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**CS-EXECUTIVE
TAX LAW
(MODULE-1)**

TAX LAW (GST)

FOR JUNE & DECEMBER

2020

ATTEMPTS

**[AS AMENDED BY GST AMENDMENT ACT 2019
and NOTIFICATIONS UPTO 31.12.2019]**

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**With the blessings
of Maa Saraswati,
this book is dedicated
to my beloved
MOTHER, WIFE,
SON ("Shresth") and
DAUGHTER ("Sara")**

Preface

Tax Law, Paper-4 (Module-I), is very vast but a dynamic subject. It includes, Income Tax, Goods and Services Tax (GST) and for New Syllabus Customs Act too.

All we know, taxation provisions amend frequently, thus, continuous study is vital for understanding and retaining this subject.

This subject is most scoring, as paper on it covers both theoretical and practical questions.

In addition, at Final level Advance Tax Law (Module - I), will be easy to handle if one is equipped with a level of understanding of Tax Law.

After becoming Company Secretary, practice in the field of Direct Tax Law or Indirect Tax Law is also highly remunerating.

This book covers syllabus prescribed by ICSI in easy to understand and summarised way. Practice material provided in this book is based on old pattern (Multiple Choice Questions) and new pattern Subjective Questions as prescribed by ICSI. Other salient features of this book are :

- ♦ High Standard MCQs and Subjective Questions;
- ♦ Highly updated provisions;
- ♦ Simple language;
- ♦ Use of tables and charts to explain complex provisions;
- ♦ Very neat and clean presentation.

Acknowledgment: We have made our most sincere efforts to avoid any error or omission in writing this book. Despite this, if any imperfection is noticed, we welcome your feedback/suggestions at casandeepsahrawat@gmail.com

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INTRODUCTION TO GOODS AND SERVICE TAX (GST)



A much awaited GST is finally introduced in India w.e.f. July 1, 2017. It is introduced as The Constitution (One Hundred and First Amendment) Act 2016, following the passage of Constitution 101st Amendment Bill. The GST is governed by GST Council and its Chairman is Union Finance Minister of India - Arun Jaitley.

GST is a comprehensive indirect tax on manufacture, sale and consumption of goods and services throughout India to replace taxes levied by the central and state governments. GST to replace following levies :

- (i) Central Excise Duty
- (ii) Central Sales Tax
- (iii) Value Added Tax
- (iv) Service Tax
- (v) CVD and special CVD of Customs Act
- (vi) Octroi, Entertainment tax, Entry Tax Luxury tax etc.

Salient features of GST are as follows :

- **INTRODUCTION :** The Central Goods and Services Tax Bill, 2017 was introduced in Lok Sabha on March 27, 2017. The Bill provides for the levy of the Central Goods and Services Tax (CGST).
- **LEVY OF CGST :** The centre will levy CGST on the supply of goods and services within the boundary of a state. Supply include sale, transfer and lease made for a consideration to further a business.
- **TAX RATES :** The tax rates of CGST will be recommended by the GST Council. This rate will not exceed 20%. In addition, the Act allows certain taxpayers whose turnover is less than Rs 75 lakh to pay GST at a flat rate on turnover (known as composition levy), instead on the value of supply of goods and services. Rate of GST under composition levy are 0.5%, 1% and 2.5%.
- **EXEMPTIONS FROM CGST :** The centre may exempt certain goods and services from the purview of GST through a notification. This will be based on the recommendations of the GST Council.
- **LIABILITY TO PAY CGST :** The liability to pay CGST in relation to supply of goods and services will arise on the date of : (i) issue of invoice, (ii) receipt of payment, whichever is the earliest.
- **TAXABLE AMOUNT (VALUE OF SUPPLY) :** CGST will be levied on the supply of goods and services, whose

value includes: (i) price paid on the supply; (ii) taxes and duties levied under a different tax law; (iii) interest, late fee, penalties for delayed payments, among others.

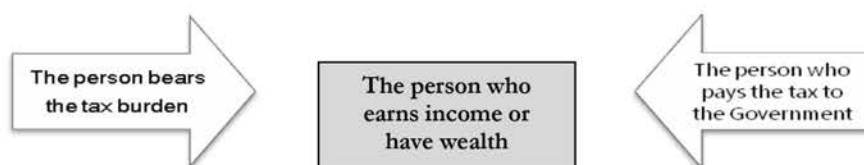
- **INPUT TAX CREDIT** : Every taxpayer while paying taxes on outputs, may take credit equivalent to taxes paid on inputs. However, this will not be applicable on supplies related to: (i) personal consumption, (ii) supply of food, outdoor catering, health services, etc.
- **REGISTRATION** : Every person who makes supply of goods and services and whose turnover exceeds Rs 20 lakh will have to register in every state where he conducts business. The turnover threshold is Rs 10 lakh for special category states.
- **RETURNS** : Every taxpayer would have to self-assess and file tax returns on a monthly basis by submitting: (i) details of supplies provided, (ii) details of supplies received, and (iii) payment of tax. In addition to the monthly returns, an annual return will have to be filed by each taxpayer.
- **REFUNDS AND WELFARE FUND** : Any taxpayer may apply for refund of taxes in cases including: (i) payment of taxes in excess, or (ii) unutilized input tax credit. Upon such application, the refund may be credited to the taxpayer, or to a Consumer Welfare Fund. The Fund will be used for the purpose of consumer welfare.
- **PROSECUTION AND APPEALS** : For offences such as mis-reporting of: (i) goods and services supplied, or (ii) details furnished in invoices, a person may be fined, imprisoned, or both by the CGST Commissioner. Such orders can be appealed before the Goods and Services Tax Appellate Tribunal, and further before the High Court.
- **TRANSITION TO THE NEW REGIME** : Taxpayers with unutilised input tax credit obtained under the current laws such as CENVAT may utilise it under GST. In addition, businesses may also avail input tax credit on stock purchased before the start of implementation of GST.
- **ANTI-PROFITEERING MEASURE** : The central government may by law set up an authority or designate an existing authority to examine if reduction in tax rate has resulted in commensurate reduction in prices of goods and services. The powers of the authority will be prescribed by the government.
- **COMPLIANCE RATING** : Every taxpayer shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Bill. The compliance rating score will be updated at periodic intervals and be placed in the public domain.

1.1 Taxes in India

The present structure of taxes in India is based on three lists in Seventh Schedule to Constitution of India, which came into effect on 26-1-1950. These lists are mostly based on Government of India Act, 1935. The provisions were based on situation prevailing in 1935.

The word “tax” is derived from latin word *taxo* which means “rate”. Tax is a financial charge or other levy imposed on taxpayers by the Government. Tax is thus, a statutory levy, the failure of which may result punishment. Taxes are of following two types :

♦ **Direct Taxes** : Direct taxes are imposed on tax payer’s income, wealth etc. It is a kind of charge, which is imposed directly on the taxpayer and is paid directly to the credit of Government by him. Thus, the person (*i.e.* taxpayer) who bears its burden and the person who pays it to the Government must be SAME. The burden of direct taxes cannot be shifted to someone else. The common direct taxes are Income-tax and Wealth-tax.



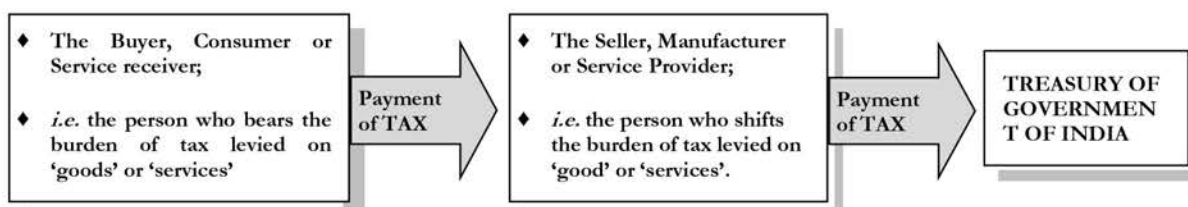
Direct taxes, specially, income tax is the huge source of revenue to Government Treasury. The position regarding collections from direct taxes is as under:

*(Rs. crore)

| Year | 2017-2018 | 2018-2019 | 2018-2019 | 2019-2020 |
|------------|-----------|--------------------|---------------------|--------------------|
| | [Actual] | [Budget Estimates] | [Revised Estimates] | [Budget Estimates] |
| Income tax | 990,092 | 11,39,000 | 1189,000 | 1367,200 |

♦ **Indirect Taxes :** Indirect taxes are levied on ‘goods’ and ‘services’ rather than on ‘income’ or ‘wealth’. In case of indirect taxes the tax burden is shifted from one person to another. These taxes are collected by the seller/manufacturer/service provider from the buyer/consumer/service receiver and then deposited to the credit of the Government.

Thus, the person who bears burden of indirect taxes (*i.e.* the buyer/consumer/service receiver) and the person who pays these taxes (*i.e.* the seller/manufacturer/service provider) to the credit of Government must be DIFFERENT.



E.g.—Under Excise, the liability to pay excise duty is on ‘manufacturer’ of excisable goods; who in turn, recovers it from the ‘buyer’ and deposits to the credit of Central Government. Thus, the burden is shifted from ‘manufacturer’ to the ‘buyer’.

Indirect taxes (before introduction of GST) were Customs, Central Excise, Service Tax, Central Sales Tax, VAT and State Excise.

1.2 Constitutional validity of various taxes in India

Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that “no tax shall be levied or collected except by authority of law.”

Thus, the Government may levy a tax on the citizens only under the authority of the Constitution of India. The Constitution, in its Schedule VII, has enumerated the matters on which the Central Government and the State Government can make laws (Article 246). These matters are divided into following three categories :

| | |
|-----------------------------|---|
| List I – Union List | It contains the matters in respect of which only the Central Government has the power of legislation. |
| List II – State List | It contains the matters in respect of which only the State Government has the power of legislation. |

| | |
|-----------------------------------|--|
| List III – Concurrent List | It contains the matters in respect of which both the Central and the State Governments have the power of legislation (No taxes are covered under this List). |
|-----------------------------------|--|

Entries of Lists-I (Union List)

| Relevant Entry | Levy provided by this Entry | Governing Laws |
|----------------------|---|---|
| Entry No. 82 | Income Tax <i>i.e.</i> Taxes on income other than agricultural income | ♦ Income-tax Act, 1961 ♦ Income-tax Rules, 1962 |
| Entry No. 83 | Custom Duty <i>i.e.</i> Duties of customs including export duties | ♦ Customs Act, 1962 ♦ Customs Tariff Act, 1975 |
| Entry No. 84 | Excise Duty <i>i.e.</i> Duties of excise on : - tobacco and - other goods manufactured or produced in India, EXCEPT : (i) alcoholic liquors for human consumption; (ii) opium, Indian hemp and (iii) other narcotic drugs and narcotics, but INCLUDING (iv) medicinal and toilet preparations containing alcohol or opium or Indian hemp or narcotic drugs etc. | ♦ Central Excise Act, 1944 ♦ Central Excise Tariff Act, 1985. |
| Entry No. 92A | Central Sales Tax (CST) <i>i.e.</i> 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. | ♦ Central Sales Tax Act, 1956 |
| Entry No. 92C | Service Tax <i>i.e.</i> Taxes on services | No act is so far levied by using powers of this Entry. |
| Entry No. 97 | Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists | Service Tax is levied by Finance Act, 1994 by using powers of this Entry. |

Entries of Lists-II (State List)

| Relevant Entry | Levy provided by this Entry | Governing Laws |
|---------------------|--|---------------------|
| Entry No. 51 | State Excise Duty <i>i.e.</i> Excise duty on manufacture of production of : (i) alcoholic liquors for human consumption; (ii) opium, Indian hemp and (iii) other narcotic drugs and narcotics, | ♦ State Excise Laws |
| Entry No. 54 | Value Added Tax (VAT) <i>i.e.</i> Taxes on 'sales' taking place in course of intra-state trade or commerce. | ♦ State Excise Laws |

Indirect taxes – Revenue Collection

*(Rs. crore)

| Year | 2017-2018 | 2018-2019 | 2018-2019 | 2019-2020 |
|---------|-----------|--------------------|---------------------|--------------------|
| | [Actual] | [Budget Estimates] | [Revised Estimates] | [Budget Estimates] |
| Customs | 1,29,030 | 2,30,000 | 2,17,000 | 2,45,000 |

| | | | | |
|------------------------------------|----------|----------|----------|----------|
| Central Excise | 2,58,636 | 3,18,670 | 3,87,368 | 4,06,900 |
| Service Tax | 81,228 | 2,31,000 | 2,47,500 | 2,75,000 |
| GST (CGST, UTGST, IGST, COM. CESS) | 4,44,197 | 7,46,430 | 6,46,430 | 7,64,021 |

1.3 Inefficiency of existing system of indirect taxes

Introduction of the Value Added Tax was considered to be a major step and important breakthrough in the sphere of indirect tax reforms in India. Despite the success of VAT, there were certain shortcomings in the structure of VAT. The reasons for such shortcomings were the form of mosaic of taxes being levied on goods and services, such as luxury tax, entertainment tax, etc., not subsumed in the VAT thereby marginalizing the benefits of comprehensive tax credit mechanism.

The previous tax regime has remained inefficient in fully removing the cascading effect of taxes. Besides, there were several other taxes, which both the Central Government and the State Government levied on production, manufacture and distributive trade, where no set-off was available in the form of input tax credit. These taxes added to the cost of goods and services through “tax on tax” which the final consumer had to bear.

Some of the challenges under the previous indirect tax structure could be attributed to Central Excise wherein there were variable rates under Excise Duty such as 2% without CENVAT 6%, 10%, 18%, 24%, 27%, coupled with multiple valuation system and various exemptions. Further, under VAT, different states were charging VAT at different rates, which were resulting in imbalance of trade between the states. At the same time under VAT, there was lack of uniformity in terms of registration, due date of payment, return filing assessment procedures, refund mechanism, appellate process etc., thus complicating the compliance mechanism. For example: A business establishment having offices in different states are required to follow the laws of the respective states.

Few challenges of existing indirect taxation system are below :

1. *Non-availability of CENVAT credit to dealers* : In respect of taxation of goods, CENVAT was confined to the manufacturing stage and did not extend to the distribution chain beyond the factory gate. As such, CENVAT paid on goods could not be adjusted against State VAT payable on subsequent sale of goods. This was true both for CENVAT collected on domestically produced goods as well as that collected as additional duty of customs on imported goods.
2. *Multiple CENVAT components and their restricted utilizations* : CENVAT was itself made up of several components in the nature of cesses and surcharges such as the National Calamity Contingency Duty (NCCD), education and secondary and higher education cess, additional duty of excise on tobacco and tobacco products etc. This multiplicity of duties complicated the tax structure and often used to obstruct the smooth flow of tax credit.
3. *Non-availability of VAT credit to Service Providers* : While input tax credit of CENVAT or additional duty of customs paid on goods was available to service providers paying Service Tax, they were unable to neutralize the State VAT or other State taxes paid on their purchase of goods.
4. *Levy of VAT on value inclusive of Excise Duty* : State VAT was payable on the value of goods inclusive of CENVAT paid at the manufacturing stage and thus the VAT liability of a dealer used to get inflated by this component without compensatory set-off.
5. *Non-availability of credit in case of CST* : Inter-State sale of goods was liable to the Central Sales Tax (CST) levied

by the Centre and collected by the States. This was an origin-based tax and could not be set-off against VAT in many situations.

6. *Credit of SAD was available only to manufacturers* : State VAT and CST were not directly applicable to the import of goods on which Special Additional Duties (SAD) of customs were levied at a uniform rate of 4% by the Centre. Input tax credit of these duties was available only to those manufacturing excisable goods. Other importers had to claim refund of this duty as and when they pay VAT on subsequent sales.
7. *Credit on 'input services' was not available to dealers* : VAT dealers were unable to set-off any Service Tax that they may have paid on their procurement of taxable input services.
8. *Non-availability of CENVAT credit in case of other state levies* : State Governments also levied and collected a variety of other indirect taxes such as luxury tax, entertainment tax, entry tax etc. for which no set-off was available.

1.4 Introduction of GST

GST is one of the biggest taxation reforms in India aiming to integrate State economies and boost overall growth by creating a single, unified Indian market to make the economy stronger. GST is a comprehensive destination based indirect tax levy of goods as well as services at the national level. Its main objective is to consolidate multiple indirect tax levies into a single tax thus subsuming an array of tax levies, overcoming the limitations of existing indirect tax structure, and creating efficiencies in tax administration.

GST is a consumption or destination based tax levied on the basis of the “Destination principle.” It is a comprehensive tax regime covering both goods and services, and be collected on value-added at each stage of the supply chain. Further, GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services. Simply put, Goods and Services Tax is a tax levied on goods and services imposed at each point of supply. GST is a national level tax based on value added principle just like State level VAT which was levied as tax on sale of inter-state goods.

