective, it may extend the anti-dumping duty to such article or an article originating in or exported from such country, as the case may be, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may, specify.
- ◉ Where the Central Government, on such inquiry as it may consider necessary, is of the opinion that absorption of anti-dumping duty imposed has taken place whereby the anti-dumping duty so imposed is rendered ineffective, it may modify such duty to counter the effect of such absorption, from such date, not earlier than the date of initiation of the inquiry, as the Central Government may specify.

Absorption of anti-dumping duty is said to have taken place,-

- a. if there is a decrease in the export price of an article without any commensurate change in the cost of production of such article or export price of such article to countries other than India or resale price in India of such article imported from the exporting country or territory; or
  - b. under such other circumstances as may be provided by rules.
- ◉ **Provisional anti-dumping duty:** The Central Government may, pending the determination of the normal value and the margin of dumping in relation to any article, impose on the importation of such article into India an anti-dumping duty on the basis of a provisional estimate of such value and margin and if such anti-dumping duty exceeds the margin as so determined :-
    - a. the Central Government shall, having regard to such determination and as soon as may be after such determination, reduce such anti-dumping duty; and
    - b. refund shall be made of so much of the anti-dumping duty which has been collected as is in excess of the anti-dumping duty as so reduced.
  - ◉ A notification issued or any anti-dumping duty imposed shall not apply to articles imported by a 100% export-oriented undertaking or a unit in a special economic zone, unless,-
    - i. it is specifically made applicable in such notification or to such undertaking or unit; or
    - ii. such article is either cleared as such into the domestic tariff area or used in the manufacture of any goods that are cleared into the domestic tariff area, in which case, anti-dumping duty shall be imposed on that portion of the article so cleared or used, as was applicable when it was imported into India.
  - ◉ Retrospective effect: If the Central Government, in respect of the dumped article under inquiry, is of the opinion that -
    - i. there is a history of dumping which caused injury or that the importer was, or should have been, aware

that the exporter practices dumping and that such dumping would cause injury; and

- ii. the injury is caused by massive dumping of an article imported in a relatively short time which in the light of the timing and the volume of imported article dumped and other circumstances is likely to seriously undermine the remedial effect of the anti-dumping duty liable to be levied,

the Central Government may levy anti-dumping duty retrospectively from a date prior to the date of imposition of anti-dumping duty but not beyond 90 days from the date of notification under that sub-section, and such duty shall be payable at such rate and from such date as may be specified in the notification.

### Illustration 1:

A commodity is imported into India from a country covered by a notification issue by the Central Government u/s 9A of the Customs Tariff Act, 1975. Following particulars are made available:

- Assessable Value for levying Basic Customs Duty: ₹ 12,62,500
- Quantity imported: 500 kgs.
- Basic customs duty: 10%
- IGST: 18%

As per the notification, the anti-dumping duty will be equal to the difference between the cost of commodity calculated @ US\$ 50 per kg (Exchange Rate is 1 USD = INR 70) and the landed value of the commodity as imported

Appraise the liability on account of normal duties and the anti-dumping duty.

**Answer:**

### Computation of Customs Duty, SWS, anti-dumping duty and IGST

Particulars	Details	₹
Assessable Value		12,62,500
Basic Customs Duty @ 10% on ₹ 12,62,500 [A]		1,26,250
Add: SWS @ 10% [B]		12,625
Landed value of imported goods [C]		14,01,375
Rate of commodity as per Anti Dumping Notification per kg.	US\$ 50	
Quantity Imported	500 Kg	
Value as per notification (500 x 50)	US\$ 25,000	
Exchange rate 1US\$	₹ 70	
Market Value in ₹ [D]	17,50,000	
Add: Anti-dumping Duty [E = D - C]		3,48,625
Value for levying IGST [F]		17,50,000
Add: IGST @ 18% of [F]		3,15,000
<b>Total Customs Duty Payable [A + B + E + F]</b>		<b>8,02,500</b>

### Refund of anti-dumping duty in certain cases [Sec. 9AA]

- i. Where upon determination by an officer authorised in this behalf by the Central Government, an importer proves to the satisfaction of the Central Government that he has paid anti-dumping duty imposed u/s 9A on

any article, in excess of the actual margin of dumping in relation to such article, the Central Government shall, as soon as may be, reduce such anti-dumping duty as is in excess of actual margin of dumping so determined, in relation to such article or such importer, and such importer shall be entitled to refund of such excess duty

Such importer shall not be entitled to refund of so much of such excess duty which is refundable u/s 9A(2).

- ii. The Central Government may make rules to-
  - a. provide for the manner in which and the time within which the importer may make application for this purposes;
  - b. authorise the officer of the Central Government who shall dispose of such application on behalf of the Central Government within the time specified in such rules; and
  - c. provide the manner in which the excess duty shall be -
    1. determined by such officer; and
    2. refunded by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, after such determination.

**No levy under section 9 or section 9A in certain cases [Sec. 9B]**

1. Notwithstanding anything contained in sec. 9 or 9A:
  - a. no article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization;
  - b. the Central Government shall not levy any countervailing duty or anti-dumping duty -
    - i. u/s 9 or 9A by reasons of exemption of such articles from duties or taxes borne by the like article when meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes;
    - ii. under sub-section (1) of each of these sections, on the import into India of any article from a member country of the World Trade Organisation or from a country with whom Government of India has a most favoured nation agreement (hereinafter referred as a specified country), unless in accordance with the rules made under sub-section (2) of this section, a determination has been made that import of such article into India causes or threatens material injury to any established industry in India or materially retards the establishment of any industry in India; and
    - iii. under sub-section (2) of each of these sections, on import into India of any article from the specified countries unless in accordance with the rules made under sub-section (2) of this section, a preliminary findings has been made of subsidy or dumping and consequent injury to domestic industry; and a further determination has also been made that a duty is necessary to prevent injury being caused during the investigation:
 

Nothing contained in sub-clauses (ii) and (iii) shall apply if a countervailing duty or an anti-dumping duty has been imposed on any article to prevent injury or threat of an injury to the domestic industry of a third country exporting the like articles to India;
  - c. the Central Government may not levy -

- i. any countervailing duty u/s 9, at any time, upon receipt of satisfactory voluntary undertakings from the Government of the exporting country or territory agreeing to eliminate or limit the subsidy or take other measures concerning its effect, or the exporter agreeing to revise the price of the article and if the Central Government is satisfied that the injurious effect of the subsidy is eliminated thereby;
  - ii. any anti-dumping duty u/s 9A, at any time, upon receipt of satisfactory voluntary undertaking from any exporter to revise its prices or to cease exports to the area in question at dumped price and if the Central Government is satisfied that the injurious effect of dumping is eliminated by such action.
2. The Central Government may, by notification in the Official Gazette, make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for the manner in which any investigation may be made for the purposes of this section, the factors to which regard shall be at in any such investigation and for all matters connected with such investigation.

Apart from these, additional duty, countervailing duty or special additional duty is also applicable on certain goods. Generally, these duties are subsumed in the GST, however, these duties are still applicable in case of goods which are outside the purview of GST like alcoholic liquor for human consumption.

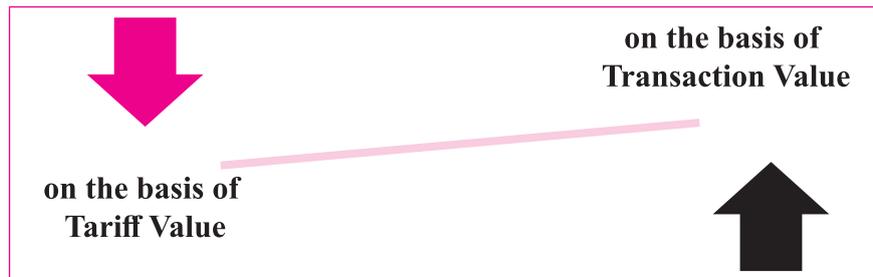
### **Export Duty [Second Schedule of the Customs Tariff Act, 1975]**

In general, no duty is payable on export. However, Government has imposed export duty on certain goods like leather goods, ferrous waste and scrap, snake skins, etc.

# Valuation Rules

6.3

The rate of customs duty leviable on imported or exported goods are either specific or ad valorem basis (i.e., as a percentage of the value of goods) or at times on specific cum ad valorem. In case of ad valorem duty, the valuation of the goods may be determined in any of the following manner:



## Valuation on the basis of Transaction Value [Sec. 14(1)]

1. **Valuation of Imported Goods:** The value of the imported goods shall be the transaction value of such goods, that is to say,
  - the price actually paid or payable for the goods;
  - when sold for export to India;
  - for delivery at the time and place of importation;
  - where the buyer and seller of the goods are not related; and
  - price is the sole consideration for the sale

subject to such other conditions as may be specified in the rules<sup>7</sup> made in this behalf.

### Taxpoint

- ⊙ Such transaction value in the case of imported goods shall include, in addition to the price as aforesaid, any amount paid or payable for costs and services, including
  - commissions and brokerage (excluding buying commission);
  - engineering, design work;
  - royalties and licence fees;
  - costs of transportation to the place of importation;
  - insurance;

<sup>7</sup> The Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 have been specified.

- loading, unloading and handling charges

to the extent and in the manner specified in the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

2. **Valuation of Export Goods:** The value of the exported goods shall be the transaction value of such goods, that is to say,

- the price actually paid or payable for the goods;
- when sold for export from India;
- for delivery at the time and place of exportation;
- where the buyer and seller of the goods are not related; and
- price is the sole consideration for the sale

subject to such other conditions as may be specified in the rules<sup>8</sup> made in this behalf.

### Valuation on the basis of Tariff Value [Sec. 14(2)]

CBIC may fix tariff values for any class of imported or export goods (having regard to the trend of value of such or like goods) and where any such tariff values are fixed, the duty shall be chargeable with reference to such tariff value. At present, tariff value has been fixed in respect of import for crude palm oil, crude palmolein, crude soyabean oil, brass scrap, poppy seeds, etc.

### Date Relevant for Determination of Rate of Exchange

#### Rate of Exchange

The price shall be calculated with reference to the rate of exchange as in force on the date on which a bill of entry is presented u/s 46, or a shipping bill of export, as the case may be, is presented u/s 50.

Taxpoint :

- ⦿ The price shall be calculated with reference to the rate of exchange as in force on the date

In case of Import	Date on which a bill of entry is presented u/s 46,
In case of export	Date on which a shipping bill of export is presented u/s 50.

- ⦿ Rate of exchange means the rate of exchange:
  - determined by the Board (i.e., CBIC), or
  - ascertained in such manner as the Board may direct, for the conversion of Indian currency into foreign currency or foreign currency into Indian currency [Explanation to sec. 14]
- ⦿ The rate of exchange is notified by (i) CBIC; (ii) RBI; and (iii) Foreign Exchange Dealers' Association of India. For the purpose of customs, rate notified by **CBIC** shall be considered. Selling Rate shall be considered for import and buying rate shall be considered for export.

<sup>8</sup> The Customs Valuation (Determination of Value of Export Goods) Rules, 2007 have been specified

**Example 5:**

Determine the rate of exchange for the purpose of computation of customs duty in the following cases:

Case	Date of Bill of entry / Shipping bill of export	Date of entry inward / outward	Exchange rate notified by CBIC (INR per USD)		Exchange Rate notified by RBI (INR per USD)	
			(IV)		(V)	
			On the date given on col. (II)	On the date given on col. (III)	On the date given on col. (II)	On the date given on col. (III)
Import	20-10-2022	15-10-2022	62	63	60	61
Export	25-11-2022	25-11-2022	61	61	63	63

**Solution:**

Exchange rate notified by the CBIC on the date of presentation of bill of entry (in case of import) or shipping bill (in case of export) shall be considered, thus:

- In case of import, exchange rate of ₹ 62 per USD shall be considered.
- In case of export, exchange rate of ₹ 61 per USD shall be considered.

Note that rate notified by RBI is irrelevant for computation of customs duty.

**6.3.1 Customs Valuation (Determination of price of imported goods) Rules, 1988**

**Methods to be followed (in hierarchal order) for determination of price of imported goods**

- ◉ Primary Method: Transaction value [Rule 3]
- ◉ Secondary Method
  1. Transaction value of identical goods [Rule 4]
  2. Transaction value of similar goods [Rule 5]
  3. Deductive value [Rule 7]
  4. Computed value [Rule 8]
  5. Residual method [Rule 9]

**Note:** On the request of importer, the order of application of rules 7 (i.e. Deductive value) and 8 (i.e. Computed value) shall be reversed.

**Transaction Value [Rule 3]**

Transaction value shall be accepted as price, provided following conditions are satisfied –

1. The sale is in the ordinary course of trade under fully competitive conditions;
2. There are no restriction as to the disposition or use of the goods by the buyer other than restrictions which –
  - a. are imposed or required by law or by public authorities in India; or
  - b. limit the geographical area in which the goods may be resold; or
  - c. do not substantially affect the value of the goods;

3. The sale or price is not subject to condition or consideration for which a value cannot be determined;
4. Any part of the proceeds of subsequent resale, disposal or use of the goods by the buyer will not be shared with the seller unless an appropriate adjustment is made;
5. The buyer and seller are not related.

### Meaning of related person :

Person shall be deemed to be related if –

1. they are officers or directors of one another's businesses;
  2. they are legally recognized partners in business;
  3. they are employer and employee;
  4. any person owns, controls or holds 5% or more of the voting right of both of them;
  5. one of them controls the other;
  6. both of them are controlled by a third person;
  7. together they control a third person;
  8. they are members of the same family.
- a. Person also includes legal persons.
  - b. Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule.

### Transaction value can be accepted though sale is made to related buyer

In the following cases, the transaction value shall be accepted even if the buyer and seller are related:

- a. the examination of the circumstances of the sale of the imported goods indicates that relationship did not influence the price.
- b. the importer demonstrates that the value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time:
  - i. the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;
  - ii. the deductive value for identical goods or similar goods;
  - iii. the computed value for identical goods or similar goods:

### Note

- ◉ While comparing prices, due account shall be taken of difference in commercial levels, quantity levels and cost incurred by the seller in sales to an unrelated buyer. E.g. price of 1000 units are not comparable with the price of 100000 units.
- ◉ While determining value of identical or similar goods, substitute value shall not be taken.

**Computation of transaction value of imported goods**

The transaction value of imported goods shall be the price actually paid or payable for the goods when sold for export to India adjusted in accordance with the provisions of rule 10.

As per rule 10, while determining transaction value, following cost or value (being not included in the price) shall be added with the price actually paid or payable -

1. the following cost and services, to the extent they are incurred by the buyer –
  - a. Commission and brokerage, except buying commissions;
  - b. The cost of containers;
  - c. The cost of packing whether for labour or materials;
2. the appropriate value of the following goods and services supplied by the buyer free of charge or at reduced cost for use in the production and sale for export of imported goods –
  - a. materials, components, parts & similar items incorporated in the imported goods;
  - b. tools, dies, moulds & similar items used in the production of the imported goods;
  - c. materials consumed in the production of the imported goods;
  - d. engineering, development, art work, design work, plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods;
3. royalties and licence fees related to the imported goods that the buyer is required to pay as a condition of the sale of such goods;
4. the value of any part of proceeds of any subsequent resale, disposal or use of such goods accrues to the seller;
5. all other payments actually paid or payable by the buyer to the seller or by the buyer to the third party to satisfy an obligation of the seller.

Additions to the price actually paid or payable shall be made under this rule on the basis of objective and quantifiable data

**Price for delivery at the time and place of importation [Rule 10(2)]**

The value of imported goods shall be the price for delivery at the time and place of importation. Hence, it includes –

- a. The cost of transport, loading, unloading and handling charges associated with the delivery of the imported goods to the place of importation;
- b. The cost of insurance to the place of importation

**Note**

- i. Where the above cost is not ascertained then following shall be added –

In case of	Amount to be added
Cost of transport	20% of free on board (FOB) value of goods
Cost of insurance	1.125% of FOB value of goods

- ii. Where goods are imported by **air**, then cost of transport (whether ascertained or not) shall be restricted to 20% of FOB value of goods.

## Indirect Taxation

iii. FOB value = Cost of production + Profit of the manufacturer + Freight in foreign country + Local taxes + Loading charges + Export duty and cess.

In nutshell, valuation shall be determined as under:

	₹
Value of material (ex-factory price)	xxx
Carriage / Freight / insurance upto the port of shipment in the exporter's country	xxx
Charges for loading on to the ship at the shipping port in the exporter's country	xxx
<b>Free on Board (FOB)</b>	xxx
Add: if not included above	xxx
➤ Commission and brokerage (except buying commission)	xxx
➤ Packing cost (except cost of durable and returnable packing)	xxx
➤ Cost of engineering, development and plan or sketches (undertaken outside India)	xxx
➤ Royalties and Licence Fee	xxx
➤ Value of subsequent re-sale if payable to foreign supplier	xxx
➤ Value of material supplied by the buyer free of cost	xxx
<b>FOB value as per Customs</b>	xxx
Actual Cost of freight (if not specified, then @ 20% of FOB value as per customs) [in case of air transport max. 20%]	xxx
Ship demurrage charges on chartered vessels, lighterage or barge charges	xxx
Actual Insurance charges (if not specified, then @ 1.125% of FOB value as per customs)	xxx
<b>Cost, Insurance and Freight (CIF) i.e., Assessable Value</b>	xxx