The essence of GST is in removing the cascading effects of both Central and State taxes by allowing setting-off of taxes throughout the value chain, right from the original producer and service provider's point up to the retailer's level. GST is thus not simply VAT plus service tax, but a major improvement over existing system of VAT and disjointed Service Tax ushering in the possibility of a collective gain for industry, trade and common consumers as well as for the Central Government and the State Governments.

GST, as a well-designed value added tax on all goods and services, is the most elegant method to eliminate distortions and to tax consumption

Taxes which have been subsumed under GST are as follows :

| Central Taxes/Duties | State Taxes/Duties |
|---|------------------------|
| Central Excise Duty | VAT |
| Duties of Excise (Medicinal and Toilet Preparations) | Central Sales Tax |
| Additional Duties of Excise (Goods of Special Importance) | Purchase Tax |
| Additional Duties of Excise (Textiles and Textile Products) | Luxury Tax |
| Additional Duties of Customs (commonly known as CVD) | Entry Tax |
| Special Additional Duty of Customs (SAD) | Taxes on Advertisement |

| | |
|---|---|
| Service Tax | Taxes on lotteries, betting and gambling |
| Cesses and surcharges insofar as they relate to supply of goods or services | State cesses and surcharges insofar as they relate to supply of goods or services |

1.5 Journey of GST

The journey of GST is summarized as under :

| Year | Progress | Details |
|------|---|--|
| 1986 | <i>First thought of major change</i> | Finance Minister Vishwanath Pratap Singh proposes a major overhaul of the excise taxation structure in the budget for 1986-87. |
| 2000 | <i>Empowered committee setup for GST under Asim Dasgupta</i> | Prime Minister Atal Bihari Vajpayee introduces the concept, sets up an empowered committee of state finance ministers (of West Bengal, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Uttar Pradesh, Gujarat, Delhi and Meghalaya) headed by the then West Bengal Finance Minister Asim Dasgupta to design a GST model. |
| 2003 | <i>Constitution of Task force on GST under Vijay Kelkar</i> | The Vajpayee government forms a task force under Vijay Kelkar to recommend tax reforms. |
| 2004 | <i>Kelkar recommendation to replace the existing tax regime</i> | Vijay Kelkar, then advisor to the Finance Ministry, recommends GST to replace the existing tax regime. |
| 2006 | <i>First appearance of GST in Union Budget</i> | On Feb 28, 2006 GST appeared in the Budget speech for the first time; Finance Minister P Chidambaram sets an ambitious April 1, 2010 as deadline for GST implementation. He says the Empowered Committee of finance ministers will prepare a road map for GST. |
| 2008 | <i>Empowered Committee presented 'A Model Roadmap for GST'</i> | On Apr 30, 2008 the Empowered Committee submits a report titled 'A Model and Roadmap Goods and Services Tax (GST) in India' to the government. |
| 2009 | <i>Submission of 'Discussion Paper' in public domain</i> | On Nov 10, 2009, Empowered Committee submits a discussion paper in the public domain on GST welcoming debate. |
| 2009 | <i>Finance Ministers announcement on Basic Structure of GST</i> | Finance Minister Pranab Mukherjee announces basic structure of GST as designed by Dasgupta committee and retained 2010 as deadline for GST. |
| 2010 | <i>GST deferred to 2011</i> | In Feb 2010, Finance Ministry starts mission-mode computerisation of commercial taxes in states, to lay the foundation for GST rollout. Pranab Mukherjee defers GST to April 1, 2011. |
| 2011 | <i>Constitution 115th Amendment Bill</i> | On Mar 22, 2011, UPA-II tables 115th Constitution Amendment Bill in the Lok Sabha for bringing GST. |
| 2011 | <i>GST bill referred to Parliamentary Standing Committee</i> | On Mar 29, 2011, GST Bill referred to Parliamentary Standing Committee on Finance led by Yashwant Sinha. |
| 2012 | <i>Finance Minister decides to resolve all issues</i> | In Nov 2012, Finance Minister P Chidambaram holds meetings with state finance ministers; decides to resolve all issues by December 31, 2012 for GST rollout. |
| 2013 | <i>Provision made to compensate losses of States</i> | In Feb 2013 Chidambaram in his Budget speech makes provision for Rs. 9,000 crore to compensate states for losses incurred because of |

| | | |
|------|---|---|
| | | GST. |
| 2013 | <i>GST bill ready to be submitted before Parliament</i> | In Aug 2013, Parliamentary standing committee submits report to Parliament suggesting improvements on GST. GST Bill gets ready for introduction in Parliament. |
| 2013 | <i>Gujarat CM Modi opposes GST</i> | In Oct 2013, Gujarat Chief Minister Narendra Modi opposes GST Bill saying state would incur losses worth Rs. 14,000 crore every year due to GST. |
| 2014 | <i>GST bill lapsed</i> | GST Bill (115th Constitution Amendment Bill) cleared by Standing Committee lapses as Lok Sabha dissolves; BJP-led NDA government comes to power. |
| 2014 | <i>Cabinet approves 122nd Constitution Amendment Bill</i> | On Dec 18, 2014, Cabinet approves 122nd Constitution Amendment Bill to GST. |
| 2014 | <i>122nd Constitution Amendment Bill places before Lok Sabha</i> | On Dec 19, 2014 Finance Minister Arun Jaitley introduces the Constitution (122nd) Amendment Bill in the Lok Sabha; |
| 2015 | <i>Deadline for GST rollout</i> | In Feb 2015, Jaitley sets April 1, 2016 as deadline for GST rollout. |
| 2015 | <i>Lok Sabha passes GST Constitutional Amendment Bill</i> | On May 6, 2015, Lok Sabha passes GST Constitutional Amendment Bill. This bill was renumbered from 122 nd to 101 st . So it was called as The Constitution (One Hundred and First Amendment) Bill, 2014. |
| 2015 | <i>Amendment Bill presented in Rajya Sabha</i> | On May 12, 2015, The Amendment Bill presented in the Rajya Sabha. |
| 2015 | <i>GST Bill forwarded to joint committee</i> | On May 14, 2015, The GST Bill forwarded to joint committee of Rajya Sabha and Lok Sabha. |
| 2015 | <i>Government fails to win the support of Opposition in Rajya Sabha</i> | In Aug 2015, Government fails to win the support of opposition to pass the bill in the Rajya Sabha where it lacks sufficient numbers. |
| 2016 | <i>Congress, BJP agree on GST Bill</i> | In Aug, Congress, BJP agree to pass the Constitution Amendment Bill. |
| 2016 | <i>GST Bill passed in Rajya Sabha and Lok Sabha</i> | On Aug 3, Rajya Sabha passes the Constitution Amendment Bill by two-thirds majority. On Aug 8, it is passed by Lok Sabha too. |
| 2016 | <i>President's Assent</i> | On Sep 2, 16 states ratify GST Bill; On Sep 8, President Pranab Mukherjee gives assent to the Bill. |
| 2016 | <i>Formation of GST Council</i> | On Sep 12, Union Cabinet clears formation of GST Council. On Sep 15, the GST Council was formed. |
| 2016 | <i>GST Council's first meeting</i> | On Sep 22 and 23, GST Council meets for first time. |
| 2016 | <i>GST Rates</i> | On Nov 3, GST Council agrees on four slab tax structure of 5, 12, 18 and 28 % along with an additional cess on luxury goods. |
| 2017 | <i>Final GST rollout deadline</i> | On Jan 16, Jaitley announces July 1 as GST rollout deadline. Centre, states agree on contentious issue of dual control and taxing rights on goods at high sea. |
| 2017 | <i>GST Compensation Bill</i> | On Feb 18, GST Council finalises draft compensation bill providing to make good any revenue loss to States in first five years of GST rollout. |
| 2017 | <i>CGST and IGST bills approved</i> | On Mar 4, GST Council approves CGST and IGST bills. |

| | | |
|----------|---|--|
| | <i>by GST Council</i> | |
| 2017 | <i>CGST, IGST, UTGST and Compensation bills approved by Cabinet</i> | On Mar 20, Cabinet approved CGST, IGST and UTGST and Compensation bills. |
| 2017 | <i>CGST, IGST, UTGST and Compensation bills approved by both houses of Parliament</i> | On Mar 27, Jaitley tables CGST, IGST, UT GST and Compensation bills in Parliament. Lok Sabha and Rajya Sabha pass all the four key GST Bills on Mar 29. On Apr 12, these bills received the President's assent. |
| 2017 | <i>GST Rates assigned to 1200 goods</i> | On May 18, GST Council fits over 1,200 goods in one of the four tax slabs of 5, 12, 18 and 28%. Over 80% of goods of mass consumption either exempted or taxed under 5% slab. |
| 2017 | Just before GST launch | On Jun 28 and 29 Mamata Banerjee and Congress announces their party's decision to skip midnight launch of GST. |
| 2017 | GST launch | June 30 Midnight: GST set to rollout. |
| 1.7.2017 | Birth of GST in India (Except the State of J&K) | Birthday of GST 'ONE NATION ONE MARKET ONE TAX'. |
| 8.7.2017 | Birth of GST in the State of J&K. | GST in Jammu and Kashmir came into force w.e.f. 8th July 2017. |

1.6 Extent of GST

Part I of the Constitution of India states : “India, that is Bharat, shall be a Union of States”. It provides that territory of India shall comprise the States and the Union Territories specified in the First Schedule of the Constitution of India. The First Schedule provides for twenty-nine (29) States and seven (7) Union Territories.

Part VI of the Constitution of India provides that for every State, there shall be a Legislature, while Part VIII provides that every Union Territory shall be administered by the President through an ‘Administrator’ appointed by him. However, the Union Territories of Delhi and Puducherry have been provided with Legislatures with powers and functions as required for their administration. India is a summation of 3 categories of territories namely–

- (i) States (29);
- (ii) Union Territories with Legislature (2); and
- (iii) Union Territories without Legislature (5).

The State of Jammu and Kashmir enjoys a special status in the Indian Constitution in terms of Article 370 of the Indian Constitution. The Parliament has power to make laws only on Defence, External Affairs and Communication related matters of Jammu and Kashmir. As regards the laws related on any other matter, subsequent ratification by the Government of Jammu and Kashmir is necessary to make it applicable to that State.

On 7.7.2017, the Jammu and Kashmir State GST received the assent of the Governor and w.e.f. 8.7.2017 (vide SRO 281 Notification Srinagar, the 8th July 2017) Jammu and Kashmir GST came into force.

1.7 Constitutional validity of GST

Constitutional validity of GST can be summarized as under :

| | | | | | | | |
|--|--|---------------------|----------------------------|-------------------|---|-------------------|--|
| 1. Power to make Law relating to GST [Article 246A] | <p>After article 246 of the Constitution, the following new Article 246A shall be inserted :</p> <p>Special provision with respect to goods and services tax [Article 246A]</p> <p>(1) Notwithstanding anything contained in articles 246 and 254,</p> <ul style="list-style-type: none"> ◆ Parliament, and, ◆ subject to clause (2), the Legislature of every State, <p>have power to make laws with respect to goods and services tax imposed by the Union or by such State.</p> <p>(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 <i>inter-State trade or commerce</i>.</p> <p>Explanation.—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5), of article 279A, take effect from the date recommended by the Goods and Services Tax Council.</p> <p>Note : Articles 246 talks about the Powers of Parliament and State Legislatures to make law in respect of matters enumerated in List I, List II and List III; Article, 254 provides that in case of inconsistency between laws made by Parliament and laws made by the Legislatures of States, which law to prevail.</p> | | | | | | |
| 2. Power of levy and collection of GST [Article 269A] | <p>After article 269, the following new Article 269A shall be inserted :</p> <p>Levy and collection of goods and services tax in course of inter-State trade or commerce [Article 269A]</p> <p>Goods and services tax on supplies in the course of <i>inter-State trade or commerce</i> 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.</p> <p>Explanation.—For the purposes of this clause, supply (of goods/services/both) in the course of import into the territory of India shall be deemed to be supply (of goods/services/both) in the course of inter-State trade or commerce.</p> <p>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.”</p> | | | | | | |
| 3. GST Council [Article 279A] | <p>Article 279A contains provisions relating to constitution of GST Council as under :</p> <p>1. <i>Constitution</i> : The President shall, within 60 days from the date of commencement of the Constitution (One Hundred and First Amendment) Act, 2016, by order, constitute a Council to be called the Goods and Services Tax Council.</p> <p>2. <i>Members of the council</i> : The GST Council shall consist of the following members :</p> <table border="1" data-bbox="443 1666 1431 1832"> <tr> <td>(a) <i>Chairman</i></td><td>The Union Finance Minister</td></tr> <tr> <td>(b) <i>Member</i></td><td>Union Minister of State in charge of Revenue or Finance</td></tr> <tr> <td>(c) <i>Member</i></td><td>Minister in charge of Finance or Taxation or any other Minister nominated by each State Government</td></tr> </table> <p>3. <i>Election of Vice-chairman</i> : The Members of GST Council referred to in (c) above, shall choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide</p> | (a) <i>Chairman</i> | The Union Finance Minister | (b) <i>Member</i> | Union Minister of State in charge of Revenue or Finance | (c) <i>Member</i> | Minister in charge of Finance or Taxation or any other Minister nominated by each State Government |
| (a) <i>Chairman</i> | The Union Finance Minister | | | | | | |
| (b) <i>Member</i> | Union Minister of State in charge of Revenue or Finance | | | | | | |
| (c) <i>Member</i> | Minister in charge of Finance or Taxation or any other Minister nominated by each State Government | | | | | | |

4. *Recommendations by GST Council* : The Goods and Services Tax Council shall make recommendations to the Union and the States on—

- (a) *TAXES* : 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) *GOODS/SERVICES* : the goods and services that may be subjected to, or exempted from the goods and services tax
- (c) *LAWS* : 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) *EXEMPTION LIMIT* : the threshold limit of turnover below which goods and services may be exempted from goods and services tax
- (e) *TERRIF* : the rates including floor rates with bands of goods and services tax
- (f) *SPECIAL RATES* : any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster
- (g) *PROVISIONS RELATING TO SPECIAL STATES* : 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) *OTHER* : any other matter relating to the goods and services tax, as the Council may decide

5. *GST on petrol, diesel etc.* : The Council shall recommend the date on which the GST to be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

6. *Quorum for meetings* : 1/2 of the total number of Members of the Council shall constitute the quorum at its meetings.

7. *Distribution of powers amongst CG and SG* : In order to ensure single interface, all administrative control over 90% of taxpayers having turnover below Rs. 1.5 crore would vest with State tax administration and over 10% with the Central tax administration. Further all administrative control over taxpayers having turnover above Rs.1.5 crore shall be divided equally in the ratio of 50% each for the Central and State tax administration.

8. *Decision at meeting* : Every decision of the Council shall be taken at a meeting, by a majority of not less than 3/4th (i.e. 75%) of the *weighted votes of the members present and voting*, in accordance with the following principles :

- ♦ the vote of the Central Government shall have a weightage of 1/3rd of the total 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

For the purpose of 7 above, “Weighted votes of the members present and voting” in favour of a proposal in the GST Council shall be determined as under :

$$WT = WC + WS$$

Where :

WT = Total weighted votes of all members in favour of a proposal.

WC = Weighted vote of the Union = 1/3rd i.e. 33.33% if the Union is in favour of the proposal and will be taken to be “0” if Union is not favouring the proposal.

WS = Weighted votes of the States in favour of a proposal. WS will be calculated as under :

$$WST \times (SF/SP)$$

WST = Weighted votes of all States present and voting i.e. 2/3rd i.e. 66.67%

SF = Number of States voting in favour of a proposal

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| | <p>SP = Number of States present and voting.</p> <p>E.g. 1</p> <p>Union = Favors the proposal, which means WC = 33.33%</p> <p>State = Total members present and voting are 20; 15 favors the proposal and 5 not.</p> <p>WS = $66.67 \times (15/20)$ i.e. 50%</p> <p>So the proposal would be accepted as the WT is 83.33% (33.33+50) as against the minimum requirement of 75%</p> <p>E.g. 2</p> <p>Union = Doesn't favor the proposal, which means WC = 0%</p> <p>State = Total members present and voting are 20; 8 favors the proposal and 12 not.</p> <p>WS = $66.67 \times (8/20)$ i.e. 26.67%</p> <p>So the proposal would NOT be accepted as the WT is 26.67% (0+26.67) as against the minimum requirement of 75%.</p> |
| 4. GST not to levy on alcoholic liquor [Article 366] | As per Sub-article (12A) of Article 366, the GST means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption. |

1.8 Amendments of Seventh Schedule of The Constitution of India

The VIIth Schedule of the Constitution of India is amended as under :

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| Amendments in List I (Union List) | <p>1. Entry 84 : For Entry 84, the following new Entry 84 is substituted :</p> <p>Duties of excise on the following goods manufactured or produced in India</p> <ul style="list-style-type: none"> ◆ petroleum crude ◆ high speed diesel ◆ motor spirit (commonly known as petrol) ◆ natural gas; ◆ aviation turbine fuel; and ◆ tobacco and tobacco products. <p>2. Entry 92 and 92C : Entry 92 (taxes on sale/purchase of new paper and ads in it) and 92C (service tax) shall be omitted.</p> <p>Note : Although no amendments have been made to Entry 92A (levy of CST in case of inter-state trade or commerce of goods) and 92B (levy of tax on inter-state consignment of goods), however, with the amendments in Article 269 (given below), CST and tax on consignment of goods would be levied on few petro products only.</p> <p>Article 269 of the Constitution of India provides that taxes on the sale or purchase of goods/consignment of goods in the course of inter-state trade shall be levied and collected by Central Government but shall be assigned to the States.</p> <p>This Article has been amended to exclude goods on which is GST is levied under Article 269A in the course of inter-state trade or commerce.</p> <p>Thus, this Article will be effective only for those goods which are kept out of GST i.e. Crude, Petrol, HSD, ATF etc.</p> |
| Amendments in List II (State List) | <p>1. Entry 51 : Entry 51 (State Excise Duty on alcoholic liquors for human consumption, opium, Indian hemp and other narcotic drugs and narcotics) has no changes.</p> <p>2. Entry 52 : Entry 52 (Entry tax) shall be omitted.</p> <p>3. Entry 54 : For entry 54, the following entry shall be substituted : Taxes on the sale of</p> |

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| | <ul style="list-style-type: none"> ◆ petroleum crude, ◆ high speed diesel, ◆ motor spirit (commonly known as petrol), ◆ natural gas, ◆ aviation turbine fuel and ◆ alcoholic liquor for human consumption, <p>but NOT including sale in the course of inter-State trade or commerce or sale in the course of international trade or commerce of such goods.</p> <p>Note : Petroleum products are presently out of GST, however they will be brought in GST net at a later stage on recommendation of GST Council. So presently, these products are subject to Union Excise Duty and VAT. On other hand, in respect of tobacco and tobacco products, Union Government have power to levy Excise Duty and GST both, however, after GST rollout, an exemption notification under Central Excise Law is expected to exempt them from levy of excise duty.</p> <p>4. Entry 55 : Entry 55 (taxes on advertisements other than ads in news paper, radio etc) shall be omitted.</p> <p>5. Entry 62 : For entry 62, the following entry shall be substituted</p> <p>Taxes on entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council.</p> |
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1.9 Various GSTs

India being a federal country, 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. So considering the Constitutional requirements, a dual GST model is prepared and introduced.

Along with the amendment in the Constitution, to empower the Centre and the States to levy and collect the GST, four legislations were given assent by the President, which are :

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| 1 | <i>The Central Goods and Service Tax (CGST) Act, 2017</i> |
| 2 | <i>The Integrated Goods and Service Tax (IGST) Act, 2017</i> |
| 3 | <i>The Union Territory Goods and Service Tax (UTGST) Act, 2017</i> |
| 4 | <i>The Goods and Service Tax (Compensation to States) Act, 2017</i> |

Each State will introduce its own 'The State Goods and Service Tax Act (SGST)' in due course

1.10 Levy of GSTs

GST is levied on all transactions such as sale, stock/branch transfer, barter, lease, or import of goods and/or services. India will adopt a dual GST model which means taxation is to be administered by both the Union and State Governments.

Transactions made within a single state will be levied with CGST by the Central Government and SGST by the State Government. For inter-state supply, an Integrated GST (IGST) is to be levied by the Central Government. GST is a consumption based tax, therefore, taxes are paid to the state which the goods or services are consumed not the state in which they were produced.

Levy of GST can be summarized as under :

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| 1. Intra-State* supply of goods and services | Both CGST and SGST will be levied. [*This will apply on those UTs as well which have their own Legislature like Delhi and Puducherry. As per Article 366(26B), 'State' includes UTs with Legislature] |
| 2. Intra-Union Territory^ supply of goods and services | Both CGST and UTGST will be levied. [^This will apply on those UTs as well which do not have their own Legislature like Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and Other territory (here 'other territory' includes EEZ but not Territorial Waters of India. Thus, its an area inside the sea between 12 nautical miles to 200 nautical miles.]. So 'other territory' to include any Indian territory that remains unclaimed by the State and UTs. Although there is no specific indication that the extent of the term should be limited to the territory of India, locations outside India cannot be said to fall into the scope of 'other territory' defined above, as it would defeat the purpose of law. Note : Territorial waters (i.e. 12 nautical miles inside the sea) will be part of State so far as GST is concerned. |
| 3. Inter-State supply of goods and services | IGST will be levied. Note : IGST will also be paid on inter-state stock transfers, branch transfers etc. However, IGST will not be paid on material sent for job-work. |
| 4. Import of goods and services | IGST will be levied. [As per Explanation to Article 269A Supply in the course of import into the territory of India shall be deemed to be supply in the course of inter-State trade or commerce] |

1.11 GST INTERNATIONALLY

Internationally, countries are moving towards simplification of tax structures. The adoption of Goods and Services Tax has been the most important development in several countries over the last half-century. Today, it is one of the widely accepted indirect taxation system prevalent in more than 140 countries across the globe. Globally, GST has been structured as a *destination based comprehensive tax* levied at a specified rate on sale and consumption of goods and services within a country.

Salient features are as under :

- ◆ GST was first levied by France in 1954. Today, Malaysia is the most recent country to join the bandwagon (Hindi Meaning : *Gaadee mein savaar*)
- ◆ In countries where GST has been adopted, manufacturers, wholesalers, retailers and service providers charge GST at the specified rate on price of the goods and services from consumers and claim input credits for GST paid by them on procurement of goods and services (raw material).
- ◆ Globally, the broad principles of GST are as under:
 - ✓ GST is a destination based tax
 - ✓ GST is technically paid by suppliers but it is actually funded by consumers
 - ✓ GST is collected through a staged process i.e. a tax on the value added to goods or services at every point in the supply chain
 - ✓ GST is a tax on the consumption of products from business sources, and not on personal or hobby activities

- ✓ Under GST, input tax credit is provided throughout the value chain for creditable acquisition.

Models of GST

Different countries follow different model of GST based upon their own legislative and administrative structure and their requirements. Some of these models are:

- Australian Model wherein, tax is collected by the Centre and distributed to the States
- Canadian Model wherein there are three variants of taxes (*e.g.* State tax, Central Tax and Integrated Tax)
- Kelkar-Shah Model based on Canada Model wherein taxes are collected by the Centre however, two different rates of tax are to be levied by the Centre and the States and

1.11 IMPORTANT DEFINITIONS

Important definitions under section 2 of CGST are as under :

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| 1. Adjudicating authority [Section 2(4)] | <p>“Adjudicating authority” means any authority,</p> <ul style="list-style-type: none"> ✓ appointed or authorized ✓ to pass any order or decision under this Act, ✓ but DOES NOT include : <ul style="list-style-type: none"> (i) the CBIC, (ii) the Revisional Authority, (iii) the Authority for Advance Ruling, (iv) the Appellate Tribunal (v) the Authority referred to in section 171 (<i>i.e.</i> the Authority constituted for measuring the Anti Profiteering) |
| 2. Business [Section 2(17)] | <p>“Business” includes–</p> <ul style="list-style-type: none"> (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit (<i>relating to or consisting of money</i>); (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) services provided by a race club <ul style="list-style-type: none"> ✓ by way of totalisator (<i>a device showing the number and amount of bets staked on a race i.e. a score board used in horse races</i>) or ✓ a licence to book make or ✓ activities of a licensed book maker in such club. (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; |
| 3. Capital Goods | <p>“Capital goods” means :</p> |

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| [Section 2(19)] | <ul style="list-style-type: none"> ✓ 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 |
| 4. Continuous supply of goods [Section 2(32)] | <p>“Continuous supply of goods” means :</p> <ul style="list-style-type: none"> ✓ a supply of goods ✓ which is provided, or agreed to be provided, ✓ continuously or on recurrent basis, ✓ under a contract, ✓ whether or not by means of a wire, cable, pipeline or other conduit, and ✓ for which the supplier invoices the recipient on a regular or periodic basis ✓ and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify |
| 5. Continuous supply of services [Section 2(33)] | <p>“Continuous supply of services” means :</p> <ul style="list-style-type: none"> ✓ a supply of services ✓ which is provided, or agreed to be provided, ✓ continuously or on recurrent basis, ✓ under a contract, ✓ for a period exceeding 3 months ✓ with periodic payment obligations ✓ and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify |
| 6. Casual Taxable Person [Section 2(20)] | <p>“Casual taxable person” means :</p> <ul style="list-style-type: none"> ✓ 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; <p>A trader, businessman, service provider, etc. undertaking occasional transactions like supplies made in trade fairs would be treated as a ‘casual taxable person’ and will have to obtain registration in that capacity and pay tax.</p> <p>E.g. <i>A jeweller carrying on a business in Mumbai, who conducts an exhibition-cum-sale in Delhi where he has no fixed place of business, would be treated as a ‘casual taxable person’ in Delhi.</i></p> <p>The following aspects need to be noted :</p> <ul style="list-style-type: none"> ▪ The threshold limits for registration would not apply and he would be required to obtain registration irrespective of his turnover; ▪ He is required to apply for registration at least 5 days prior to commencement of business; ▪ The registration would be valid for 90 days or such period as specified in the application, whichever is shorter; ▪ An advance deposit of the estimated tax liability is required to be made along with the application for registration. |
| 7. Exempt Supply [Section 2(47)] | <p>“Exempt supply” means : supply of any goods or services or both</p> <ul style="list-style-type: none"> ✓ which attracts NIL RATE of tax or |

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| | <ul style="list-style-type: none"> ✓ which may be WHOLLY EXEMPT from tax under section 11 of this Act, or under section 6 of the IGST Act (<i>i.e.</i> Government's power to grant exemption), ✓ and it includes NON-TAXABLE supply. <p>Analysis : Exempt supplies comprise the following 3 types of supplies :</p> <ol style="list-style-type: none"> (a) Supplies taxable at a 'NIL' rate of tax; (b) Supplies that are wholly exempted from CGST or IGST, by way of a notification (Partially exempt supplies are not covered here); (c) Non-taxable supplies as defined under Section 2(78) – supplies that are not taxable under the Act (<i>viz.</i> alcoholic liquor for human consumption, petroleum products etc) <p>Note : The following aspects need to be noted :</p> <ul style="list-style-type: none"> ▪ Zero-rated supplies (such as exports) would not be treated as supplies taxable at 'NIL' rate of tax; ▪ Input tax credit attributable to exempt supplies will not be available for utilisation/setoff. |
| 8. Fixed establishment [Section 2(50)] | <p>"Fixed establishment" means :</p> <ul style="list-style-type: none"> ✓ a place (other than the registered place of business) ✓ which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs. |
| 9. Goods [Section 2(52)] | <p>"Goods" means :</p> <ul style="list-style-type: none"> ✓ every kind of movable property ✓ other than money and securities ✓ but includes <ul style="list-style-type: none"> - actionable claim, - growing crops, grass and things attached to or forming part of the land which are agreed to be severed (Hindi meaning : '<i>alag karna</i>') before supply or under a contract of supply. <p>The following aspects need to be noted:</p> <ul style="list-style-type: none"> ▪ Although various courts have held that the term 'goods' includes actionable claim under the VAT laws, as trade practice, actionable claims were kept outside the taxation net under the current laws. Now, the GST law seeks to change this understanding by including actionable claim in the definition of goods. Thus, under the GST laws, actionable claims would be reckoned as goods; ▪ The words 'but includes' is an exception to the "exclusion" of money and securities. In other words, if the actionable claim represents property that is money or securities, it can be held that such forms of actionable claims continue to be excluded; ▪ Actionable claims, other than lottery, betting and gambling will not be treated as supply of goods or services by virtue of Schedule III (Activities or transactions which shall be treated neither as a supply of goods nor a supply of services); ▪ Intangibles like DEPB license, copyright and carbon credit would continue to be covered under 'goods'. |
| 10. Input [Section 2(59)] | <p>"Input" means :</p> <ul style="list-style-type: none"> ✓ any goods ✓ other than capital goods ✓ used or intended to be used by a supplier in the course or furtherance of business. |

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| | <p>The term “input” refers to goods as defined under the GST law, and excludes capital goods. Unlike the definitions given to the term “capital goods” in the existing laws such as Central Excise, VAT, etc., the term is given a very simple meaning in the GST law.</p> <p>It is sufficient for any goods which are used or intended for use in the course or furtherance of business to be capitalised in the books of account, for them to be treated as capital goods under GST. Accordingly, if a person who is engaged in the sale of laptops capitalises one laptop in his books of account, and such laptop is for business-use, (say for invoicing purposes), that laptop shall be treated as capital goods under GST law as well.</p> <p>The second condition for goods to be treated as inputs, is that they must be used or intended to be used by the person who has inwarded (say by way of purchase, exchange, etc.) those goods <i>‘in the course or furtherance of business’</i>. This phrase encompasses a wide range of functions within the business.</p> <ul style="list-style-type: none"> ▪ The term “business” as defined under the GST law includes any activity or transaction which may be connected, or incidental or ancillary to the trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity. ▪ There is neither a requirement of continuity nor frequency of such activities or transactions for them to be regarded as ‘business’. ▪ The law poses no restriction that the goods must be used on the shop floor, or that they must be supplied as such/ as part of other goods/ services. It would be sufficient if the goods are used in the course of business, or for furthering the business. ▪ The term ‘course of business’ is one that can be stretched beyond the boundaries consolidating activities that have direct nexus to outward supply. What is usually done in the ordinary routine of a business by its management is said to be done in the “course of business”. Moreover, the term “ordinary” is missing before “course” in the phrase. ▪ From the above, it can be inferred that the purchase/ inward supply of goods need not be a regular activity, and may even be a one-time procurement. This is further clarified with the other phrase “furtherance of business”, which has not been of use in the indirect taxes thus far. ▪ “Furtherance of business” is a new term, and an entirely new concept, that has been introduced with GST. <p>Additionally, there is no other condition attached to the term “input”, especially in relation to the outward supply. Consequently, a person engaged in supplying services would also be entitled to treat the goods inwarded as “inputs”, where the conditions of not being capital goods, and the usage in the course or furtherance of business, Thus, laptops procured by a supplier of pure services which are meant for use of the employees for business making reports, will be eligible to be treated as “inputs” for such a person, and consequently, the taxes paid on such goods will be available as credit to the service provider, on meeting other conditions mandated for claiming credit.</p> <p>Further, the law provides a flexibility for this purpose by inserting the words “or intended to be used” before “in the course...”. By this, the law secures the meaning of the term “input” even for cases where goods have been purchased but, are yet to be used in the business. Thus, the conditions of <i>ready-to-use</i> and <i>put-to-use</i> would not be relevant for considering goods as “inputs”, unless the condition takes route through rules/other sections. However, no such conditions appear even for claiming input tax credit.</p> |
| 11. Input Service [Section 2(60)] | <p>“Input service” means :</p> <ul style="list-style-type: none"> ✓ any service ✓ used or ✓ intended to be used by a supplier in the course or furtherance of business <p>Any services that is used or intended to be used by a supplier of goods or services, or both, in the course or furtherance of business would be treated as “input service”</p> |

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| | <p>The meaning of the term “service” under the GST law is very vast to include everything that is not goods, barring securities, and monies that are do not amount to activity relating to the use of money or conversion of money. Therefore, anything received by a person who is a supplier, which is not goods, and is neither securities nor money as such, would be treated as ‘input service’, so long as it is used or meant to be used in the course or furtherance of business.</p> <p>Unlike the existing law, there is no requirement for it to have direct nexus with the outward supply. In other words, the service received may not be directly linked to the outward supply of the supplier receiving the service, and the outward supply may be goods or services.</p> <p>Regardless of the outward supply, the service received would qualify as “input service” to him, when the same is used in the course or furtherance of business. Therefore, a retailer who receives housekeeping services of the business premises will be eligible to treat the services as ‘input services’ given that such services are received in due course of business.</p> <p>Further, while the existing law required that the services must be received only up to the place of removal for them to qualify as “input services”, there is no such condition attached to the term under GST, where such services are received in the course or furtherance of business.</p> <p>This means that goods transportation services availed by the supplier, would qualify as input services to him, even if the transportation is up to the place of delivery to the recipient, say the factory of the recipient, although the transportation does not add value to the goods itself, but adds value to the supply made by him.</p> |
| 12. Input Service Distributor (ISD) [Section 2(61)] | <p>“Input Service Distributor” means :</p> <ul style="list-style-type: none"> ✓ 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 |
| 13. Inward Supply [Section 2(67)] | <p>“Inward supply” in relation to a person, shall mean :</p> <ul style="list-style-type: none"> ✓ receipt of goods or services or both ✓ whether by purchase, acquisition or any other means ✓ with or without consideration |
| 14. Outward Supply [Section 2(83)] | <p>“Outward supply” in relation to a taxable person, means :</p> <ul style="list-style-type: none"> ✓ supply of goods or services or both, ✓ whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, ✓ made or agreed to be made by such person in the course or furtherance of business. |

Practical Questions

Question 1.1 : Mr. Ramesh of Delhi is a registered dealer under GST. During the period under consideration, he has supplied the following goods :

| | Rs. |
|---|-----------|
| Product P to a registered dealer of Delhi | 5,00,000 |
| Product Q to a registered dealer of Haryana | 12,00,000 |
| Product R to a registered dealer of Chandigarh | 15,00,000 |
| Rate of SGST/CGST/UTGST is 9% and IGST is 18%. Calculate taxes and amount to be charged from buyers. [Assume there is no GST credit]. | |

Answer : Supply within Delhi will be treated as 'intra-state' supply, whereas the supply to Haryana and Chandigarh will be treated as 'inter-state' supply. On intra-state supply, two taxes i.e. CGST and SGST will be levied. However, on inter-state supply only a single tax i.e. IGST will be levied.