### Taxpoint

- ⦿ Place of importation means the customs station, where the goods are brought for being cleared for home consumption or for being removed for deposit in a warehouse
- ⦿ Unloading charges or landing charges at the place of importation shall not be considered.
- ⦿ Buying commission means fees paid by an imported to his agent for the services of representing him abroad in the purchase of goods being valued.
- ⦿ When ship is not brought upto jetty because deep draught at port or ports are busy or any other reason, in this case cargo shall be discharged at anchorage. Charges for bringing goods from outer anchorage to the jetty is called barging / lighterage charges.
- ⦿ Demurrage charges payable to port trust authorities for delay in clearing goods are not to be added.
- ⦿ However, following cost shall **not** to be included:
  - Duties and tax paid in India
  - Cost of erection charges in India
  - Cost of transport and insurance from port to factory of importer in India
  - Cost of development charges in connection with imported machinery
  - Port demurrage charges and unloading charges in India

- Any other charges incurred after importation like post shipment charges unless such charges are pre-condition for importation (e.g. inspection)

**Illustration 2:**

Compute value of the imported goods for customs purpose with the following information –

Particulars	Case 1	Case 2	Case 3
Price actually payable to the seller	10,000	20,000	30,000
Cost of packing materials	1,000	Nil	500
Labour charges for packing	200	Nil	300
Price of material supplied to seller by buyer free of cost	1,000	500	2,000
Cost of transport	1,000	Unascertained	12,000
Insurance	Unascertained	Unascertained	500
Local transport in India	500	400	600
Mode of transport	Sea	Sea	Air

**Solution:**

Computation of assessable value of goods for customs purpose

Particulars	Case 1	Case 2	Case 3
Price actually payable to the seller	10,000	20,000	30,000
Cost of packing materials	1,000	Nil	500
Labour charges for packing	200	Nil	300
Material supplied to seller by buyer free of cost	1,000	500	2,000
Free on Board Value [A]	12,200	20,500	32,800
Add:			
Cost of transport [B]	1,000	4,100 <sup>1</sup>	6,560 <sup>2</sup>
Insurance (1.125% of A) [C]	137	231	500
<b>Assessable value</b>	<b>13,337</b>	<b>24,831</b>	<b>39,860</b>

**Notes**

1. When cost of transportation is not certain then 20% of FOB value shall be considered as cost of transport.
2. When goods are transported through airways then, cost of transportation shall be restricted to 20% of FOB value.

**Illustration 3:**

From the particulars given below, find out the assessable value of the imported goods under the Customs Act, 1962:

	Particulars	US\$
(i)	Cost of the machine at the factory of the exporting country	20,000
(ii)	Transport charges incurred by the exporter from his factory to the port for shipment	1,000
(iii)	Handling charges paid for loading the machine in the ship	100

## Indirect Taxation

	Particulars	US\$
(iv)	Buying commission paid by the importer	100
(v)	Freight charges from exporting country to India	2,000
(vi)	Exchange Rate to be considered 1\$ = ₹ 65	

### Solution:

Computation of assessable value of goods for customs purpose

	Particulars	Value (US \$)
(i)	Cost of the machine at the factory of the exporting country	20,000.00
(ii)	Transport charges incurred by the exporter from his factory to the port for shipment	1,000.00
(iii)	Handling charges paid for loading the machine in the ship	100.00
	<b>FOB Value of Exporter</b>	<b>21,100.00</b>
(iv)	Buying commission paid by the importer [Not includible]	-
(v)	Cost of insurance [@ 1.125% of FOB]	237.38
(vi)	Freight charges from exporting country to India	2,000.00
(vii)	CIF Value/ Assessable value	23,337.38
	<b>Assessable value (in INR) [\$ 23,337.38 x ₹ 65]</b>	<b>15,16,930.00</b>

### Illustration 4:

XYZ Industries Ltd., has imported certain equipment from Japan at an FOB cost of 4,00,000 Yen (Japanese). The other expenses incurred by M/s. XYZ Industries in this connection are as follows:

- Freight from Japan to Indian Port 40,000 Yen
- Insurance paid to Insurer in India ₹ 20,000
- Designing charges paid to Consultancy firm in Japan 60,000 Yen
- M/s. XYZ Industries had expended ₹ 2,00,000 in India for certain development activities with respect to the imported equipment
- XYZ Industries had incurred road transport cost from Mumbai port to their factory in MP ₹ 1,30,000
- The CBIC had notified exchange rate of 1 Yen = ₹ 0.69. The inter bank rate was 1 Yen = ₹ 0.70
- M/s XYZ Industries had effected payment to the Bank based on exchange rate 1 Yen = ₹ 0.71
- The commission payable to the agent in India was 5% of FOB cost of the equipment in Indian Rupees.

Compute assessable value

### Solution:

Computation of assessable value of goods for customs purpose

Particulars	Amount in Yen
Free on Board (FOB)	4,00,000
Designing charges	60,000
Development charges [as it is post shipment expenses]	—
Road transport charges [as it is post shipment expenses]	—
Commission [4,00,000 x 5%]	20,000

Particulars	Amount in Yen
FOB value of the Customs	4,80,000
	<b>Amount in ₹</b>
FOB value of the Customs [by using exchange rate of the CBIC] [4,80,000 x 0.69]	3,31,200
Insurance	10,000
Freight [40,000 x 0.69]	27,600
<b>Total CIF value/ Assessable Value</b>	<b>3,68,800</b>

**Illustration 5:**

How shall your answer differ, if the information regarding freight and insurance are not available.

**Solution:**

Computation of assessable value of goods for customs purpose

Particulars	Amount in Yen
Free on Board (FOB)	4,00,000
Designing charges	60,000
Development charges [as it is post shipment expenses]	—
Road transport charges [as it is post shipment expenses]	—
Commission [4,00,000 x 5%]	20,000
FOB value of the Customs	4,80,000
	<b>Amount in ₹</b>
FOB value of the Customs [by using exchange rate of the CBIC] [4,80,000 x 0.69]	3,31,200
Insurance [₹ 3,31,200 x 1.125%]	3,726
Freight [₹ 3,31,200 x 20%]	66,240
<b>Total CIF value/ Assessable Value</b>	<b>4,01,166</b>

**Illustration 6:**

BSA and Company Ltd. have imported a machine from U.K. from the following particulars furnished by them, arrive at the assessable value for the purpose of customs duty payable:

(i)	F.O.B. cost of the machine	10,000 U.K. Pounds
(ii)	Freight (air)	3,000 U.K. Pounds
(iii)	Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
(iv)	License fee relating to imported goods payable by the buyer as a condition of sale	20% of F.O.B. Cost
(v)	Materials and components supplied by the buyer free of cost valued	₹ 20,000
(vi)	Insurance paid to the insurer in India	₹ 6,000
(vii)	Buying commission paid by the buyer to his agent in U.K.	100 U.K. Pounds

Other Particulars:

- Inter-bank exchange rate as arrived at by the authorized dealer: ₹ 72.50 per U.K. Pound.
- CBIC had notified for purpose of Section 14 of the Customs Act, 1944, exchange rate of ₹ 70.25 per U.K. Pound.
- Importer paid ₹ 5,000 towards demurrage charges for delay in clearing the machine from the Airport.

## Indirect Taxation

### Solution:

Computation of assessable value of goods for customs purpose

Particulars	UK Pounds
FOB Value	10,000
Add: Engineering and Design charges (Paid in (UK))	500
Add: License fee (20% on 10,000 UKP)	2,000
	12,500
	Value in ₹
Sub-total (12,500 UKP x ₹ 70.25)	8,78,125
Add: Material supplied by the buyer freely	20,000
FOB Value as per customs	8,98,125
Add: Air freight (₹ 8,98,125 × 20%)	1,79,625
Add: Insurance	6,000
<b>CIF Value / Assessable value</b>	<b>10,83,750</b>

Buying commission shall not be considered.

### Illustration 7:

X Ltd. imported goods from Switzerland 400 units @ \$ 110. Following further information is also needs to be considered:

- Freight (Vessel) – \$ 5000
- Demurrage charges paid to port authority – \$ 1000
- Insurance – \$ 50
- Royalty for use of Patent – \$ 1,000
- Royalty as a condition of Sale – \$ 20,000

Assuming exchange rate is ₹ 70.00. Compute assessable value

### Solution:

Computation of Assessable Value

Particulars	Amount
Purchase Value	\$ 44,000
Royalty for use of Patent	\$ 1,000
Royalty as a condition of Sale	\$ 20,000
<b>FOB Value</b>	<b>\$ 65,000</b>
Add: Freight	\$ 5,000
Add: Insurance Charges	\$ 50
Assessable Value	\$ 70,050
Assessable Value in INR [\$ 70,050 x ₹ 70]	₹ 49,03,500

**Note**

- a. Demurrage charges payable to port trust authorities for delay in clearing goods are not to be added
- b. Royalties and license fees relating to imported goods that buyer is required to pay, directly or indirectly, as a condition of sale of goods being valued are required to be added

**Illustration 8:**

C Ltd, an importer, has imported a machine from USA at FOB Cost of \$ 10000.