Amount to be charged for Product P

| | Rs. |
|---|----------|
| Sale price (before taxes) of product P within Delhi i.e. Intra-State supply | 5,00,000 |
| CGST@9% | 45,000 |
| SGST@9% | 45,000 |
| Price after taxes/amount to be charged from buyer | 5,90,000 |

Amount to be charged for Product Q

| | Rs. |
|---|-----------|
| Sale price (before taxes) of product Q to Haryana i.e. Inter-State supply | 12,00,000 |
| IGST@18% | 2,16,000 |
| Price after taxes/amount to be charged from buyer | 14,16,000 |

Amount to be charged for Product R

| | Rs. |
|--|-----------|
| Sale price (before taxes) of product R to Chandigarh i.e. Inter-State supply | 15,00,000 |
| IGST@18% | 2,70,000 |
| Price after taxes/amount to be charged from buyer | 17,70,000 |

Question 1.2 : Mr. Ganesh of Delhi is a registered dealer under GST. During the period under consideration, he has supplied Alcoholic Liquor to a registered dealer of Delhi at Rs. 5,00,000 (plus applicable taxes/duties) and cold drinks to a registered dealer of Haryana at Rs. 12,00,000 (plus applicable taxes/duties). Rate of SGST/CGST/UTGST is 9% and IGST is 18%. Rate of State Excise Duty on Alcoholic Liquor is 10% and VAT rate 12.5%. Calculate taxes/duties and amount to be charged from buyers. [Assume there is no credit].

Answer : Supply of Alcoholic liquor is not subject to GST by virtue of Article 366(12A). Currently, Alcoholic liquor is subject to State Excise Duty and VAT. Supply of cold drinks will however be subject to IGST.

Amount to be charged for Alcoholic Liquor

| | Rs. |
|---|----------|
| Sale price (before taxes/duties) | 5,00,000 |
| State excise duty@10% of value | 50,000 |
| VAT@12.5% on value and excise duty | 68,750 |
| Price after taxes/amount to be charged from buyer | 6,18,750 |

Amount to be charged for Cold Drinks

| | Rs. |
|---------------------------|-----------|
| Sale price (before taxes) | 12,00,000 |

| | |
|---|-----------|
| IGST@18% | 2,16,000 |
| Price after taxes/amount to be charged from buyer | 14,16,000 |

Problem 1.3 : For bringing some new notifications, the GST council meeting is held in Delhi. In the meeting total 24 members of the State and Union FM Shri Arun Jaitley were present. Of 24 members, 16 members of the State and FM favour the proposal. You are required to discuss if the proposal will be accepted or not?

Solution : Every decision of the Council shall be taken at a meeting, by a majority of not less than $3/4^{\text{th}}$ (i.e. 75%) of the weighted votes of the members present and voting, in accordance with the following principles :

- ♦ The vote of the Central Government shall have a weightage of $1/3^{\text{rd}}$ of the total votes cast, and
- ♦ The votes of all the State Governments taken together shall have a weightage of $2/3^{\text{rd}}$ of the total votes cast, in that meeting.

Thus, total weighted votes of all members favouring the proposal are = $33.33\% + 66.67\%$ of $(16/24) = 77.77\%$. Now, as the favourable votes exceeds 75%, therefore proposal will be accepted.

Problem 1.4 : Assume in the above problem, FM and 14 members of the State (of total 24) favour the proposal. You are required to discuss if the proposal will be accepted or not?

Solution : Total weighted votes of all members favouring the proposal are = $33.33\% + 66.67\%$ of $(14/24) = 72.22\%$. Now, as the favourable votes are less than 75%, therefore proposal will NOT be accepted.

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1 : What are the taxes which are levied by GST?

- (a) CGST
- (b) CGST and SGST
- (c) CGST, SGST and IGST
- (d) CGST, SGST, IGST and UTGST

- (c) The Constitution 115th Amendment Act
- (d) The Constitution 110th Amendment Act

Q 2 : on inter-state supply _____ will apply.

- (a) IGST
- (b) SGST
- (c) CGST
- (d) Both (b) and (c)

Q 6 : When did the president give his assent to the GST ?

- (a) On 8th September 2016
- (b) On 2nd September 2016
- (c) On 1st July 2017
- (d) On 1st April 2017

Q 3 : on intra-state supply _____ will apply.

- (a) IGST
- (b) SGST
- (c) CGST
- (d) Both (b) and (c)

Q 7 : The first Committee on GST was

- (a) Dr Asim Dasgupta Committee
- (b) Dr Kelkar Committee
- (c) Dr VP Singh Committee
- (d) Committee of State Finance Ministers

Q 4 : GST is based on _____

- (a) Destination based principal
- (b) Origin based principal
- (c) Nexus theory
- (d) The principal recommended by the GST Council

Q 8 : Which article of the Constitution contains powers to make Law on GST?

- (a) Article 269A
- (b) Article 265
- (c) Article 246
- (d) Article 246A

Q 5 : GST in India introduced by _____

- (a) The Constitution 122nd Amendment Act
- (b) The Constitution 101st Amendment Act

Q 9 : Which Article of the Constitution contains powers of levy and collection of GST?

- (a) Article 269A
- (b) Article 265

- (c) Article 246
- (d) Article 246A

Q 10: Which Article of the Constitution contains provisions relating to GST Council ?

- (a) Article 246
- (b) Article 265
- (c) Article 245
- (d) Article 279A

Q 11: the GST Council shall consist of _____ as its members.

- (a) Union Finance Minister
- (b) State Finance Ministers
- (c) None of the above
- (d) Both (a) and (b)

Q 12 : With effect from 31st October, 2019 after enforcement of J&K Reorganization Act, 2019, India has _____ states and _____ union Territories.

- (a) 29,7
- (b) 28,8
- (c) 28,9
- (d) None of the above

Q 13: The J&K Reorganization Bill was introduced first in _____ and then passed in _____.

- (a) Rajya Sabha, Lok Sabha
- (b) Lok Sabha, Rajya Sabha
- (c) GOM, Lok Sabha
- (d) Rajya Sabha, GOM

Q 14. The total 33 members of GST council represents of Central Government, _____ of States and _____ of Union Territories with legislature.

- (a) 2,28,3
- (b) 2,29,2
- (c) 2,27,4
- (d) None of above

Q 15: What should be the quorum of GST Council meetings ?

- (a) One half of total members
- (b) Two third of total members
- (c) One fourth of total members
- (d) As may be decided by the Chairman of the GST Council

Q 16: The decision at GST Council meetings will be taken when majority of not less than _____ of members _____.

- (a) 50% ; present
- (b) 75% ; present and voting
- (c) 75% ; present
- (d) 50% ; present and voting

Q 17. In GST Council, there are 2 members representing Central Government, out of total 33 members. The voting weightage of Central Govt, is

- (a) 2/33
- (b) 2/31
- (c) 1/3
- (d) 2/3

Q 18. GST was rolled out in India with effect from

- (a) 1st July, 2017
- (b) 1st January, 2018
- (c) 1st July, 2018
- (d) None of the above

Q 19. Which one of the following is not a source of indirect taxes in India?

- (a) Customs
- (b) Corporation Tax
- (c) GST
- (d) All of the above

Q 20. _____ are consumption based taxes on goods and services

- (a) Direct Taxes
- (b) Indirect Taxes
- (c) Both (a) & (b)
- (d) None of the above

Q 21. _____ is the Supreme Law of India.

- (a) Constitution of India
- (b) Indian Penal Code
- (c) Competition Act
- (d) General Clauses Act

Q 22. The authority to levy a tax is derived from

- (a) General Clauses Act
- (b) Constitution of India
- (c) Parliament of India

(d) None of the above

Q 23: In GST Council meetings the Central Government to have a weight of _____

- (a) One third of total votes cast
- (b) Two third of total votes cast
- (c) Three fourth of total votes cast
- (d) As may be decided by the Chairman

Q 24: In a GST council meeting the Union favours the proposal and 14 out of 20 state ministers present and voting, favours the proposal. What are the weighted votes of all members in favour of the proposal?

- (a) 80%
- (b) 70%
- (c) 71.42%
- (d) 85%

Q 25: GST not to levy on _____ as per Article _____

- (a) Petroleum products ; 368
- (b) Tobacco ; 369
- (c) Shares and securities ; 369A
- (d) Alcoholic liquor for human consumption ; 366.

Q 26: While introducing GST, which one of the following Constitutional Amendment is made ?

- (a) Entry 84 and Entry 54 were omitted
- (b) Entry 84 and Entry 54 were substituted by new Entries
- (c) Entry 84 omitted Entry 54 substituted
- (d) Entry 54 omitted Entry 84 substituted

Q 27: If a supply takes place within Delhi which GST would be levied ?

- (a) CGST and SGST
- (b) CGST and UTGST
- (c) IGST and SGST
- (d) IGST and UTGST

Q 28: If a supply takes place within Chandigarh which GST would be levied ?

- (a) CGST and SGST
- (b) CGST and UTGST
- (c) IGST and SGST
- (d) IGST and UTGST

Q 29: The GST model in India is _____?

- (a) Single model
- (b) Dual model
- (c) Triple model
- (d) Quadruple model

Q 30: The UTGST applies to _____.

- (a) Delhi

- (b) Puducherry
- (c) Both (a) and (b)
- (d) None of the above

Q 31: UTGST applies to :

- (a) Delhi, Dadar and Nagar Haveli, Chandigarh
- (b) Lakshadweep, Andaman Nicobar, Puducherry
- (c) Dadar and Nagar Haveli, Andaman Nicobar, Lakshadweep, Chandigarh
- (d) Dadar and Nagar Haveli, Andaman Nicobar, Lakshadweep, Chandigarh and other territory

Q 32: GST presently has _____ rates structure.

- (a) 4
- (b) 5
- (c) 6
- (d) None of the above

Q 33: The current model of GST was initially introduced by The Constitution _____ Amendment Bill.

- (a) 101st
- (b) 115th
- (c) 122nd
- (d) 125th

Q 34: Name the first State which ratified the GST bill :

- (a) Gujarat
- (b) Haryana
- (c) Maharashtra
- (d) Assam

Q 35: Applicability of the GST is _____.

- (a) All over India
- (b) All over India except Jammu & Kashmir
- (c) All over India except Special States
- (d) All over India except Union Territories

Q 36: What is incorrect about GST?

- (a) GST is destination based consumption tax
- (b) GST adorns dual taxation model
- (c) GST ensures seamless flow of ITC
- (d) GST is levied on goods and services at equal rates

Q 37: Name the first State which passed the GST bill :

- (a) Telangana
- (b) UP
- (c) Rajasthan
- (d) Haryana

Q 38: The CBDT has notified a day which is to be known as the 'GST Day'

- (a) 1st April
- (b) 8th September
- (c) 31st March
- (d) 1st July

Q 39: Which of the following comes under Sin Tax

- (a) Alcohol
- (b) Tobacco
- (c) Pan Masala
- (d) All

Q 42 : Which of the following tax is NOT subsumed in GST?

- (a) Value added tax
- (b) Basic Customs Duty (BCD)
- (c) Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- (d) Special Additional Duty of Customs - 4% (SAD)

Q 43 : The two components of dual model of GST are:

- (a) CGST and SGST
- (b) IGST and CGST
- (c) IGST and SGST
- (d) All of the above

Q 44 : _____ will be levied in place of Central Sales Tax (CST):

- (a) CGST and SGST
- (b) IGST
- (c) UTGST/SGST
- (d) CGST

Q 45. (Fill in the blank) _____ of the Indian Constitution distributes legislative powers including taxation, between the Parliament of India and the State Legislatures.

- (a) Article 246
- (b) Article 246A
- (c) Article 256
- (d) Article 265

Q 46. The subject matters with respect to which only the state legislatures can exclusively lay down the rules are given in _____.

- (a) List I
- (b) List II

Q 40: GST bill in Rajya Sabha was passed on _____.

- (a) September 12, 2017
- (b) September 8, 2017
- (c) May 14, 2015
- (d) August 3, 2016

Q 41 : Which of the following statement is not correct about GST:

- (a) GST is like a last point retail tax. GST is going to be collected at the point of sale.
- (b) GST will abolish all direct taxes levied in India
- (c) It will be implemented from July 1 2017
- (d) It will unified the tax structure in India
- (c) List III
- (d) List IV

Q 47. Before GST regime, which of the following indirect tax was not with the Central Government _____

- (a) Central Excise
- (b) Value Added Tax
- (c) Customs
- (d) Service Tax

Q 48. Before GST regime which of the following indirect tax was with the State Government _____

- (a) Value Added Tax
- (b) Central Sales Tax
- (c) Octroi, Entertainment tax, etc.
- (d) All of the above

Q 49. GST came into force by the _____ Constitutional Amendment Act.

- (a) 101
- (b) 102
- (c) 105
- (d) 108

Q 50. The tax under GST legislation in India is being levied

- (a) Only by Union Laws
- (b) Only by State Laws
- (c) Exclusively by Union and State Laws
- (d) Simultaneously by Union and State Laws

Q 51. Which of the following country has the highest GST tax slab in the world _____.

- (a) United States
- (b) Britain
- (c) France
- (d) India

Q 52 : Under which model, tax is collected by the Centre and distributed to the States?

- (a) Australian Model
- (b) Canadian Model
- (c) Kelkar-Shah Model
- (d) Bagchi-Poddar Model

Q 53 : Article _____ of the Constitution of India makes provision for constitution of GST Council?

- (a) 279A
- (b) 366
- (c) 269A
- (d) 246A

Q 54 : Who was the Finance Minister of India at the time of implementation of Goods and Services Tax Act?

- (a) Sh. Atal Bihari Vajpayee
- (b) Sh. P. Chidambaram
- (c) Sh. Arun Jaitley
- (d) Sh. Pranab Mukherjee

Q 55 : Which Article of the Indian Constitution defines the GST?

- (a) Article 279A
- (b) Article 366(12A)
- (c) Article 265
- (d) Article 270

Q 56 : Goods & Services tax means a tax on _____ of goods or services or both.

- (a) Sale
- (b) Transfer
- (c) Supply
- (d) All of the above

Q 57 : _____ shall be levied on the inter-State branch transfers.

- (a) IGST
- (b) CGST
- (c) UTGST
- (d) SGST

Q 58 : Will free supplies made to related person be taxable under GST?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 59 : GST is payable in the _____.

- (a) State where the goods or services or both are finally consumed.
- (b) State where the goods or services or both are procured.
- (c) State where the goods are manufactured
- (d) All of the above

Q 60 : Which tax/duty is levied in case of import of goods?

- (a) Integrated goods & services tax
- (b) Basic Custom Duty
- (c) Social Welfare Surcharge
- (d) All of the above

Q 61 : Central excise shall continue on which of the following products?

- (a) Petroleum crude
- (b) High speed diesel
- (c) Motor spirit
- (d) All of the above

Q 62 : Territorial waters upto _____ nautical miles inside the sea will be a part of the State so far as the GST is concerned.

- (a) 200
- (b) 12
- (c) 120
- (d) 100

Q 63 : Tobacco products shall be subject to which of the following taxes?