- i. Freight from port in USA to Indian port was \$ 700.
- ii. Insurance was paid to insurer in India ₹ 6,000.
- iii. Design and development charges of \$ 2000 were paid to a consultancy firm in USA.
- iv. The importer also spent an amount of ₹ 50,000 in India for development work connected with the machinery.
- v. ₹ 10,000 were spent in transporting the machinery from India port to the factory of Importer
- vi. Rate of exchange as announced by RBI was : ₹ 74.70 = 1 US \$
- vii. Rate of exchange as announced by CBIC: ₹ 75.60 = 1 US \$.
- viii. Rate which bank recovered the amount from importer: ₹ 75.30 = 1 US \$
- ix. Foreign exporters have an agent in India. Commission is payable to the agent in Indian Rupees @ 5% of FOB price.

Find the assessable value

**Solution:**

Computation of Assessable Value

Particulars	Amount
FOB Value	\$ 10,000
Add: Design and Development Charges	\$ 2,000
Add: Ocean Freight	\$ 700
Total	\$ 12,700
In INR [US \$ 12,700 x ₹ 75.60]	₹ 9,60,120
Add: Insurance	₹ 6,000
Add: Commission [500 US \$ x ₹ 75.60]	₹ 27,800
<b>Assessable Value (Rounded off)</b>	<b>₹ 10,03,920</b>

**Note:** Design and development work in India and transport cost incurred in India shall not be considered for ascertaining assessable value.

**Transaction value of identical goods [Rule 4]**

The value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued.

**Taxpoint**

- 1. Identical goods means imported goods –

## Indirect Taxation

- a. which are same in all respects, including physical characteristics, quality and reputation as the goods being valued except for minor differences in appearance that do not affect the value of goods;
- b. produced in the country in which the goods being valued were produced; and
- c. produced by the same person who produced the goods or where no such goods are available, then goods produced by a different manufacturer.

However, identical goods do not include goods where engineering, development, art work, design work, plan or sketch was done by the buyer in India free of charge or at a reduced cost.

2. Such identical goods shall be sold at the same commercial and quantity level. Where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantity or both shall be used with certain adjustment.
3. Where more than one transaction value of identical goods is found, then the lowest of such value shall be used for determining the value of imported goods.

### Transaction value of similar goods [Rule 5]

The value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued.

#### Notes

1. Similar goods means imported goods –
  - a. which although not alike in all respect, have like characteristics and like component materials which enable them to perform the same function. Such goods shall be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade-mark.
  - b. produced in the country in which the goods being valued were produced; and
  - c. produced by the same person who produced the goods or where no such goods are available, then goods produced by a different manufacturer.

However, similar goods do not include goods where engineering, development, art work, design work, plan or sketch was done by the buyer in India free of charge or at a reduced cost.

2. Such similar goods shall be sold at the same commercial and quantity level. Where no such sale is found, the transaction value of similar goods sold at a different commercial level or in different quantity or both shall be used with certain adjustment.
3. Where more than one transaction value of similar goods is found, then the lowest of such value shall be used for determining the value of imported goods.

### Determination of value where value can not be determined under rules 3, 4 and 5 [Rule 6]

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8.

However, at the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.

**Deductive Value [Rule 7]**

Where the goods being valued or identical or similar imported goods are sold in India at or about the time of determination of value, then the value of imported goods shall be based on the unit price at which such goods are sold in the *greatest aggregate quantity* to the *unrelated* person in India as reduced by -

- a. the commission usually paid or payable or the additions usually made for profits and general expenses for sales in India;
- b. the cost of transport and insurance and other cost incurred within India;
- c. the customs duty and other taxes payable in India by reason of importation or sale of the goods.

**Notes**

- 1. Where such goods are not sold at or about the same time of importation of the goods being valued, then the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in India at the earliest date after importation but before the expiry of 90 days after such importation.
- 2. Where such goods are sold in India after further processing, then the value shall be based on the unit price at which the imported goods after processing are sold in the *greatest aggregate quantity* to unrelated person in India as reduced by processing and other cost (as referred above) incurred in India.

**Provision illustrated**

Following are the sale details of product X (being 12000 units imported from Japan on 1-1-2023), you are required to compute assessable value of product X for customs duty by applying deductive method –

Date of Sale	Quantity Sold (in units)	Price per unit
01-1-2023	1000	₹ 100
10-1-2023	2000	₹ 98
19-1-2023	500	₹ 101
27-2-2023	1500	₹ 100
03-3-2023	1000	₹ 98
13-3-2023	1500	₹ 99
30-3-2023	1000	₹ 98
07-5-2023	2000	₹ 100

Assume the expenditure incurred in India (including profit) is ₹ 18 per unit. Duty is charged on such article @ 25% (including SWS) ad valorem.

**Solution**

Quantity sold at different prices are summarized below –

Price per unit	Quantity sold
₹ 100	1000 + 1500 = 2500 units
₹ 98	2000 + 1000 + 1000 = 4000 units
₹ 101	500 units
₹ 99	1500 units

## Indirect Taxation

**Note:** Sale made on 7/5/2023 is not considered as it is made after 90 days from importation thereof.

The greatest number of units sold at a particular price is 4000 units, therefore, the unit price in the greatest aggregate quantity is ₹ 98.

Computation of assessable value :

Assessable value + Customs duty = Unit sale price as computed above - Expenditure incurred in India

Assessable value + 25% of Assessable value = ₹ 98 – ₹ 18

125% of Assessable value = ₹ 80

Assessable value = ₹ 64 per unit

Assessable value of 12000 units = ₹ 7,68,000

Duty on above = ₹ 1,92,000

### Computed value [Rule 8]

The value of imported goods shall consist of –

- The cost or value of materials and fabrication or other processing employed in producing the imported goods;
- An amount for general expenses and profit made by producers in the country of exportation for export to India;
- The cost of transport, insurance, etc. as referred in rule 10(2).

This method is normally possible when the importer in India and foreign exporter are closely associated and the foreign exporter is willing to give necessary costing.	
Cost of Materials and General expenses for producing the imported goods	XX
Add: profit of the exporter	XX
Add: all expenditure as per Rule 10	XX
<b>Assessable Value</b>	<b>XX</b>

### Residual Method [Rule 9]

Where the value of imported goods shall not be determined as per any preceding rules, then the value shall be determined using -

- ⊙ reasonable means consistent with the principles;
- ⊙ general provisions of these rules; and
- ⊙ data available in India.

#### Taxpoint:

- ⊙ However, the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.
- ⊙ Further, no value shall be determined on the following basis –
  - The selling price in India of the goods produced in India;

- b. A system, which provides acceptance of value being highest of two alternative values;
- c. The price of the goods on domestic markets of the country of exportation;
- d. The cost of production (other than computed value) for identical or similar goods;
- e. The price of the goods for export to a country other than India;
- f. Minimum customs values;
- g. Arbitrary or fictitious values

**Cost and Services [Rule 10]**

Already discussed in Rule 3

However, following are to be noted:

Where the FOB value of the goods is not ascertainable but the sum of FOB value of the goods and insurance cost is ascertainable	the transport cost shall be 20% of <b>such sum</b>
Where the FOB value of the goods is not ascertainable but the sum of FOB of the goods and the transport cost is ascertainable	the insurance cost shall be 1.125% of <b>such sum</b>

**Taxpoint:**

- ◉ Where CIF value is given but transport cost is not available, then transportation cost would be:

$$\text{Cost of transport} = \text{CIF Value} \times 20/120$$

- ◉ Where CIF value is given but insurance cost is not available, then transportation cost would be:

$$\text{Cost of insurance} = \text{CIF Value} \times 1.125/101.125$$

**Other points**

**Declaration by the importer [Rule 11]**

The importer or his agent shall furnish –

- a. A declaration disclosing full and accurate details relating to the value of imported goods; &
- b. Any other statement, information or documents including an invoice of the manufacturer or producer of the imported goods (where the goods are exported by a person other than the manufacturer or producer) as considered necessary by the proper officer for determination of the value of imported goods.

**Notes**

1. Declaration by importer, inter alia, includes –
  - Relationship between buyer and seller;
  - The basis of the declared value;
  - Conditions and restriction attached with sale;
  - Costs not included in the invoice.
2. The provision of the Customs Act, 1962 relating to confiscation, penalty and prosecution shall apply to the cases where wrong statement, information, documents or declaration are furnished under these rules.

### Rejection of declared value [Rule 12]

When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence.

Where even after receiving such further information or in the absence of a response from such importer, the proper officer has reasonable doubt about the truth or accuracy of the value so declared, then it shall be deemed that the value of such imported goods cannot be determined under transaction value.

At the request of an importer, the proper officer shall intimate the importer in writing the grounds for doubting the truth and accuracy of the value declared by such importer and provide a reasonable opportunity of being heard before taking a final decision.

#### Taxpoint

- ◉ This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.
- ◉ The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.
- ◉ The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -
  - a. the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;
  - b. the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;
  - c. the sale involves special discounts limited to exclusive agents;
  - d. the misdeclaration of goods in parameters such as description, quality, quantity, country of origin, year of manufacture or production;
  - e. the non declaration of parameters such as brand, grade, specifications that have relevance to value;
  - f. the fraudulent or manipulated documents.

### Interpretative notes [Rule 13]

The interpretative notes specified in the schedule to these rules shall apply for the interpretation of these rules.

#### Interpretative Notes

##### General Note

##### Use of generally accepted accounting principles

1. "Generally accepted accounting principles" refers to the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations shall be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.

##### Notes to rules

**Note to rule 2**

In rule 2(2)(v), for the purposes of these rules, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

**Note to rule 3****Price actually paid or payable**

The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

Activities undertaken by the buyer on his own account, other than those for which an adjustment is provided in rule 10, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the value of imported goods.

The value of imported goods shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

- a. Charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- b. The cost of transport after importation;
- c. Duties and taxes in India.

The price actually paid or payable refers to the price for the imported goods. Thus, the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

**Rule 3(2)(a) (iii)**

Among restrictions which would not render a price actually paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

**Rule 3(2)(b)**

If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include-

- a. The seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;
- b. the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;

- c. the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semifinished goods which have been provided by the seller on condition that he will receive a specified quantity of the finished goods.

However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in India shall not result in rejection of the transaction value for the purposes of rule 3. Likewise, if the buyer undertakes on his own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the value of imported goods nor shall such activities result in rejection of the transaction value.

### Rule 3(3)

1. Rule 3(3)(a) and rule 3(3)(b) provide different means of establishing the acceptability of a transaction value.
2. Rule 3(3)(a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the value of imported goods provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the proper officer of customs has no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the proper officer of customs may have previously examined the relationship, or he may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.
3. Where the proper officer of customs is unable to accept the transaction value without further inquiry, he should give the importer an opportunity to supply such further detailed information as may be necessary to enable him to examine the circumstances surrounding the sale. In this context, the proper officer of customs should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of rule 2(2), buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to him, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.
4. Rule 3(3)(b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the proper officer of customs and is therefore acceptable under the provisions of rule 3. Where a test under rule 3(3)(b) is met, it is not necessary to examine the question of influence under rule 3(3)(a). If the proper officer of customs has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in rule 3(3)(b) has been met, there is no reason for him to require the importer to demonstrate that the test can be met. In rule 3(3)(b) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

**Rule 3(3)(b)**

A number of factors must be taken into consideration in determining whether one value “closely approximates” to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the “test” values set forth in rule 3(3)(b).

**Notes to rule 4**

1. In applying rule 4, the proper officer of customs shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used:
  - a. a sale at the same commercial level but in different quantities; or
  - b. a sale at a different commercial level but in substantially the same quantities; or
  - c. a sale at a different commercial level and in different quantities.
2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for :
  - a. quantity factors only;
  - b. commercial level factors only; or
  - c. both commercial level and quantity factors.
3. For the purposes of rule 4, the transaction value of identical imported goods means a value, adjusted as provided for in rule 4(1)(b) and (c) and rule 4(2) which has already been accepted under rule 3.
4. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller’s price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a value under the provisions of rule 4 is not appropriate.

**Note to rule 5**

1. In applying rule 5, the proper officer of customs shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. For the purpose of rule 5, the transaction value of similar imported goods means the value of imported goods, adjusted as provided for in rule 5(2) which has already been accepted under rule 3.

## Indirect Taxation

- All other provisions contained in note to rule 4 shall mutatis mutandis also apply in respect of similar goods.

### Note to rule 7

- The term “unit/price at which goods are sold in the greatest aggregate quantity” means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.
- As an example of this, goods are sold from a price list which grants favorable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1-10 units	100	10 sales of 5 units, 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
Over 25 units	90	1 sale of 30 units, 1 sale of 50 units	80

The greatest number of units sold at a price is 80, therefore, the unit price in the greatest aggregate quantity is 90.

- As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500, therefore, the unit price in the greatest aggregate quantity is 95.
- A third example would be the following situation where various quantities are sold at various prices.

#### a. Sales

Sale quantity	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

#### b. Totals

Total quantity sold	Unit price
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65, therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in India, as described in paragraph 1 above to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in rule 10(1)(b), should not be taken into account in establishing the unit price for the purposes of rule 7.
6. It should be noted that “profit and general expenses” referred to in rule 7(1) should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales in India, of imported goods of the same class or kind. Where the importer’s figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.
7. The “general expenses” include the direct and indirect costs of marketing the goods in question.
8. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of rule 7(1)(iii) shall be deducted under the provisions of rule 7(1)(i).
9. In determining either the commissions or the usual profits and general expenses under the provisions of rule 7(1), the question whether certain goods are “of the same class or kind” as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in India, of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of rule 7 goods of the same class or kind” includes goods imported from the same country as the goods being valued as well as goods imported from other countries.
  - i. For the purposes of rule 7(2) the “earliest date” shall be the date by which sales of the imported goods or of identical or similar imported, goods are made in sufficient quantity to establish the unit price.
  - ii. Where the method in rule 7(3) is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.
  - iii. It is recognized that the method of valuation provided for in rule 7(3) would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

**Note to rule 8**

1. As a general rule, value of imported goods is determined under these rules on the basis of information readily available in India. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside India. Furthermore, in most cases, the producer of the goods will be outside the jurisdiction of the proper officer. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the proper officer the necessary costings and to provide facilities for any subsequent verification which may be necessary.
2. The “cost or value” referred to in clause (a) of rule 8 is to be determined on the basis of information relating

to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

3. The “cost or value” shall include the cost of elements specified in clauses (1)(a)(ii) and (1)(a)(iii) of rule 10. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to rule 10, of any element specified in rule 10(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in rule 10(1)(b)(iv) which are undertaken in India shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.
4. The “amount for profit and general expenses” referred to in clause (b) of rule 8 is to be determined on the basis of information supplied by or on behalf of the producer unless the producer’s figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India.
5. It should be noted in this context that the “amount for profit and general expenses” has to be taken as a whole. It follows that if, in any particular case, producer’s profit figure is low and his general expenses are high, the producer’s profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in India and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken into account provided that he has valid commercial reasons to justify them and his pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in India and accept a low profit to maintain competitiveness. Where the producer’s own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.
6. The “general expenses” referred to in clause (b) of rule 8 covers the direct and indirect costs of producing and selling the goods for export which are not included under clause (a) of rule 8.
7. Whether certain goods are “of the same class or kind” as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of rule 8, sales for export to India of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of rule 8 “goods of the same class or kind” must be from the same country as the goods being valued.

### Note to rule 9

1. Value of imported goods determined under the provisions of rule 9 should to the greatest extent possible, be based on previously determined customs values.
2. The methods of valuation to be employed under rule 9 may be those laid down in rules 3 to 8, inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of rule 9.

3. Some examples of reasonable flexibility are as follows:
  - a. Identical goods. - The requirement that the identical goods should be imported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of rules 7 and 8 could be used.
  - b. Similar goods. - The requirement that the similar goods should be imported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of rules 7 and 8 could be used.
  - c. Deductive method. - The requirement that the goods shall have been sold in the “condition as imported” in rule 7(1) could be flexibly interpreted; the ninety days requirement could be administered flexibly.

#### Note to rule 10

In rule 10(l)(a)(i), the term “buying commissions” means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

#### Rule 10(l)(b)(ii)

1. There are two factors involved in the apportionment of the elements specified in rule 10(l)(b)(ii) to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.
2. Concerning the value of the element, if the importer acquires the element from a seller not related to him at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.
  - i. Once a value has been determined for the element it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, he may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.
  - ii. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10000 units. By the time of arrival of the first shipment of 1000 units, the producer has already produced 4,000 units. The importer may request the proper officer of customs to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

### Rule 10(l)(b)(iv)

1. Additions for the elements specified in rule 10(l)(b)(iv) should be based on objective and quantifiable data. In order to minimize the burden for both the importer and proper officer of customs in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.
2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.
3. The case with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.
4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design center outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of rule 10.
5. In another case, a firm may carry the cost of the design center outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of rule 10 with respect to the imported goods by apportioning total design center costs over total production benefiting from the design center and adding such apportioned cost on a unit basis to imports.
6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.
7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the country of importation.

### Rule 10(l)(c)

1. The royalties and license fees referred to in rule 10(l)(c) may include among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.
2. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

### Rule 10(3)

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of rule 10, the transaction value cannot be determined under the provisions of rule 3. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a liter of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors, which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would

be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

### Valuation of exported goods

The value of export goods shall be deemed to be the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of exportation in the course of international trade.

The above price is taken into consideration only when following conditions are satisfied -

- a. The seller and the buyer have no interest in the business of each other;
- b. One of them has no interest in the business of other; and
- c. The price is the sole consideration for the sale or offer for sale.

#### Notes

1. Price shall be calculated with reference to the rate of exchange as in force on the date on which a shipping bill or bill of export is presented. It is to be noted that rate determined by the Board shall be considered.
2. Generally, free on board value shall be considered as price for export. If the export sale contract is a CIF contract, then post exportation elements like insurance, freight are required to be adjusted.

### 6.3.2 Customs Valuation (Determination of Value of Export Goods) Rules, 2007

#### Rule 1 Short title, commencement and application:

1. These rules may be called the Customs Valuation (Determination of Value of Export Goods) Rules, 2007.
2. They shall come into force on the 10th day of October, 2007
3. They shall apply to the export goods.