- (a) Excise duty
- (b) GST
- (c) Excise duty plus GST
- (d) VAT

Q 64 : When was GST implemented in State of Jammu & Kashmir?

- (a) 1st July 2017
- (b) 8th July 2017

- (c) 30th June 2017
- (d) 1st August 2017

Q 65 : Which website is used for filing GST returns?

- a) www.cbic.gov.in
- b) www.gst.gov.in
- c) www.gstcouncil.gov.in
- d) All of the above

Q 66 : What is the meaning of the cascading effect?

- (a) Charging tax on tax
- (b) Dual taxation
- (c) Non-eligibility of ITC
- (d) None of the above

Q 67 : Which are the major deficiencies of the earlier taxation system?

- (a) Multiplicity of taxes
- (b) Non-availability of cross utilisation of taxes
- (c) Obstructed movements of goods
- (d) All of the above

Q 68 : Which was the first country to implement GST?

- (a) USA
- (b) China
- (c) France
- (d) Switzerland

Q 69 : When the 4 Bills namely: CGST Bill 2017, SGST Bill 2017, UTGST Bill 2017 & GST (Compensation to States) Bill 2017 received the President's assent?

- (a) 12th April 2017
- (b) 30th June 2017
- (c) 8th August 2016
- (d) 1st July 2017

Q 70 : India has chosen its GST model from _____

Q 76: Which of the following taxes will be levied on Imports?

- (a) CGST
- (b) SGST
- (c) IGST and Custom Duty
- (d) Only IGST

Q 77: Which of the following taxes would be levied on an intra-State supply of goods or services or both

- (a) CGST
- (b) Union territory tax

- (a) USA
- (b) China
- (c) UAE Countries
- (d) Canada

Q 71 : HSN stands for _____

- (a) Harmonised system nomenclature
- (b) Harmonised system number
- (c) Harmony system number
- (d) Harmonised system network

Q 72 : SAC Stands for _____

- (a) Service accounting code
- (b) Service assistance code
- (c) Supply accounting code
- (d) Service application code

Q 73: What are the taxes levied on an intra-State Supply?

- (a) CGST
- (b) SGST
- (c) CGST and SGST
- (d) IGST

Q 74: Who will notify the rate of tax to be levied under CGST?

- (a) Central Government suo moto
- (b) State Government suo moto
- (c) GST Council suo moto
- (d) Central Government as per the recommendations of the GST Council

Q 75: Can a person without PAN apply for registration under GST?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

- (c) Both of the above
- (d) IGST

Q 78. GST Council has been established under _____ of the Constitution of India.

- (a) Article 246
- (b) Article 254
- (c) Article 279
- (d) Article 279A

Q 79. The functions of GST Council include

- (a) To decide policy matters
- (b) To formulate principles for administration
- (c) The implementation of GST
- (d) All of the above

Q 80. The three lists regarding power to levy taxes by Centre and States are given in

- (a) VIth Schedule
- (b) VIIth Schedule
- (c) VIIIth Schedule
- (d) None of the above

Q 81. On which of the following products, both GST and Central Excise Duty are imposed?

- (a) Petroleum
- (b) Natural Fuel
- (c) Aviation Turbine Fuel
- (d) Tobacco & tobacco products

Q 82. On which of the following only Central Excise Duty is levied and GST is not levied?

- (a) Petroleum Crude & High Speed Diesel
- (b) Motor Spirit & Natural Gas
- (c) Aviation Turbine Fuel
- (d) All of the above

Q 83. Which of the following Article of the Constitution of India specifies that Imports/exports is a deemed inter-state supply?

- (a) Article 246A
- (b) Article 269
- (c) Article 269A
- (d) Article 279A

Q 84. Article 246A of the Constitution of India:

- (a) Overrides Article 246
- (b) Replaces Article 246
- (c) Overrides Article 269A
- (d) Replaces Article 269

Q 85. As per _____, the IGST will be distributed between Centre and the States Union Territory?

- (a) Article 246A
- (b) Article 269

(c) Article 269A

(d) Article 279A

Q 86. _____ was the first state to ratify GST bill.

- (a) Arunachal Pradesh
- (b) Maharashtra
- (c) Assam
- (d) Telangana

Q 87. _____ was the first state to pass State GST Bill.

- (a) Arunachal Pradesh
- (b) Maharashtra
- (c) Assam
- (d) Telangana

Q 88. GST Council has its headquarters in :

- (a) Delhi
- (b) Mumbai
- (c) Madras
- (d) Kolkata

Q 89. GST Bill was introduced under Constitutional Amendment Bill, but passed under _____ Amendment Act, 2016.

- (a) 122nd; 101st
- (b) 101st; 122nd
- (c) 122nd; 122nd
- (d) 101st; 101st

Q 90. Which of the following is charged by Central Government?

- (a) Integrated GST
- (b) Compensation Cess
- (c) Central GST
- (d) All of the above

Q 91. _____ is observed as GST day.

- (a) 1st January
- (b) 1st July
- (c) 1st October
- (d) 1st April

Q 92. The special purpose Vehicle to cater the IT needs of GST is

- (a) GSTN

- (b) GSNT
- (c) IT-GST
- (d) GST-IN

Q 93. By virtue of which Article of the Constitution, GST Council has been formed?

- (a) Article 246
- (b) Article 248
- (c) Article 279
- (d) Article 279A

Q 94. Who amongst the following is the chairperson of GST Council?

- (a) Union Finance Minister
- (b) President
- (c) State Finance Minister
- (d) Prime Minister

Q 95. As per Article 279A, who is empowered to constitute GST council:

- (a) President
- (b) Parliament
- (c) Prime Minister
- (d) None of the above

Q 96. The GST Council consists of many persons. Its membership consists of which of the following members?

- (a) Union Finance Minister
- (b) Union Minister of State in charge of Revenue or Finance
- (c) Minister in charge of Finance or Taxation, nominated by each State Government
- (d) All of the above

Q 97. As per Article 279A, _____ of the total number of members of GST Council shall constitute the quorum at its meetings?

- (a) 1/3
- (b) 1/2
- (c) 1/4
- (d) 1/10

Q 98. At the time of taking decision at a meeting of GST Council, the vote of the Central Government shall have a weightage of _____ of the total votes cast.

- (a) One-tenth

- (b) One-fourth
- (c) One-third
- (d) One-half

Q 99. What is the weightage of votes of Central Government and State Government, to be considered for taking decision?

- (a) 2:1
- (b) 1:3
- (c) 1:2
- (d) 1:1

Q 100. The provisions relating to GST Council came into force on 12th September, 2016. The President constituted the GST Council on _____.

- (a) 12th September, 2016
- (b) 15th September, 2016
- (c) 1st July, 2017
- (d) 30th June, 2017

Q 101. The major reason for implementation of GST was:

- (a) Plethora of taxes
- (b) Plenty of taxable events
- (c) Double taxation
- (d) All of the above

Q 102. The four legislations (CGST Act, IGST Act, UTGST Act and GST Compensation Act) were given assent by the President on _____.

- (a) April, 12, 2017
- (b) April 15, 2017
- (c) May 12, 2017
- (d) July 1, 2017

Q 103. _____ is the apex body for making recommendations on various issues relating to GST Policy making, formulation of principles, etc.

- (a) GST Council
- (b) CBIC
- (c) Department of Revenue
- (d) Ministry of Finance

Q 104. The Ministry of Finance is headed by

- (a) President
- (b) Prime Minister

- (c) Union Finance Minister
- (d) Revenue Secretary

Q 105. The lowest level in the hierarchy of administrative mechanism at the central level is

- (a) Region
- (b) Zone
- (c) Commissionerates
- (d) Divisions

Q 106. The CBIC is under the control of

- (a) Department of Revenue
- (b) CBDT
- (c) Prime Minister
- (d) None of the above

Q 107. Which of the following taxes have not been subsumed in GST?

- (a) State Excise Duty
- (b) Stamp Duty
- (c) Professional Tax
- (d) All of the above

Q 108. Which of the following has been subsumed in GST?

- (a) Basic Customs Duty
- (b) Anti-Dumping Duty
- (c) Entertainment Tax
- (d) All of the above

Q 109. Which of the following State taxes has not been subsumed in GST?

- (a) Motor Vehicle Tax
- (b) State VAT
- (c) Taxes on lottery, betting and gambling
- (d) None of the above

Q 110. The GST means any tax on supply of goods or services or both except taxes on supply of the

- (a) Alcoholic Liquor (All Types)
- (b) Alcoholic Liquor for human consumption
- (c) Legal services
- (d) Petroleum

Q 111. Which one of the following Central Taxes has not been subsumed by GST?

- (a) Central Excise Duty
- (b) Safeguard Duty
- (c) SAD
- (d) Service Tax

Q 112. Which of the following statement is incorrect?

- (a) GST Council shall constitute the quorum as per half of the members
- (b) 3/4th of the weighted votes of the members present and voting
- (c) GST Council was constituted on 12th September, 2016
- (d) The GST Council is headed by the Prime Minister as chairman

Q 113. Which one of the following Acts has not been passed by the Union?

- (a) CGST Act
- (b) IGST Act
- (c) SGST Act
- (d) UTGST Act

Q 114. _____ on indirect taxes had suggested a comprehensive GST based on VAT principle.

- (a) Malhotra task Force
- (b) Kelkar Task Force
- (c) Vajpayee Task Force
- (d) Tandon Task Force

PAST EXAM

Q 115. GST is a comprehensive tax regime covering both Goods and Services and be collected on value added at each stage of the supply chain. GST is thus levied on the basis of

- (a) Consumption principle
- (b) Destination principle
- (c) Set-off against that payable principle
- (d) Both consumption and destination base principle

[CS. Executive Dec.2019]

Q 116. Most of the countries in the world follow a uniform GST System whereas considering to the

federal nature of Indian Constitution, Model of GST proposed and implemented in India from 1st July, 2017 is :

- (a) Unilateral Model
- (b) Bilateral Model
- (c) Dual Model
- (d) None of the above

[CS. Executive Dec.2019]

Q 117. Every decision of the Goods and Services Tax Council shall be taken at a meeting, by majority of not less than _____ of the weighted votes of the members present and voting. The vote of the Central Government shall have the weightage of _____ the total votes cast and the votes of all the State Government taken together shall have a weightage of _____ of the total votes cast in that meeting.

- (a) 2/3, 1/3, 3/4
- (b) 3/4, 1/3, 2/3
- (c) 2/3, 2/3, 1/3
- (d) 3/4, 1/2, 2/3

[CS. Executive Dec.2019]

Q 118. Which of the following countries was the first to introduce GST?

- (a) United States
- (b) Britain
- (c) Canada
- (d) France

[CS. Executive Dec. 2017]

Q 119. Goods and Services to be supplied chargeable under the CGST Act, 2017 have been classified under different specified Code Numbers which are known as Harmonized System of Nomenclature (HSN) Codes. These HSN Codes have been evolved and developed by:

- (a) GST Council
- (b) HSN/SAC Codes Committee
- (c) Customs Cooperation Council of Belgium
- (d) None of the above

[CS. Executive June 2019]

Q 120. Goods and Services Tax (GST) noted to be a greatest tax reform in India and therefore was rolled-

- (c) Three-fourth majority

out with effect from 1st July, 2017. It transforms a system of taxation and administration into the digital world by adopting latest information technology. The GST model rolled out in India has been adopted from:

- (a) France
- (b) Canada
- (c) Argentina
- (d) None of the above

[CS. Executive June 2018]

Q 121. GST Council comprises of various persons from Union and States and is being headed by a chairperson who is:

- (a) Finance Secretary to Government of India
- (b) Union Finance Minister
- (c) Any State Finance Minister
- (d) Union Finance Minister

[CS. Executive June 2018]

Q 122. The Goods and Services Tax Council shall establish a mechanism to adjudicate any dispute _____

- (a) Relating to any defect in the appointment of a person as a Member
- (b) Relating to any procedural irregularity of the Council
- (c) Between the Government of India and one or more States
- (d) Relating to weightage of vote for taking decision

[CS. Executive Dec.2019]

Q 123. All decisions of GST Council must have _____ majority in order to implement the same.

- (a) One-half
- (b) Three-fourth
- (c) 60%
- (d) 90%

[CS. Executive Dec. 2017]

Q 124. The decision of the GST Council will be adopted when it has the support of.

- (a) One-third majority
- (b) Two-third majority
- (d) Simple majority

[CS. Executive June 2019]

Q 125. Find out from the following, who will be the member in GST council on behalf of each of the state:

- (a) Chief Minister of the State
- (b) Home Minister of the State
- (c) The Minister in charge of Finance or Taxation or any other Minister nominated by the State Government
- (d) Chief Secretary of the State

[CS. Executive Dec. 2018]

Q 126. GST Council is being constituted for making recommendation on various issues relating to policy making, formulation of principle and implementation of policies relating to CGST Act, 2017. It is thus

- (a) An administrative body

- (b) A Central level body
- (c) A Committee of Finance Ministers
- (d) An Apex Constitutional Body

[CS. Executive Dec. 2018]

Q 127. Administration and procedural aspects of Goods and Services Tax are to be administered by the _____ which is under the control of the Department of Revenue, Ministry of Finance, Government of India.

- (a) Central Board of Indirect Taxes and Customs
- (b) Central Board of Indirect Taxes
- (c) Central Board of Direct Taxes
- (d) GST Council

[CS. Executive Dec.2019]

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | D | 2 | A | 3 | D | 4 | A | 5 | B |
| 6 | A | 7 | A | 8 | D | 9 | A | 10 | D |
| 11 | D | 12 | C | 13 | A | 14 | A | 15 | A |
| 16 | B | 17 | C | 18 | A | 19 | B | 20 | B |
| 21 | A | 22 | B | 23 | A | 24 | A | 25 | D |
| 26 | B | 27 | A | 28 | B | 29 | B | 30 | 21 |
| 31 | D | 32 | C | 33 | C | 34 | D | 35 | A |
| 36 | D | 37 | A | 38 | D | 39 | D | 40 | D |
| 41 | B | 42 | B | 43 | A | 44 | B | 45 | A |
| 46 | B | 47 | B | 48 | D | 49 | A | 50 | D |
| 51 | D | 52 | A | 53 | A | 54 | C | 55 | B |
| 56 | C | 57 | A | 58 | A | 59 | A | 60 | D |
| 61 | D | 62 | B | 63 | C | 64 | B | 65 | B |
| 66 | A | 67 | B | 68 | C | 69 | A | 70 | D |
| 71 | A | 72 | A | 73 | C | 74 | D | 75 | B |

| | | | | | | | | | |
|-----|---|-----|---|-----|---|-----|---|-----|---|
| 76 | C | 77 | C | 78 | D | 79 | D | 80 | B |
| 81 | D | 82 | D | 83 | C | 84 | A | 85 | C |
| 86 | C | 87 | D | 88 | A | 89 | A | 90 | D |
| 91 | B | 92 | A | 93 | D | 94 | A | 95 | A |
| 96 | D | 97 | B | 98 | C | 99 | C | 100 | B |
| 101 | D | 102 | A | 103 | A | 104 | C | 105 | D |
| 106 | A | 107 | D | 108 | C | 109 | A | 110 | B |
| 111 | B | 112 | D | 113 | C | 114 | B | 115 | B |
| 116 | C | 117 | B | 118 | D | 119 | C | 120 | A |
| 121 | B | 122 | C | 123 | C | 124 | D | 125 | A |
| 126 | D | 127 | A | | | | | | |



CHAPTER TWO

LEVY AND COLLECTION OF GST

CGST is levied on all intra-state supplies of goods and services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 at such rate, 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.

In addition to CGST, SGST will also be levied on intra-state supply of goods and services or both.

2.1 CHARGEABILITY OF GST [SECTION 9 OF CGST]

1. Charging section [Section 9(1)] : This section provides as under :

- Subject to section 9(2) of CGST Act,
- there shall be levied a tax called the Central Goods and Services Tax (CGST)
- on *all intra-State supplies of goods or services or both*,
- *except on supply of alcoholic liquor for human consumption*,
- on the *value* determined under section 15 of CGST Act and
- at such rates not exceeding 20% as may be notified by Central Government, on the recommendation of GST Council [**Author : 6 rates (viz. 2.5%, 6%, 9%, 14%, 1.5%, 0.125%) are notified by N.N. 1/2017-CT (Rates) dt. 28.6.2017**]
- and collected in such manner as may be prescribed.

2. CGST on petroleum products [Section 9(2)] : The CGST on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the GST Council.

Note : Section 5(1) and 5(2) of IGST Act have parallel provisions in respect of levy of IGST.

3. Government to notify the person liable to pay GST : [Section 9(3)] : The Government may, on the recommendations of the Council, by notification, specify categories of supply of, the tax on which shall be paid on reverse charge basis by the recipient of such supply 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.

4. **Vide N.N. 13/2017-CT (Rate) dt. 28.6.2017**, Central Government has notified the following SERVICES wherein the whole of the central tax shall be paid by the 'recipient' of supply of such service :

| Sr. No. | Category of supply of SERVICE | Supplier of services | Recipient (i.e. the person liable to pay GST) |
|---------|---|---|--|
| (1) | (2) | (3) | (4) |
| 1 | <p>GTA : Supply of Services by a GTA (who has not paid central tax at the rate of 6%) in respect of transportation of goods by road to :</p> <p>(a) any registered factory; or</p> <p>(b) any registered society; or</p> <p>(c) any co-operative society; or</p> <p>(d) any person registered under GST Act; or</p> <p>(e) any body corporate; or</p> <p>(f) any partnership firm including any AOP; or</p> <p>(g) any casual taxable person.</p> <p>Provided that nothing contained in this entry shall apply to, -</p> <p>(i) a Department or Establishment of the CG or SG or UT or LA or Governmental agencies, which has taken registration only for the purpose of deducting tax at source (i.e. TDS) and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p> | Goods Transport Agency (GTA) | <p>Recipient mentioned in <i>Column 2</i> located in the 'taxable territory'</p> <p>Explanation : The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.</p> |
| 2 | <p>Legal Service : Services supplied by :</p> <p>(a) an individual advocate including a senior advocate</p> <ul style="list-style-type: none"> ✓ by way of representational services before any court, tribunal or authority, directly or indirectly, ✓ to any business entity located in the taxable territory, ✓ including where contract for provision of such service has been entered through another advocate or a firm of advocates, or <p>(b) by a firm of advocates, by way of legal services, to a business entity.</p> | <p>(a) An individual advocate including a senior advocate, or</p> <p>(b) firm of advocates.</p> | <p>Any business entity located in the taxable territory.</p> <p>[Note : To know more about 'business entity', please refer Mega Exemption NN 12/2017, discussed in next chapter]</p> |
| 3 | Arbitral Tribunal : Services supplied by an arbitral tribunal to a business entity | An arbitral tribunal | Any business entity located in the taxable territory |
| 4 | Sponsorship : 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 Government : Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding—</p> <p>(1) <i>Renting</i> : Renting of immovable property,</p> | Central Government, State Government, Union territory or local authority | Any business entity located in the taxable territory |

| | | | |
|----|---|--|---|
| | <p>(2) <i>Postal</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>(3) <i>Aircraft</i> : Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(4) <i>Transportation</i> : Transport of goods or passengers.</p> | | |
| 5A | Renting by Govt : Services supplied by the CG, SG, UT or LA by way of renting of immovable property to a person registered under the CGST Act, 2017. | CG, SG, UT or LA | Any person registered under CGST Act, 2017. |
| 6 | Directorship : 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 | Insurance : 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 | Recovery : Services supplied by a recovery agent to a banking company or a financial institution or a nonbanking financial company. | A recovery agent | A banking company or a financial institution or a non-banking financial company, located in the taxable territory |
| 9 | <p>Copyrights relating to dramatic, musical or artistic work : Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of section 13(1) of the Copyright Act, 1957 relating to original</p> <ul style="list-style-type: none"> ◆ literary; ◆ dramatic, ◆ musical or ◆ artistic works <p>to a publisher, music company, producer etc. or the like.</p> <p>[Amended w.e.f. 1.10.2019 by NN 22/2019 CT (R)]</p> | Author or music composer, photographer, artist, or the like | Publisher , music company, producer or the like, located in the taxable territory. |
| 9A | <p>Copyrights relating to literary work : Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of section 13(1) of the Copyright Act, 1957 relating to original</p> <ul style="list-style-type: none"> ◆ literary work <p>to a publisher.</p> <p>Note : In this case (i.e. clause 9A) an author can choose to pay tax under forward charge if-</p> <p>(a) he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said</p> | Author | Publisher located in the taxable territory. |

| | | | |
|----|---|--|---|
| | <p>service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(b) he makes a declaration on the invoice issued by him in prescribed form to the publisher.</p> <p>[Inserted w.e.f. 1.10.2019 by NN 22/2019 CT (R)]</p> | | |
| 10 | Overseeing Committee of RBI : Supply of services by the members of Overseeing Committee of RBI | Members of Overseeing Committee | RBI |
| 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 LLP. | A banking company or a non-banking financial company, located in the taxable territory. |
| 12 | Services by BF : Services provided by business facilitator (BF) to a banking company | Business facilitator (BF) | A banking company, located in the taxable territory |
| 13 | Services by Bus. Corp. : 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 | <p>Security services : Security services (services provided by way of supply of security personnel) provided to a registered person.</p> <p>Provided that nothing contained in this entry shall apply to, -</p> <p>(i) a Department or Establishment of the CG or SG or UT or LA or Governmental agencies, which has taken registration only for the purpose of deducting tax at source (i.e. TDS) and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p> | Any person other than a body corporate | A registered person, located in the taxable territory |
| 15 | <p>Renting of motor vehicles : Services provided by way of renting of a motor vehicle provided to a body corporate.</p> <p>[Inserted w.e.f. 1.10.2019 by NN 22/2019 CT (R)]</p> | Any person other than a body corporate, who is paying CGST @ 2.5% on renting of motor vehicles with ITC only of input service in the same line of business | Any body corporate located in the taxable territory |
| 16 | Security Lending : Services of lending of securities | Lender i.e., a person | Borrower i.e., a person who |

| | | | |
|-------------------------|--|---|--|
| | under Securities Lending Scheme, 1997 ("Scheme") of SEBI, as amended. [Inserted w.e.f. 1.10.2019 by NN 22/2019 CT (R)] | who deposits the securities under the Scheme. | borrowes the securities under the Scheme. |
| Entry 1 of IGST | Supply of service from non-taxable territory to taxable territory : Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient. | The person located in a non-taxable territory | The person located in taxable territory other than non-taxable online recipient. |
| Entry 10 of IGST | Import of services : Services supplied by the person located in non-taxable territory by way of transportation of goods by vessel from a place outside India up to the customs station of clearance in India. | Person located in non-taxable territory | Importer, as defined in section 2(26) of Customs Act, 1962. |

5. *Vide* N.N. 4/2017-CT (Rate) dt. 28.6.2017, Central Government has notified the following GOODS wherein the whole of the central tax shall be paid by the 'recipient' of supply of such goods :

| Sr. No. | Category of supply of GOODS | Supplier of goods | Recipient (<i>i.e.</i> the person liable to pay GST) |
|---------|-------------------------------------|--|---|
| (1) | (2) | (3) | (4) |
| 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 |
| 4 | Silk yarn | Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn | Any registered person |
| 5 | Supply of lottery. | State Government, Union Territory or any local authority | Lottery distributor or selling agent. Explanation.- For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub section 1 of section 11 of the Lotteries (Regulations) Act, 1998. |
| 6 | Priority Sector Lending Certificate | Any registered person | Any registered person |

6. **Reverse charge if supplier is not registered : [Section 9(4)] :** GST Amendment Act, 2018, substituted this sub-section with the below new sub-section (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.

7. Amendments in Real Estate Sector [W.e.f. 1.4.2019]

RATES and RCM

Before this amendment, the rate of GST in real estate sector was 8%/12% with ITC. With effect from 1.4.2019, the effective rates of GST for the new projects have been brought to 1%/5%.

However, the promoters/builders have been given a one-time option to continue to pay tax at the old rates on ongoing projects (buildings where construction and actual booking both have started before 1.4.2019) which have not been completed by 31.03.2019.

Details about the new rates are as follows :

- (i) **New rate of 1% without ITC :** on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value upto Rs.45 lakh).
- (ii) **New rate of 5% without ITC :** on construction of all other houses and commercial shops/offices

Conditions : Above tax rates shall be available subject to following conditions:

- (a) ITC shall not be available.
- (b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land or FSI, electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

EXEMPTION – New Entry 41A and 41B

[Notification No. 07/2019 CT (R) dated 29.03.2019/ Notification No. 07/2019 IT (R) dated 29.03.2019]

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer exempt from GST

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property.

The liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM).

8. Reverse charge will apply on supplies made through ECO : [Section 9(5)] : This section provides as under :

- The Government may, on the recommendations of the Council, by notification,
- specify categories of *services*
- the tax on intra-State supplies of which shall be paid by the Electronic Commerce Operator (ECO)
- if such services are supplied through it,
- and all the provisions of this Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of such services:
- **Provided that** where an ECO 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:
- **Provided further** that where an ECO 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.

Notified Services on which GST will be paid by ECO [N.N. 17/2017 CT (Rate) dt. 28.6.2017 as amended by N.N. 23/2017 CT (Rate) dt. 22.8.2017]

In exercise of the powers conferred by section 9(5) of the CGST Act, 2017, the Central Government, on the recommendations of the Council, hereby notifies that in case of the following categories of services, the tax on intra-State supplies shall be paid by the ECO—

- (i) **Transportation** : services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- (ii) **Hotels etc.** : 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 under section 22(1) of CGST Act.
- (iii) **House-keeping** : services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of CGST Act.

Explanation.- For the purposes of this notification,-

(a) **“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);

(b) **“maxicab”, “motorcab” and “motor cycle”** shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicles Act, 1988.

9. Analysis of charging section : Detailed analysis of this section is as under :

| | |
|---|---|
| Supply inclusions and exclusions | Section 9 provides that all intra-State supplies would be liable to CGST. The levy is on supply of all goods or services or both EXCEPT on the supply of alcoholic liquor for human consumption. Besides, supply of petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel are also included in GST. However, the tax will be levied on these goods only with effect from such date as may be notified by the Government after recommendation of the Council. |
| Third person liable to pay tax (i.e. case which is neither FCM | Normally, the tax would be paid by the supplier of goods and services. However, in specific cases (as may be notified), to be called as ‘reverse charge cases’ the onus of payment of tax is shifted to the recipient of goods and services. |

| | |
|-----------------|--|
| nor RCM) | <p>Additionally, where any supply of services is effected through e-commerce operators (<i>i.e.</i> aggregators), the law provides that the Central/State Government may on recommendation of the Council specify (notify) that the e-commerce operator will be liable to discharge the tax on such supplies. It is important to note that, in such supplies, the e-commerce operator is neither the actual supplier of service/s nor does he actually receive the services. The actual supplier of services is a third party who provides such service to the customer through e-commerce operator. Instead of levying tax on such actual supplier, the law has imposed levy on e-commerce operator. Therefore, this would be an exception to the imposition of tax either on supplier or on person receiving the supply.</p> <p>It is important to note that this exception is carved out only in respect of supply of <i>services</i> through an e-commerce operator (<i>e.g.</i> OYO Rooms, OLA, UrbanClap) and will not be applicable to supply of any goods through an e-commerce operator (<i>e.g.</i> Flipkart, Amazon).</p> |
| RCM | <p>RCM is covered by section 9(3) and 9(4). Under RCM, the supplier is not required to pay the GST but it is the recipient who is deemed as the person liable to pay GST. Thus, in RCM, it is the recipient who bears the burden and also pays the GST to the Govt.</p> <p>If a recipient is liable to pay GST under RCM (then even if he is not registered in GST) has to obtain the registration to pay the GST. So registration is compulsory irrespective of his turnover.</p> <p>FURTHER, in RCM, the recipient is eligible to avail the Input Tax Credit (ITC) on the supplies received by him (on which RCM applies) but while discharging the liability of GST under RCM, he cannot use the ITC he has in his Electronic Credit Ledger. GST under RCM has to be paid in cash only. ITC cannot be utilised against the payment of RCM GST. (to be discussed in details in Chapter 'ITC').</p> |

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1 : Charging section 9 of CGST Act, 2017 levies which GST :

- (a) CGST
- (b) SGST
- (c) IGST
- (d) All of the above

Q 2 : What are the six rates notified under section 9 of CGST Act, 2017 :

- (a) 1%, 2%, 3% and 10%
- (b) 2.25%, 4.5%, 9%, 13.5%, 18% and 28%
- (c) 2.5%, 6%, 9%, 14%, 1.5%, 0.125%
- (d) 5%, 12%, 18%, 28%, 3% and 0.25%

Q 3 : Charging section 9 of CGST Act, 2017 does not apply on :

- (a) Alcoholic liquor for human consumption
- (b) Tobacco products
- (c) Both of the above
- (d) none of the above

Q 4 : What is the maximum rate of GST prescribed by charging section 9 of CGST Act, 2017 :

- (a) 10%
- (b) 20%
- (c) 40%
- (d) 28%

Q 5 : GST is calculated on :

- (a) Maximum retail price
- (b) Value determined by proper officer
- (c) Value as defined in section 15
- (d) Amount actually paid by the recipient

Q 6 : What is reverse charge mechanism in GST ?

- (a) reverse charge mechanism means the GST liability will be born and paid by the supplier
- (b) Reverse charge mechanism means the GST liability will be born by the recipient but paid by the supplier

- (c) reverse charge mechanism means the GST liability will be born and paid by the recipient
- (d) reverse charge mechanism means The GST liability will be born by the supplier but paid by the recipient.

Q 7 : Input tax credit in case of reverse charge mechanism can be availed by:

- (a) Supplier of the Goods/Services
- (b) Recipient of Goods/Services
- (c) Both
- (d) None

Q 8 : Can Input tax credit standing in the Electronic credit ledger be utilized for payment of tax under Reverse Charge Mechanism?

- (a) Yes
- (b) No
- (c) Not Applicable
- (d) Maybe

Q 9 : Who is Liable to be mandatorily registered under Reverse Charge Mechanism?

- (a) Supplier
- (b) Recipient
- (c) Both
- (d) None

Q 10 : Is ITC available to the supplier, supplying goods/Services under Reverse Charge Mechanism?

- (a) Yes
- (b) No
- (c) Not Applicable
- (d) Yes, if permitted by the authority

Q 11 : Mr. Amit (a supplier in GST) makes a purchase under Reverse charge Mechanism. Can he avail credit of such tax paid under such mechanism?

- (a) Yes
- (b) No
- (c) Not Applicable
- (d) As applicable when authorized

Q 12 : Mr. X is liable to pay tax under Reverse Charge Mechanism. What shall be the threshold limit applicable for registration of Mr. X

- (a) 20 lakhs
- (b) 10 lakhs

- (c) 50 Lakhs
- (d) No threshold

Q 13 : A person receives services worth of Rs. 2.5 lakhs on 20th August, 2018. Invoice on the same has been issued on 23rd August, 2018 and transaction as such is entered by the recipient on 25th of August. Payment of such service is made on 18th August, 2018. What shall be the time of Supply in the given case?

- (a) 20th August, 2018
- (b) 25th August, 2018
- (c) 23rd August, 2018
- (d) 18th August, 2018

Q 14 : Is Reverse Charge mechanism applicable to E-Commerce Operator?

- (a) Yes
- (b) No
- (c) Not applicable
- (d) As and when provided by the authority

Q 15 : OLA being an E-commerce operator provides cab services to the passengers through various local service providers. The liability to pay tax on such services shall be applicable to:

- (a) OLA
- (b) Passengers
- (c) Local Service Providers
- (d) None

Q 16 : Is Advance payment made subject to Reverse Charge mechanism under the GST regime?

- (a) Yes
- (b) No
- (c) Not Applicable
- (d) Yes with prior permission of Government.

Q 17 : What is the tax rate applicable on a composite dealer falling under Reverse Charge Mechanism?

- (a) As applicable to a composite dealer
- (b) As applicable to a normal taxpayer
- (c) Exempt
- (d) None of the above

Q 18 : What is the amount of Input tax credit available to a composite dealer falling under Reverse charge mechanism?

- (a) 100% of tax paid
- (b) 50% of tax paid

- (c) Nil
- (d) Some portion of tax paid

Q 19 : What are the invoicing rules to be followed under Reverse Charge Mechanism?

- (a) Mention Reverse charge clause on the tax invoice
- (b) Mandatory issue of payment voucher by the recipient of goods/services
- (c) Self-invoicing in case of such supply received
- (d) All of the above

Q 20 : What is the manner of payment of tax under Reverse charge?

- (a) Through Input available in the electronic credit ledger
- (b) Through Cash ledger
- (c) Through both mediums
- (d) None

Q 21 : When input tax credit be claimed under Reverse Charge?

- (a) After payment of tax liability
- (b) After issue of Invoice
- (c) Earliest of Both
- (d) Not Applicable

Q 22 : Who are the persons liable to comply with return filing obligations under Reverse Charge?

- (a) All registered recipients
- (b) Class of registered recipients
- (c) Supplier or recipient as agreed between them (mutually)
- (d) 50% by supplier and 50% by the recipient

Q 23 : Section 9(4) specifies _____ who shall, in respect of supply of _____ received from _____, pay the tax on RCM basis as the recipient of such supply.