#### Rule 2 Definitions

1. Goods of like kind and quality means export goods which are identical or similar in physical characteristics, quality and reputation as the goods being valued, and perform the same functions or are commercially interchangeable with the goods being valued, produced by the same person or a different person; and
2. Transaction Value means the value of export goods within the meaning of sec. 14(1) of the Customs Act, 1962

#### Rule 3 Determination of the method of valuation

1. Subject to rule 8, the value of export goods shall be the transaction value.
2. The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.
3. If the value cannot be determined under the provisions of sub-rule (1) and sub-rule (2), the value shall be determined by proceeding sequentially through rules 4 to 6.

**Rule 4 Determination of export value by comparison**

1. The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted in accordance with the provisions of sub-rule (2).
2. In determining the value of export goods under sub-rule (1), the proper officer shall make such adjustments as appear to him reasonable, taking into consideration the relevant factors, including-
  - i. difference in the dates of exportation,
  - ii. difference in commercial levels and quantity levels,
  - iii. difference in composition, quality and design between the goods to be assessed and the goods with which they are being compared,
  - iv. difference in domestic freight and insurance charges depending on the place of exportation.

**Rule 5 Computed value method**

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include the following:-

1. cost of production, manufacture or processing of export goods;
2. charges, if any, for the design or brand;
3. an amount towards profit.

**Rule 6 Residual method**

1. Subject to the provisions of rule 3, where the value of the export goods cannot be determined under the provisions of rules 4 and 5, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

**Rule 7 Declaration by the exporter**

The exporter shall furnish a declaration relating to the value of export goods in the manner specified in this behalf.

**Rule 8 Rejection of declared value**

1. When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any export goods, he may ask the exporter of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such exporter, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, the transaction value shall be deemed to have not been determined in accordance with sub-rule (1) of rule 3.
2. At the request of an exporter, the proper officer shall intimate the exporter in writing the ground for doubting the truth or accuracy of the value declared in relation to the export goods by such exporter and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation - (1) For the removal of doubts, it is hereby declared that-

- i. This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 6.
- ii. The declared value shall be accepted where the proper officer is satisfied about the truth or accuracy of the declared value after the said inquiry in consultation with the exporter.
- iii. The proper officer shall have the powers to raise doubts on the declared value based on certain reasons which may include-
  - a. the significant variation in value at which goods of like kind and quality exported at or about the same time in comparable quantities in a comparable commercial transaction were assessed.
  - b. the significantly higher value compared to the market value of goods of like kind and quality at the time of export
  - c. the declaration of goods in parameters such as description, quality, quantity, year of manufacture or production.

# Computation of Assessable Value and Duties

## 6.4

### Date for determination of rate of duty and tariff valuation of imported goods [Sec. 15]

The rate of duty and tariff valuation (if any) applicable to any imported goods shall be rate and valuation in force –

Case	Rate and Tariff Value, if any, in force on
Goods entered for home consumption u/s 46	Date on which bill of entry is presented
Goods cleared from warehouse for home consumption	Date on which bill of entry for home consumption is presented
In any other case	Date on which duty is paid

#### Taxpoint

1. Where a bill of entry has been presented before the date of -

➤ Entry inwards of the vessel	The bill of entry shall be deemed to have been presented on the date of such entry inwards
➤ Arrival of the aircraft or vehicle	The bill of entry shall be deemed to have been presented on the date of arrival of aircraft or vehicle
It is to be noted that for determining assessable value, rate of exchange in force on actual submission of bill of entry shall be taken.	

#### Example 6:

If Bill of entry is presented on 10-10-2022 and the aircraft arrived on 20-10-2022, in this situation, relevant date for determination of rate of duty and tariff valuation (if any) is 20-10-2022. Though the bill of entry is presented on 10-10-2022 for procedural purpose, but for the purpose of determination of rate of duty and tariff valuation, bill of entry will be deemed to have been filed on 20-10-2022.

2. The provision of this section shall not apply to baggage and goods imported by post.
3. Further, Social welfare surcharge @ 10% of the basic customs duty is also applicable.
4. Moreover, integrated tax (IGST) is also payable at applicable rate on assessable value + basic duty + social welfare surcharge. Import is considered as inter-State supply under GST laws and liable for reverse charge.

#### Illustration 9:

Assessable value of an item imported is ₹ 2,00,000. Basic customs duty is 10%, integrated tax is 18%, and social welfare surcharge is 10% on duty. Compute the amount of total customs duty and integrated tax payable. Ignore GST Compensation Cess.

**Solution:**

Computation of customs duty

	Particulars	₹
1.	Assessable Value	2,00,000
2.	Basic customs duty @ 10%	20,000
3.	Add: Social Welfare surcharge @ 10% on ₹ 20,000	2,000
4.	Sub-total	2,22,000
5.	Integrated tax @ 18% of ₹ 2,22,000	39,960
6.	<b>Total customs duty and integrated tax payable [(2) + (3) + (5)]</b>	<b>61,960</b>

**Illustration 10:**

X & Co. imported some goods from USA for being used in manufacture of its final product. Determine the exchange rate to be considered for computation of import duty from the following information:

Date	Particulars	Rate of exchange for 1 US\$ notified	
		By CBIC	By RBI
10.10.22	Import general manifest was submitted by master of vessel	₹ 64.20	₹ 63.20
15.10.22	Entry Inwards was granted by the customs officer	₹ 64.30	₹ 65.30
22.10.22	X & Co. presented the Bill of Entry	₹ 64.50	₹ 62.50
31.10.22	Goods were allowed to be cleared from the customs port	₹ 64.60	₹ 63.60

**Solution:**

The relevant rate of exchange for the purpose of valuation of imported goods is the rate of exchange (being notified by CBIC) as in force on the date on which a bill of entry in relation to imported goods is presented, i.e. 1 US \$ = ₹ 64.50. Further, rate of exchange notified by CBIC is relevant. Rate notified by RBI is not relevant.

**Date for determination of rate of duty and tariff valuation of export goods [Sec. 16]**

The rate of duty and tariff valuation (if any) applicable to any export goods shall be rate and valuation in force –

Case	Rate and Tariff Value, if any, in force on
When goods entered for export u/s 50	Date on which the proper officer makes an order permitting clearance and loading of the goods for exportation u/s 51
In any other case	Date on which duty is paid

**Note:** The provision of this section shall not apply to baggage and goods imported by post.

**Illustration 11:**

Malya Internationals Ltd., has imported a machinery by air from Germany. Bill of Entry is presented on 20.01.2023. However, entry inwards is granted on 25.01.2023. Relevant information of the transaction are provided hereunder:

(i)	CIF Value of Machine	5,500 USD
(ii)	Air Freight Paid	1250 USD
(iii)	Insurance Charges Paid	100 USD

## Indirect Taxation

(iv)	Rate of Exchange on 20.01.2023	As per RBI 1 USD = ₹ 65.50 As per CBIC 1 USD = ₹ 66
(v)	Rate of Exchange on 25.01.2023	As per RBI 1 USD = ₹ 66.50 As per CBIC 1 USD = ₹ 67
(vi)	Basic Customs Duty Rate	10%
(vii)	IGST Rate	18%

Calculate the assessable value in INR for the purposes of levy of customs duty as well as total customs duty.

### Solution:

Computation of assessable value

Particulars	Amount in \$
CIF Value	5,500
Less: Air Freight	1250
Less: Insurance	100
<b>FOB Value</b>	<b>4,150</b>
Add: Air Freight [Since actual air freight is more than 20% of FOB, 20% of FOB shall be considered (4150 x 20% = 830)]	830
Add: Insurance	100
<b>Assessable Value (in US \$)</b>	<b>5,080</b>
<b>Assessable Value in ₹</b>	<b>3,35,280</b>

Computation of customs duty

Particulars	Details	Amount
Assessable Value	3,55,280	
Add: Basic Customs Duty @ 10%	35,528	35,528
Add: Social Welfare Surcharge @ 10% on BCD	3,553	3,553
<b>Total [A]</b>	<b>3,94,361</b>	
Add: IGST @ 18% [A x 18%]	70,985	70,985
<b>Total duty payable</b>		<b>4,33,442</b>

### Illustration 12:

Compute the total duty and integrated tax payable under the Customs Law on an imported equipment based on the following information:

- Assessable value of the imported equipment US \$ 10,100
- Date of bill of entry is 25th April. Basic customs duty on this date is 10% and exchange rate notified by the Central Board of Indirect taxes and Customs is US \$ 1 = ₹ 65.
- Date of entry inwards is 21st April. Basic customs duty on this date is 20% and exchange rate notified by the Central Board of Indirect taxes and Customs is US \$ 1 = ₹ 70.
- Integrated tax: 18%
- Social Welfare surcharge 10%

**Solution:**

Computation of customs duty

Particulars	₹
Assessable value (\$ 10,100 x 65)	6,56,500
Add: Basic custom duty @ 10% [A]	65,650
Add: Social Welfare Surcharge @ 10% on ₹ 65,650 [B]	6,565
Value for computing IGST	7,28,715
Add: Integrated tax @ 18% [C]	1,31,169
<b>Total Customs duty and integrated tax payable [A + B + C]</b>	<b>2,03,384</b>

**Illustration 13:**

RPG Ltd. imported 125 units of minerals from High Seas for sale in India. Selling price is exclusive of duties and taxes. Freight from port to depot in India is ₹ 2,530 and insurance ₹ 310.