- (i) a class of registered persons (being recipient)
- (ii) any registered person (being recipient)
- (iii) specified categories of goods or services or both
- (iv) any goods or services or both
- (v) an unregistered supplier
- (vi) a class of unregistered suppliers

Answers are :

- (a) (i), (iii) and (v)
- (b) (ii), (iii) and (v)
- (c) (i), (iii) and (vi)
- (d) (ii), (iv) and (v)

Q 24 : Which of the following services are covered under RCM under section 9(3)?

- (a) Advocate services
- (b) Goods transportation services
- (c) Insurance agent services
- (d) All of the above

Q 25 : Which of the statements is correct?

- (a) Prior to amendment in the Act, RCM under section 9(4) was applicable on all supplies received from an unregistered person.
- (b) Post amendment in the Act, RCM under section 9(4) is applicable only on the supply of specified goods or services
- (c) Both (a) & (b) are correct
- (d) Both (a) & (b) are partially correct

Q 26 : If the goods being supplied by the person is exempted from GST, will the recipient still be liable to pay under RCM?

- (a) Yes
- (b) No
- (c) Maybe
- (d) Supplier shall pay the tax

Q 27 : If the person makes supplies under RCM, will such supplies form a part of aggregate turnover?

- (a) Yes
- (b) No
- (c) Yes, if they exceeds threshold
- (d) Maybe

Q 28 : _____ excludes tax payable by a person under RCM.

- (a) Input tax
- (b) Output tax
- (c) Cash ledger
- (d) Credit ledger

Q 29 : Mr. A was having Rs. 50,000 in his credit ledger in the month of January 2020 and in the same month he made purchases on which tax of Rs. 30,000 under RCM was to be paid. Also, on his outward supplies the tax liability is Rs.25,000. How he should discharge his GST liability ? :

- (a) Normal GST = Nil (i.e. Rs.25,000 – ITC of Rs.25,000) + RCM = Rs.5,000 (i.e. Rs.30,000 – ITC of Rs.25,000)

- (b) Normal GST = Rs.25,000 (No ITC utilised) + RCM = Rs.30,000 (No ITC utilised)
- (c) Normal GST = Rs.25,000 (No ITC utilised) + RCM = Nil (i.e. Rs.30,000 – ITC of Rs.30,000)
- (d) Normal GST = Nil (i.e. Rs.25,000 – ITC of Rs.25,000) + RCM = Rs.30,000 (No ITC utilised)

Q 30 : In the above question, what would be the opening balance of ITC in Feb 2020 ? (Assume he has no other ITC)

- (a) Rs.0 (i.e. Rs.50,000 – Rs.25,000 – Rs.25,000)
- (b) Rs.50,000
- (c) Rs.20,000 (i.e. Rs.50,000 – Rs.30,000)
- (d) Rs.25,000 (i.e. Rs.50,000 – Rs.25,000)
- (e) Rs.55,000 (i.e. Rs.50,000 – Rs.25,000 + Rs.30,000)

Q 31 : “Mr. A is only supplying services under RCM & the total supplies made during the year was Rs. 65 lakhs.” Comment.

- (a) Mr. A must take compulsory registration under GST
- (b) Mr. A may operate without registration under GST
- (c) Mr. A must take registration as he has exceeded the threshold limit
- (d) None of the above

Q 32 : If an unregistered GTA gives services to an unregistered person. Who shall pay tax?

- (a) Unregistered GTA
- (b) Unregistered person under RCM
- (c) None of them
- (d) Both of them

Q 33 : Mr. A, a lawyer provides representational services to XYZ Pvt Ltd having a turnover of Rs. 15 lacs. Is RCM applicable?

- (a) Yes
- (b) No
- (c) Maybe
- (d) Mr. A needs to pay tax

Q 34 : Mr. A, a lawyer provides representational services to XYZ Pvt. Ltd. having a turnover of Rs. 25 lacs. Is RCM applicable?

- (a) Yes
- (b) No
- (c) Maybe
- (d) Mr. A needs to pay tax

Q 35 : Students of GCD College took sponsorship from X Pvt. Ltd. and in return provided them a space in their fest which was to be held next month. In such case, who shall pay GST ?

- (a) Students of GCD College
- (b) X Pvt. Ltd.
- (c) Any of them depending upon the terms of the agreement between them
- (d) No GST in case of sponsorship services

Q 36 : Delhi Government gave a piece of land on rent to ABC Pvt. Ltd., registered in Delhi. Who shall pay tax? Is RCM applicable?

- (a) Delhi Government, RCM Applicable
- (b) Delhi Government, RCM not Applicable
- (c) ABC Pvt. Ltd., RCM Applicable
- (d) ABC Pvt. Ltd., RCM not Applicable

Q 37 : Which of the following service falls in RCM

- (a) Services by whole time director
- (b) Services by a director other than whole time director
- (c) Services by an employee to his company
- (d) None of the above

Q 38 : Which of the following service has option to choose RCM or FCM

- (a) Services by way of transfer or permitting the use or enjoyment of a copyright relating to dramatic work
- (b) Services by way of transfer or permitting the use or enjoyment of a copyright relating to musical work
- (c) Services by way of transfer or permitting the use or enjoyment of a copyright relating to artistic work
- (d) Services by way of transfer or permitting the use or enjoyment of a copyright relating to literary

Q 39 : ABC Pvt. Ltd. appointed Mr. Z as their independent director and paid him the sitting fees. Is this supply covered under RCM?

- (a) Yes
- (b) No
- (c) Not taxable at all
- (d) Taxable under forward charge

Q 40 : State Bank of India appointed Mr. Y, a recovery agent in order to recover the amount paid to a defaulter Mr. X. Who shall pay the tax in this supply?

- (a) State Bank of India
- (b) Mr. Y
- (c) Mr. X
- (d) None of them

- (a) Correct
- (b) Incorrect
- (c) Partially correct
- (d) None of the above

Q 41 : Comment on the correctness of the sentence - "Person can take the credit of the tax paid under RCM only when he has paid the tax."

- (a) Correct
- (b) Incorrect
- (c) Partially correct
- (d) None of the above

Q 42 : Can supplier demand full payment of invoice when reverse charge is applicable?

- (a) Yes, if the contract provides that the price charged does not include tax.
- (b) No, if the contract provides that the price charged does not include tax.
- (c) Yes, if the contract provides that the price charged includes tax.
- (d) None of the above

Q 43 : Reverse charge is applicable on _____

- (a) Purchase order
- (b) Sale
- (c) Supply
- (d) Lease

Q 44 : GST on RCM applies in which of the following case(s)? :

- (a) Where supply is inter-state
- (b) Where supply is intra-state
- (c) Where supply is inter-UT
- (d) All of the above

Q 45 : "Section 16(2) provides that the payment to supplier must be made within 180 days otherwise the ITC needs to be reversed." Does this statement hold true in case of RCM?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 46 : Comment - "The supplier is operating below the threshold limit that is why the recipient is not liable to pay tax under RCM."

Q 47 : Which if the following ECOs are liable to pay GST under section 9(5)?

- (a) OLA
- (b) OYO Rooms
- (c) UrbanClap
- (d) All of the above

Q 48 : Which if the following ECOs are liable to pay GST under section 9(5)?

- (a) Flipkart
- (b) Amazon
- (c) Myntra
- (d) None of the above

Q 49 : Is RCM applicable on supplies procured by a composition dealer?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 50 : What are the supplies on which reverse charge mechanism would apply?

- (a) Notified categories of goods or services or both referred to in section 9(3)
- (b) Notified categories of inward supply of goods or services or both received by a class of recipients from an unregistered dealer referred to in section 9(4)
- (c) Both of the above
- (d) None of the above

Q51. The supply of lottery is covered under reverse charge mechanism under section 9(3), if the supplier of goods is _____ & recipient is _____.

- (i) State Government; Union Territory or any Local Authority
- (ii) Lottery Distributor or selling agent
- (iii) Registered person
- (iv) Manufacturer

Options are :

- (a) (i) ; (ii)
- (b) (i) ; (iii)
- (c) (ii) ; (i)

- (d) (i) ; (iv)

Q52. Reverse charge under section 9(3) of the CGST Act, 2017 is applicable:

- (a) Only on Notified Services
- (b) Only on Notified Goods
- (c) On Notified Goods & Services
- (d) None of the above

Q53. Which of the following services, subject to respective conditions, are covered under section 9(3) i.e. reverse charge mechanism?

- (i) Goods Transport Agency
- (ii) Sponsorship Services
- (iii) Services by Director
- (iv) Insurance Agent Services
- (v) Recovery Agent Services
- (vi) Services by business facilitator to a banking company

Options are :

- (a) (i), (ii)
- (b) (i), (ii), (iii)
- (c) (i), (ii), (iii), (iv)
- (d) (i) to (vi)

Q54. In case of GTA services provided to an individual not registered under GST and not a business entity, liability to pay GST is on

- (a) Supplier
- (b) Recipient
- (c) Both (a) & (b)
- (d) No one as it is exempt supply

Q55. Delhi Debt Recovery Services has provided services to HDFC Bank as recovery agent. These services are liable for GST in the hands of :

- (a) HDFC bank under Forward Charge Mechanism
- (b) HDFC bank under Reverse Charge Mechanism
- (c) Delhi Debt Recovery Services under Forward Charge Mechanism
- (d) Delhi Debt Recovery Services under Reverse Charge Mechanism

Q56. Ram and Raman are partners in a firm of advocates. The firm has provided legal professional services to the following:

- (i) An advocate of Delhi High Court
- (ii) A firm of seven advocates

(iii) XYZ Limited, a business entity whose turnover of the preceding year is more than Rs. 20 Lakhs

(iv) Mr. Amit, an individual

Out of above, which service(s) is/are not exempted and Reverse Charge Mechanism is applicable.

- (a) (i)
- (b) (ii)
- (c) (iii)
- (d) (iv)

Q57. Services provided by director of a company or body corporate are covered under Reverse Charge Mechanism if these are provided to

- (a) Private limited company
- (b) Public limited company
- (c) Any company/body corporate located in 'Taxable Territory'
- (d) Any company/body corporate located in 'Any Territory'

Q58. A Pvt. Ltd. (due to turnover being less than threshold limit, is not registered in GST), receives sponsorship services from Mr. Aakash. In this case, who is liable to pay GST on the amount of sponsorship services ?

- (a) A Pvt Ltd under reverse charge mechanism
- (b) Mr. Aakash under forward charge mechanism
- (c) Both
- (d) None of the above

Q59. The services have been provided by the director of a company, in the capacity of employee. Which of the following statement is true?

- (a) RCM is applicable under section 9(3)
- (b) RCM is applicable under section 9(4)
- (c) Not a supply as per Schedule I
- (d) Not a supply as per Schedule III

Q60. After CGST (Amendment) Act 2018, the section 9(4) relating to RCM is applicable on

- (a) Every supply of goods by unregistered supplier to registered recipient
- (b) Every supply of services by unregistered supplier to registered recipient
- (c) Every supply of goods by registered supplier to unregistered recipient
- (d) Notified categories of intra-State supplies of

goods/services by notified registered persons from any unregistered supplier

Q61. Section 10 of the CGST Act, 2017 contains provisions related to

- (a) Forward Charge Mechanism
- (b) Reverse Charge Mechanism
- (c) Composition Levy
- (d) Time of supply of goods

Q62. The provisions relating to Reverse Charge Mechanism are given in.....of CGST Act, 2017.

- (a) Section 9(1) & 9(2)
- (b) Section 9(2) & 9(3)
- (c) Section 9(3) & 9(4)
- (d) Section 9(4) & 9(5)

Q63. Which of the following goods have been notified by the Government under reverse charge mechanism under section 9(3);

- (a) Shelled cashew nuts
- (b) Peeled cashew nuts
- (c) Silk yarn
- (d) Fabricated cotton

Q64 Which one of the following goods is covered under reverse charge mechanism under section 9(3) if the supplier of goods is Agriculturist?

- (a) Cashew nuts (Not shelled or peeled)
- (b) Bidi wrapper leaves (Tendu)
- (c) Tobacco leaves
- (d) Silk yarn

PAST EXAM

Q65. A registered person of Delhi is buying and selling goods only in Delhi. The applicable law for GST in his case will be :

- (a) State GST and CGST

- (b) UTGST Act, 2017 and CGST
- (c) GST (Compensation to States) Act, 2017 and CGST
- (d) CGST Act, 2017 only

[CS. Executive June 2019]

Q66. Which of the following has been kept out of the GST levy?

- (a) Generator
- (b) Computer
- (c) Jewellery
- (d) Electricity

[CS. Executive Dec. 2017]

Q67. Which of the following GST Model is adopted in India?

- (a) Australian Model
- (b) Bagchi-Poddar Model
- (c) Dual Model
- (d) America Model

[CS. Executive Dec. 2017]

Q68. Power to declare certain activities/ transactions as neither supply of goods nor of services is given in :

- (a) Schedule IV
- (b) Schedule III
- (c) Schedule II
- (d) Schedule I

[CS. Executive June 2019]

Q69. When goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance as per provisions of CGST Act, 2017, is called as :

- (a) Mixed Supply
- (b) Uniform Supply
- (c) Complex Supply
- (d) Composite Supply

[CS. Executive June 2019]

Q70. Section 7 of the CGST Act, 2017 defines the term 'supply' which are further being enumerated in the various schedules as specified in that section. The section includes certain transactions which are even without consideration but being construed as supply and also known as deemed supply. Such transactions are being specified in

- (a) Schedule II
- (b) Schedule I
- (c) Schedule III
- (d) Schedule IV

[CS. Executive Dec.2019]

Q71. Construction of a complex, building, civil

structure or the part thereof including a complex or building intended for sale to a buyer, wholly or partly except where the entire consideration has been received after issuance of a completion certificate, where required, by a competent authority or after its first occupation, whichever is earlier as per section 7 of the CGST Act, 2017 read with item specified in schedule is known as.....

- (a) Goods
- (b) Both Goods and Services
- (c) Services
- (d) Contract work

[CS. Executive Dec.2019]

Q72. A service shall be a continuous supply of service agreed to be provided continuously or on recurrent basis under a contract when the period of service exceeds :

- (a) 1 month
- (b) 3 months
- (c) 6 months
- (d) One year

[CS. Executive June 2019]

Q73. When employer gifts goods to his employees, it will not be considered as taxable supply for the purpose of GST if the value of supply to an employee does not exceed:

- (a) Rs. 5,000
- (b) Rs. 20,000
- (c) Rs. 50,000
- (d) Rs. 1,00,000

[CS. Executive Dec. 2017]

Q74. Which of the following represents composite supply?

- (a) Doctor's service with medicines
- (b) Package with fruits and chocolates
- (c) Coaching centre with monthly excursions on trekking
- (d) Supply of computer printer and laptop

[CS. Executive Dec. 2017]

Q75. A Service would be called as "continuous supply of service", if the service under a contract is provided continuously or on recurrent basis exceeding:

- (a) One year
- (b) 6 months
- (c) 3 months
- (d) 1 month

[CS. Executive Dec. 2017]

Q76. Permanent transfer or disposal of goods forming part of business asset by or under the direction of the person carrying on the business whether or not for

consideration as well as transfer of title in goods under an agreement where property in goods passes at a future date on payment of full consideration as per Schedule II of the CGST Act, 2017 to be treated as

- (a) Supply of Goods
- (b) Supply of Services
- (c) Deemed supply
- (d) Both, supply and deemed supply

[CS. Executive Dec.2019]

Q77. GST in India is levied on the basis of:

- (a) Consumption Principle
- (b) Set off against that payable
- (c) Destination based principle
- (d) Both consumption and destination based principle

[CS. Executive June 2018]

Q78. Which of the following incomes/activities is liable for GST?