Sale quantity	Unit price (₹ )
80	105
60	90
30	105
100	100
50	95
70	90
10	105

Basic Customs Duty - 12%. Assume there is no IGST applicable for the product.

You are required to calculate total customs duty as per Rule 7 of customs valuation (Determination of value of imported goods) Rules 20017.

**Solution:**

First of all, we are required to determine the price at which greatest quantity of the product is sold

Total quantity (Unit)	Unit price (₹ )
130	90
50	95
100	100
120	105

The greatest number of units sold at a particular price is 130 units. Therefore, the unit price in the greatest aggregate quantity is ₹ 90.

## Indirect Taxation

Particulars	₹
Selling price (125 x ₹ 90)	1,1250
Less: Freight (post shipment)	(2,530)
Less: Insurance (Post shipment)	(310)
<b>Assessable value</b>	<b>8,410</b>
<b>Custom duty [(12% + 10% SWS of BCD) = 13.20%]</b>	<b>1,110</b>

### Illustration 14:

From the undermentioned relating to import made on 12.10.2022 of product 'Minic' from New York, USA, to the Kochi Airport, by Mr. Prahalad, the importer:

FOB value of the product	\$ 10,000
Cost of transport	\$3,500
Insurance	\$ 1,000
Unloading charges at Kochi Airport	₹ 24,800
Basic customs duty	10%
IGST	18%
Exchange rate notified by RBI	1\$ = ₹ 64.50
Exchange rate notified by CBIC	1\$ = ₹ 64

Ascertain the assessable value and total tax and duty payable by Mr. Prahalad.

### Solution:

Computation of assessable value and customs duty

Particulars	Amount (\$)
FOB value of the product	10,000
Cost of transport [restricted to 20% of FOB]	2,000
Insurance (Actual) [if actual amount of insurance is known, the same is to be taken]	1,000
<b>CIF Value</b>	<b>13,000</b>
	<b>Amount (₹)</b>
<b>Assessable value (13,000 × 64)</b>	<b>8,32,000</b>
Basic customs duty at 10% [A]	83,200
Add: Social Welfare Surcharge @ 10% of custom duty [B]	8,320
<b>Value for the purpose of levying integrated tax</b>	<b>9,23,520</b>
Add: Integrated tax @ 18% [C]	1,66,234
<b>Total duty &amp; tax payable [A + B + C]</b>	<b>2,57,754</b>

ITC of ₹ 1,66,234/- is available against payment of IGST.

### Illustration 15:

Compute the Assessable Value of a machine imported from Germany by RLI Ltd., under Customs Act, 1962. Also determine the duty liability of RLI Ltd.

Particulars	USDS
FOB Value	30,000
Air Freight Paid	7,250
Insurance Cost	Not Known
Designing Charges incurred in India	₹ 15,000
Indian Agent's Commission	₹ 20,000
Transport Charges from port to factory in India	₹ 15,000
Rate of duty	10%
IGST	18%
Rate of exchange notified by CBEC	₹ 65 per USD

**Solution:**

Computation of assessable value and customs duty

Particulars	Amount
FOB Value	\$ 30,000.00
Add: Insurance @ 1.125% of FOB Value	\$ 337.50
Add: Air Freight (restricted to 20% of FOB)	\$ 6,000.00
	\$ 36,337.50
Value in INR @ ₹ 65	₹ 23,61,938.00
Add: Local Agent's Commission	₹ 20,000.00
<b>Assessable Value for Customs</b>	<b>₹ 23,81,938.00</b>
Basic customs duty at 10% [A]	2,38,194.00
Add: Social Welfare Surcharge @ 10% of custom duty [B]	23,819.00
Value for the purpose of levying integrated tax	26,43,951.00
Add: Integrated tax @ 18% [C]	4,75,911.00
<b>Total duty &amp; tax payable [A + B + C]</b>	<b>7,37,924.00</b>

**Illustration 16:**

Informatics Ltd., imported a photography printer by air from Best Inc., of USA, as per following details.

Particulars	US \$
CIF Value	4,500
Air Freight Paid	1,000
Insurance Cost	250
Rate of exchange notified by CBEC	₹ 64.50 per USD
Inter Bank Selling Rate	₹ 65 per USD.
Basic Customs Duty	10% ad valorem.
IGST	18%

You are required to compute the Assessable Value and Import Duty payable by Informatics Ltd.

## Indirect Taxation

### Solution:

Computation of assessable value and customs duty

Particulars	Amount in \$
CIF Value	4,500
Less: Air Freight	1,000
Less: Insurance	250
<b>FOB Value</b>	<b>3,250</b>
Add: Air Freight [Since actual air freight is more than 20% of FOB, 20% of FOB shall be considered (3,250 x 20% = 650)]	650
Add: Insurance	250
<b>Assessable Value (in US \$)</b>	<b>4,150</b>
<b>Assessable Value in ₹ [US \$ 4,150 x ₹ 64.50]</b>	<b>2,67,675</b>

Computation of customs duty

Particulars	Details	Amount
Assessable Value	2,67,675	
Add: Basic Customs Duty @ 10%	26,768	26,768
Add: Social Welfare Surcharge @ 10% on BCD	2,677	2,677
<b>Total [A]</b>	<b>2,97,120</b>	
Add: IGST @ 18% [A x 18%]	53,482	53,482
<b>Total duty payable</b>		<b>82,927</b>

### Illustration 17:

R Ltd. has imported one machine from England. It has given the following particulars:

- Price of machine 8,000 UK Pounds
- Freight paid (air) 2,500 UK Pounds
- Design and development charges paid in UK 500 UK Pounds
- Commission payable to local agent of exporter @ 2% of price of machine, in Indian Rupees
- Date of bill of entry: 24th October (Rate BCD 10%; Exchange rate as notified by CBIC ₹ 100 per UK Pound)
- Date of arrival of aircraft: 20th October (Rate of BCD 15%; Exchange rate as notified by CBIC ₹ 97 per UK Pound)
- Integrated tax is 18%
- Insurance charges have been actually paid but details are not available.

Compute the total customs duty and integrated tax payable

**Solution:**

Computation of assessable value and customs duty

Particular	Amount (UK P)
Price of machine	8,000
Add: Design and development charges	500
Total	8,500
	<b>Amount in ₹</b>
Total in rupees @ ₹ 100 per pound	8,50,000
Add: Local agency commission [(2% of 8,000 UK pounds) × ₹ 100]	16,000
FOB value as per Customs	8,66,000
Add: Air freight (₹ 8,66,000 x 20%)	1,73,200
Add: Insurance @ 1.125% of customs FOB	9,743
<b>CIF Value / Assessable value</b>	<b>10,48,943</b>
Add: Basic custom duty @ 10% [A]	1,04,894
Add: Social Welfare Surcharge @ 10% on ₹ 1,04,894 [B]	10,489
Value for computing IGST	11,64,326
Add: Integrated tax @ 18% [C]	2,09,579
<b>Total duty &amp; integrated tax payable [A + B + C]</b>	<b>3,24,962</b>

**Illustration 18:**

ABC Industries Ltd. of Mumbai imported one machine through vessel from Japan, in the month of November. The following particulars are made available for computation of customs duty:

S.N	Particulars	Amount in JPY (¥)
(i)	Cost upto port of exportation incurred by exporter	6,00,000
(ii)	Loading charges at port of exportation	25,000
(iii)	Freight charges from port of export to port of import in India.	1,00,000
Following additional amounts paid by ABC Industries Ltd:-		
(i)	Designing charges, necessary for the machine, paid to consultancy firm in Delhi	8,00,000
(ii)	Commission paid (not buying commission) to the local agent of exporter	1,25,000
(iii)	Actual landing charges paid at the place of importation.	15,000
(iv)	Actual insurance charges paid to the place of importation is not ascertainable	
(v)	Lighterage charges paid at the port of importation	20,000
Other information		
(i)	Rate of basic customs duty	10%
(ii)	Rate of social welfare surcharge	10%
(iii)	Integrated tax	18%
(iv)	Ignore GST compensation cess.	
(v)	Rate of exchange to be taken 1 Japanese Yen (¥) =	₹ 0.71

## Indirect Taxation

### Solution:

Computation of assessable value and customs duty

	Amount in JPY (¥)
Cost upto port of exportation	6,00,000
Add: Loading charges at the port of exportation	25,000
Total in Japanese Yen	6,25,000
	In ₹
Total in Indian rupees @ ₹ 0.71 per Japanese Yen	4,43,750
Add: Commission paid to local agent of exporter	1,25,000
FOB value as per customs	5,68,750
Add: Freight charges from port of export to port of import in India [1,00,000 JPY × 0.71 = ₹ 71,000]	71,000
Add: Lighterage charges paid by the importer at port of importation	20,000
Add: Insurance charges @ 1.125% of FOB [₹ 5,68,750 × 1.125%]	6,398
<b>CIF value / Assessable Value</b>	<b>6,66,148</b>
Add: Basic customs duty @ 10% of ₹ 6,66,148	66,615
Add: Social welfare surcharge @ 10% of ₹ 66,615	6,662
Value for computing IGST	7,39,425
Add: Integrated tax @ 18% of ₹ 7,39,425	1,33,097
<b>Total custom duty and integrated tax payable [(A) +(B) + (C)]</b>	<b>2,06,374</b>

### Solved Case 1:

A commodity is imported into India from a country covered by a notification issue by the Central Government u/s 9A of the Customs Tariff Act, 1975. Following particulars are made available:

- Assessable Value for levying Basic Customs Duty: ₹ 6,31,250
- Quantity imported: 250 kgs.
- Basic customs duty: 10%
- IGST: 18%

As per the notification, the anti-dumping duty will be equal to the difference between the cost of commodity calculated @ US\$ 50 per kg (Exchange Rate is 1 USD = INR 70) and the landed value of the commodity as imported

State the amount payable on account of:

- a. Basic customs duty
- b. Anti-dumping duty
- c. IGST

**Solution:**

**Computation of Customs Duty, SWS, anti-dumping duty and IGST**

Particulars	Details	₹
Assessable Value		6,31,250
Basic Customs Duty @ 10% on ₹ 6,31,250 [A]		63,125
Add: SWS @ 10% [B]		6,313
Landed value of imported goods [C]		7,00,688
Rate of commodity as per Anti Dumping Notification per kg.	US\$ 50	
Quantity Imported	250 Kg	
Value as per notification (500 x 50)	US\$ 12,500	
Exchange rate 1US\$	₹ 70	
Market Value in ₹ [D]	8,75,000	
Add: Anti-dumping Duty [E = D - C]		1,74,312
Value for levying IGST [F]		8,75,000
Add: IGST @ 18% of [F]		1,57,500
<b>Total Customs Duty Payable [A + B + E + F]</b>		<b>4,01,250</b>

## Exercise

### A. Theoretical Questions:

#### ➤ Multiple Choice Questions

1. The limit of exclusive economic zone of India is \_\_\_\_\_ from the nearest point of the baseline
  - a. 200 nautical miles
  - b. 12 nautical miles
  - c. 24 nautical miles
  - d. None of the above
  
2. Which of the following is a taxable event for imported goods?
  - a. Date on which the goods cross the customs barrier
  - b. Date of presentation of bill of entry
  - c. Date of entry into Indian territorial waters
  - d. Unloading of imported goods at the customs port
  
3. Basic custom duty on imported goods is levied at the rates specified in the
  - a. First Schedule of the Customs Tariff Act, 1975
  - b. Second Schedule of the Customs Tariff Act, 1975
  - c. Customs Act
  - d. Customs Manual
  
4. For the purpose of computing IGST on imported goods, one of the following shall not be included in the value for computation:
  - a. GST Compensation Cess
  - b. Social Welfare Surcharge
  - c. Anti-dumping duty
  - d. None of the above
  
5. Where the insurance amount is not available, for ascertaining the assessable value for customs duty, the percentage of FOB value to be taken is:
  - a. 1
  - b. 1.125
  - c. 1.5
  - d. None of the above
  
6. Where the transport charges is not available, for ascertaining the assessable value for customs duty, the percentage of FOB value to be taken is:
  - a. 10%
  - b. 20%
  - c. 25%
  - d. None of the above

7. Transportation charges incurred by the importee for transporting goods from factory of the exporter to the port of exportation shall be included in the assessable value. Is this statement correct?
  - a. Yes
  - b. No
  - c. Yes, if such charges has been paid in foreign currency
  - d. None of the above
8. As per Section 2(31) person in charge means
  - a. Vessel - Master
  - b. Train - Conductor (or) Guard
  - c. Vehicle – Driver
  - d. All of the above
9. Goods which are same in all respects, including physical quantity is known as
  - a. Identical Goods
  - b. Similar Goods
  - c. Alike Goods
  - d. None of the above
10. Buying commission shall be included in the assessable value. Is this statement correct?
  - a. No
  - b. Yes
  - c. Yes, if buying commission is paid in foreign currency
  - d. None of the above

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

➤ **State True or False**

1. Entry No. 83 of the List I to the Schedule VII of the Constitution empowers the Union Government to legislate and collect duties on imports and exports
2. The Customs Act, 1962 extends to whole of India except in the state of Jammu and Kashmir
3. The exclusive economic zone of India is an area beyond and adjacent to the territorial waters, and the limit of such zone is 100 nautical miles from the baseline.
4. Coastal goods means goods, other than imported goods, transported in a vessel from one port in India to another
5. For the purpose of computing assessable value, insurance cost @ 1.125% of the FOB value shall always be taken
6. In case of air transport, transportation cost should be restricted to 20% of the FOB value, while computing assessable value

7. Rate of exchange provided by the CBIC shall be considered while computing assessable value for customs
8. On the request of importer, the order of application of valuation rules 7 (i.e. Deductive value) and 8 (i.e. Computed value) shall be reversed
9. Safeguard duty shall also be considered while computing social welfare surcharge
10. Margin of dumping means the positive difference between normal value and export price.

[Answer: 1.True; 2. False; 3. False; 4. True; 5. False; 6. True; 7. True; 8. True; 9. False ; 10. True]

➤ **Fill in the blanks**

1. Baggage includes unaccompanied baggage but does not include \_\_\_\_\_;
2. \_\_\_\_\_ means goods for use in a vessel or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting
3. Sec. \_\_\_ of the Customs Act empowers the Government to grant exemption.
4. In order to protect the interests of any industry established in India, Central Government may impose \_\_\_\_\_ on any goods imported into India.
5. Anti-dumping duty shall be in force for \_\_\_\_ (unless revoked earlier) from the date of its imposition
6. The value of the imported goods shall be the \_\_\_\_ of such goods
7. For the purpose of customs, exchange rate notified by \_\_\_\_ shall be considered
8. Buying commission shall \_\_\_\_ (be included / not be included), while computing assessable value
9. Anti-dumping duty is levied as per sec. \_\_\_\_ of the Customs Tariff Act, 1975.
10. Goods being derelict, wreck, jetsam and flotsam brought or coming into India shall be dealt with as if they were \_\_\_\_\_ into India.

[Answer: 1. - Motor; 2.- Stores ; 3. - Sec 25 ; 4.- Protective Duty ; 5. - 5 yrs ;  
6. - Transaction ; 7. - CBIC ; 8. - Not be included. ; 9. - 9A; 10.- Imported ]

➤ **Short Essay Type Questions**

1. State the provision relating to abatement of duty on damaged or deteriorated goods u/s 22.
2. Define Foreign-going vessel or aircraft.
3. Write a short note on Indian customs water.
4. What do you mean by anti-dumping duty?
5. Write a note on safeguard duty.
6. As per rule 10 of the Valuation Rules, certain items are required to be included in the assessable value. Mention any 5 such items.
7. Write a note on inclusion of freight charges in the assessable value.
8. What is identical goods?
9. What is similar goods?
10. While computing social welfare surcharge, some of the duties are not considered in the value, please mention those duties.

**B. Numerical Questions**

➤ **Comprehensive Numerical Problems**

1. System Ltd., imported a machine by air from Rest Inc., of USA, as per following details.

Particulars	US \$
CIF Value	9,000
Air Freight Paid	2,000
Insurance Cost	500
Rate of exchange notified by CBEC	₹ 64.50 per USD
Inter Bank Selling Rate	₹ 65 per USD.
Basic Customs Duty	10% ad valorem.
IGST	18%

You are required to compute the Assessable Value and Import Duty payable by System Ltd.

[Hints: ₹ 1,65,854]

➤ **Unsolved Case**

1. Ms. Pavitra, an importer has furnished the following information relating to goods imported by her in March, 2023:
- i. Goods cleared from the Chennai port on 22/03/2023.
  - ii. Goods sent for warehousing by submitting bill of entry and other documents
  - iii. FOB value of goods € (Euro) 20,000
  - iv. Rate of exchange was 1 € = ₹ 70
  - v. Rate of Customs Duty on this date was 12%
  - vi. Goods were cleared from the warehouse for home consumption on 20/04/2023.
  - vii. Rate of exchange on this date was 1 € = ₹ 71 and BCD was 10%.
  - viii. IGST at 12% is applicable
  - ix. Social Welfare surcharge may be taken at 10%

On the basis of aforesaid information, you are requested to answer for the following:

- a. What will be the transaction value on which IGST is payable?
- b. What will be the total Customs Duties payable by the importer?

[Hints: (a) ₹ 18,82,283; (b) ₹ 4,12,407]

➤ **References:**

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