- (a) Salary
- (b) Salary and allowances of MP's
- (c) Services by court
- (d) Sales of jewellery

[CS. Executive Dec. 2017]

Q79. The payment of tax by electronic operator who does not have physical presence in taxable territory in India be made by

- (a) ECO himself
- (b) His appointed representative in India
- (c) The person who receives supply
- (d) Either (a) or (b)

[CS. Executive Dec. 2018]

Q80. A registered person of Delhi is buying and selling goods only in Puducherry. The applicable law for GST in this case will be:

- (a) SGST & CGST
- (b) UTGST&CGST
- (c) SGST&UTGST
- (d) 1GST

[CS. Executive June 2019 Modified]

Q81. The liability to pay GST would depend on the mechanism the transaction aligns to the supplier who is registered with GST, issues a tax invoice, collects the GST and pays it to the Government. This mechanism under GST is known as

- (a) Forward charge mechanism
- (b) Reverse charge mechanism
- (c) Composition levy mechanism

(d) Taxable supply mechanism

[CS. Executive Dec.2019]

Q82. When agriculturist supplies tobacco leaves to a factory, registered under GST, the liability to pay GST is on:

- (a) Tobacco leaves seller
- (b) The buyer under reverse charge
- (c) The agriculturist
- (d) Consumer of tobacco leaves

[CS. Executive June 2019]

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | A | 2 | C | 3 | A | 4 | B | 5 | C |
| 6 | C | 7 | B | 8 | B | 9 | B | 10 | B |
| 11 | A | 12 | D | 13 | D | 14 | D | 15 | A |
| 16 | A | 17 | B | 18 | C | 19 | D | 20 | B |
| 21 | A | 22 | B | 23 | A | 24 | D | 25 | C |
| 26 | B | 27 | B | 28 | B | 29 | D | 30 | E |
| 31 | B | 32 | C | 33 | B | 34 | A | 35 | B |
| 36 | C | 37 | B | 38 | D | 39 | A | 40 | A |
| 41 | A | 42 | D | 43 | C | 44 | D | 45 | B |
| 46 | B | 47 | D | 48 | D | 49 | A | 50 | C |
| 51 | A | 52 | C | 53 | D | 54 | D | 55 | A |
| 56 | C | 57 | C | 58 | A | 59 | C | 60 | D |
| 61 | C | 62 | C | 63 | C | 64 | D | 65 | A |
| 66 | D | 67 | C | 68 | B | 69 | D | 70 | B |
| 71 | C | 72 | B | 73 | C | 74 | A | 75 | C |
| 76 | A | 77 | C | 78 | D | 79 | B | 80 | A |
| 81 | A | 82 | B | | | | | | |



CHAPTER THREE

MEANING AND SCOPE OF SUPPLY

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. In this chapter we will be understanding meaning and scope of supply.

3.1 SUPPLY - AN INTRODUCTION

GST cannot be levied unless there is 'supply' of goods or services or both. A taxable event is any transaction or occurrence that results in a tax consequence. Before levying any tax, taxable event needs to be ascertained. It is the foundation stone of any taxation system; it determines the point at which tax would be levied.

Under the earlier taxation system, goods were taxable on their "manufacture/production" and on their "sale". Similarly, services were taxable when they were "provided". Under GST since taxability of both goods and services is subsumed, therefore the Law has intentionally used the word "supply" to rope in both goods and services.

3.2 WHAT IS SUPPLY [SECTION 7 OF CGST]

Inclusive meaning of 'supply' [Section 7(1) CGST Act] : 'Supply' includes:

- (a) all forms of supply of goods or services or both
 - ✓ such as Sale, Transfer, Barter, Exchange, License, Rental, Lease, Disposal
 - ✓ made or agreed to be made
 - ✓ for a consideration
 - ✓ by a person *in the course* or furtherance of business

It means, to be treated as 'supply' under clause (a), goods or services or both should be supplied for a **consideration** and it should be **in the course or furtherance of business**.

- (b) importation of services, for a consideration *whether or not* in the course or furtherance of business and
- (c) the activities specified in **Schedule I**, made or agreed to be made *without a consideration*.

Notes—

1. New sub-section (1A) inserted to Section 7 : Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

2. Taxable event in GST : Taxable event means that event on happening of which the liability of tax is fixed. Under the previous regime, taxable event for various taxes were different *e.g.* In case of excise, the taxable event was 'manufacture or production', in service tax taxable event was when a service was provided or agreed to be provided'. In GST, the taxable event is 'supply' of goods or services or both.

3. Supply which neither 'supply of goods' nor 'supply of services' [Schedule III] : Section 7(2) specifies certain activities or transactions which are neither treated as 'supply of goods' nor 'supply of services'. Those activities/transactions are as under :

(a) activities/transactions mentioned in Schedule III. These are as follows :

- ✓ Services by an employee to an employer in relation to his employment;
- ✓ Services by any Court or Tribunal;
- ✓ Functions performed by MPs, MLAs, etc
- ✓ Duties performed by a person who holds any constitutional post in that capacity;
- ✓ Sale of land/Sale of *complete* Building
- ✓ Actionable claims, other than lottery, betting and gambling and
- ✓ Services of funeral, burial, crematorium or mortuary including transportation of the deceased

(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.

Notified activity : 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. [Inserted by N.N. 14/2017 CT(R) w.e.f. 1.7.2017]

4. Import of service is treated as 'supply' [Section 2(31)] : Supply includes import of service, made for a consideration and whether or not in the course or furtherance of business. This implies that import of services even for personal consumption would qualify as 'supply' and therefore would be liable to tax.

This would not be subject to the threshold limit as tax is expected to be payable on reverse charge basis.

5. Power of Government to clarify 'supply' [Section 7(3)] : Subject to the provisions of sub-sections (1) and (2) of Section 7, 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

6. Transactions without consideration [Schedule I] : Clause (c) of Section 7(1) treats activities mentioned in Schedule I as 'supply' even though there is no consideration. Activities listed in Schedule I are as under :

(A) PERMANENT TRANSFER OF BUSINESS ASSETS WHERE INPUT TAX CREDIT HAS BEEN AVAILED :

The word 'transfer' in this clause suggests that there should be another person who would receive the business assets at the other end.

The use of the words 'permanent transfer' implies that the goods should be transferred without any intention or requirement of having to receive the goods back. However, even in these types of transactions, it is essential that there is delivery of the business assets.

E.g.: Goods sent on job work or goods sent for testing or goods sent for certification would NOT qualify as 'supply' under this clause since there is no permanence in transfer.

Typically, donation of business assets or scrapping or disposal in any other manner (other than as a sale – i.e., for a consideration) would qualify as ‘supply’ under this clause, where input tax credit has been claimed on the same.

The law requires that such transactions should be treated as supply only when any input tax has been availed on the business assets. For instance, in case of cars purchased by the company for use by directors would not qualify for input tax credit and such input tax credit would therefore, not have been claimed. Say, after a few years, the same car is transferred to such director on a free of cost basis - this would not be treated as a supply for Schedule I as no input tax credit was availed on such car.

(B) SUPPLY OF GOODS AND/OR SERVICES BETWEEN RELATED PERSON, OR BETWEEN DISTINCT PERSONS AS SPECIFIED IN SECTION 25(4) OR 25(5), WHEN MADE IN THE COURSE OR FURTHERANCE OF BUSINESS : Any supply of goods and / or services in the course of business or furtherance of business :

- ✓ by a taxable person to a ‘related person’, or
- ✓ between ‘distinct persons’,

when made without consideration, would qualify as ‘supply’. **Provided that** gifts not exceeding Rs.50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. [Thus, if remuneration is paid by employer to its employee, it will not be subject to GST, but if employer has provided gifts of an value exceeding Rs.50,000 in a financial year, then it will be subject to GST even if no consideration is charged for it]

E.g. Free supplies to related persons, stock transfers to a unit outside the State/a different business vertical, etc. will be treated as supplies.

Meaning of ‘Related Persons’ and ‘Distinct Persons’ : For the purpose of (B) above,

♦ **“Related Persons” [Explanation to Section 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;

[Where ‘family’ means,

- spouse, children and
- parents, grandparents, brother and sister if they are wholly or mainly dependent on said person]

♦ **“Distinct Persons” [Section 25(4) and (5)] :** Following persons are treated as “distinct persons”—

- (i) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- (ii) 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

(C) SUPPLY OF GOODS BY A PRINCIPAL TO HIS AGENT, WHERE THE AGENT UNDERTAKES TO SUPPLY SUCH GOODS ON BEHALF OF THE PRINCIPAL :

E.g. A company employs an agent in the city to undertake sales on behalf of the company. Goods transferred by the company to the premises of the agent in the city would qualify as a 'supply'.

(D) SUPPLY OF GOODS BY AN AGENT TO HIS PRINCIPAL, WHERE THE AGENT UNDERTAKES TO RECEIVE SUCH GOODS ON BEHALF OF THE PRINCIPAL :

E.g. A company employs an agent in a small town nearby to undertake purchases on behalf of the company. Goods procured and transferred by the agent to the company would qualify as a 'supply'.

Meaning of 'Agent' and 'Principal' : For the purpose of (C) and (D) above,

"Agent" means a person, including a factor, broker, commission agent, arhatia, del credere-agent (Author : *an agent who guarantees the payment by customer*), an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(6) of CGST Act].

"Principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods and/or services [Section 2(88) of CGST Act].

(E) IMPORT OF SERVICES BY A TAXABLE PERSON FROM A RELATED PERSON, OR FROM ANY OF HIS OTHER ESTABLISHMENTS OUTSIDE INDIA, IN THE COURSE OR FURTHERANCE OF BUSINESS : Importation of services as covered by the definition (of 'supply') does not include importation without consideration from a related person or a branch outside India. Therefore, this clause is inserted to rope in such services that are received from related persons / their establishments outside India.

E.g. : ABC Inc. is incorporated in USA by A Ltd (India), for its operations in USA. A Ltd. together with B Ltd. (India), holds C Ltd. Where services are imported by B Ltd from ABC Inc. without consideration, the import will be deemed to be a supply for Schedule I.

7. Supply should be in the course or furtherance of business : For a transaction to qualify as 'supply', it is essential that the same is 'in the course or furtherance of business'. This implies that any supply of goods and / or services by a business entity would be liable to tax, so long as it is in the course or furtherance of business. Supplies which are not in the course of business (or in furtherance of business) will not qualify as 'supply' for the levy of tax, except in case of import of service for consideration, where the service is a supply whether or not it is made in the course or furtherance of business.

Drawing similarities from the existing State level VAT laws, it follows that the said transaction should be with a commercial motive, whether or not there is a profit motive in it or its frequency / regularity. *E.g.: sale of goods in an exhibition, participation in a trade fair, warranty supplies, supply of free samples to induce customers to purchase other goods, sale of used assets, etc. would be in the course of business.*

8. Certain activities to be treated as 'supply of goods' or 'supply of services' [Schedule II] : This list contains goods and services which, due to their nature have always been a matter of litigations as to levy of taxes (VAT or Service Tax or Both) as there was no clear direction to treat them goods or service. GST has made it clear that their supply shall be treated as either 'Supply of Goods' or 'Supply of Services'. The list is as under :

| Goods/Services | Description | Treated as : |
|----------------|------------------------|--------------|
| ▪ Goods | Sale of goods | Goods |
| | Lease of goods | Service |
| | Hire-purchase of goods | Goods |

| | | |
|---|---|---------|
| ▪ <i>Land and Building</i> | In relation to any land/building, any lease, tenancy, easement, licence to occupy | Service |
| ▪ <i>Job works</i> | Any treatment or process which is applied to another person's goods. | Service |
| ▪ <i>Business assets</i> | Transfer or disposal of business assets whether or not for consideration | Goods |
| | Allowing business goods to be used for private or personal use | Service |
| | Business assets on cessation of that business, EXCEPT | Goods |
| | ✓ Where the business is transferred as a going concern ✓ Where the business is carried on by a personal representative | |
| ▪ <i>Immovable property</i> | Renting of immovable property. | Service |
| ▪ <i>Construction</i> | Construction of a complex, building, civil structure etc. EXCEPT where the entire consideration has been received after issuance of completion certificate. | Service |
| ▪ <i>Intellectual Property rights</i> | Temporary transfer or permitting the use of an IPR. | Service |
| ▪ <i>Information technology</i> | Development, design, programming, customization, adaptation, upgradation etc. of information technology software. | Service |
| ▪ <i>Action</i> | Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act. | Service |
| ▪ <i>Composite Supplies</i> | Works Contract as defined under Section 2(119). | Service |
| | Supply of goods (as a part of any service) being food or any drink for a consideration. | Service |
| ▪ <i>Supply by unincorporated association</i> | Supply of goods by any unincorporated association to a member thereof for a consideration | Goods |

3.3 WHAT IS COMPOSITE AND MIXED SUPPLY [SECTION 8 OF CGST]

Tax liability on 'composite supply' and 'mixed supply' [Section 8 CGST Act] : Where two or more supplies are supplied together, they will either be characterised as 'composite supply' or 'mixed supply'. The tax liability on a composite or a mixed supply shall be determined in the following manner :

| Situation | Treatment |
|--|---|
| A composite supply comprising two or more supplies, one of which is a principal supply [i.e. 'natural bundling'] | Such supply shall be treated as a <i>supply of such principal supply</i> and the tax rate applicable to such principal supply shall be used for entire supply. |
| A mixed supply comprising two or more supplies [i.e. 'mixed supply'] | Such supply shall be treated as a <i>supply of that particular supply which attracts the highest rate of tax</i> and such highest tax rate shall be used for entire supply. |

Supply should involve goods and / or services – viz., either as wholly goods or wholly services. Even where a supply involves both, goods and services, the law provides that such supplies would be classifiable either as, wholly goods or wholly services. Schedule II of the Act provides for this classification.

Where a supply involves multiple (more than one) goods or services, or a combination of goods and services, the treatment of such supplies would be as follows:

(a) If it involves more than one goods and / or services which are naturally bundled together: These are referred to as composite supply of goods and / or services. It shall be deemed to be a supply of those goods or services, which constitutes the principal supply therein.

Illustration (Provided in Section 2(27)) : 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 the principal supply. This implies that the supply will be taxed wholly as supply of goods.

(b) If it involves supply of more than one goods and / or services which are not naturally bundled together: These are referred to as mixed supply of goods and / or services. It shall be deemed to be a supply of that goods or services therein, which are liable to tax at the highest rate of GST

A supply of more than one goods and / or services as a bundle will be reckoned as 'mixed supply' if:

- (i) such goods and / or services are supplied together for a single price
- (ii) they are not naturally bundled together and
- (iii) it does not qualify as composite supply.

Illustration (Provided in Section 2(66)) : A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink 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. This implies that the supply will be taxed wholly as supply of those goods which are liable to the highest rate of GST.

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 |
| Supplied together | Yes | Yes |
| Can be supplied separately | No | Yes |
| Each supply priced separately | No | No |
| All supplies are goods | Yes | Yes |
| All supplies are services | Yes | Yes |
| One supply is goods and other supply is service | Yes | Yes |

3.4 SOME IMPORTANT DEFINITIONS

For the purpose of this chapter, some important definitions are as follows :

| Term | Meaning |
|---------------------------------|---|
| (a) Goods [Section 2(52)] | <p>Goods means :</p> <ul style="list-style-type: none"> ✓ every kind of movable property ✓ other than money and securities ✓ but includes <ul style="list-style-type: none"> ◆ 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. |
| (b) Service [Section 2(102)] | <p>Services means</p> <ul style="list-style-type: none"> ✓ 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. Explanation : For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities. |
| (c) Family [Section 2(49)] | Family means, — ✓ the spouse and children of the person, and ✓ the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person. |
| (d) Consideration [Section 2(31)] | Consideration in relation to the supply of goods or services or both includes: <ul style="list-style-type: none"> ♦ 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 CG or SG, [Author : This clause deals with payment in money] ♦ 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 CG or a SG. [Author : This clause deals with barter. When there is barter of goods or services, the same activity constitutes supply as well as a consideration. For example, when a barber cuts hair in exchange for a painting, hair cut is a supply of services by the barber. It is a consideration for the painting received. Similarly, supply of painting is supply by painter and the painting is the consideration for hair-cut.] <p>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.</p> <p>Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists.</p> |
| (e) Actionable claim [Section 2(1)] | Actionable claim means A CLAIM <ul style="list-style-type: none"> ✓ TO any debt (other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property), or ✓ TO any beneficial interest in movable 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. |
| (f) Money [Section 2(75)] | Money means <ul style="list-style-type: none"> ✓ 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. |
| (g) Supplier [Section 2(105)] | Supplier in relation to any goods or services or both, shall mean <ul style="list-style-type: none"> ✓ 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. |
| (h) Recipient [Section 2(93)] | Recipient of supply of goods and/or services means - <ul style="list-style-type: none"> (a) [PAYABLE FOR GOODS/SERVICES] i.e. where a consideration is payable for the supply of goods or services or both, => the person who is liable to pay that consideration, (b) [NOT PAYABLE FOR GOODS] i.e. where no consideration is payable for the supply |

| | |
|---|---|
| | <p>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</p> <p>(c) [NOT PAYABLE FOR SERVICES] i.e. where no consideration is payable for the supply of a service => the person to whom the service is rendered,</p> <p>and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply</p> <p>and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.</p> |
| (i) Taxable supply [Section 2(108)] | Taxable supply : means a supply of goods or services or both which is leviable to tax under this Act. |
| (j) In course or furtherance of business | <p>GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of 'business'.</p> <p>Business includes any activity/transaction which is incidental or ancillary to any trade, commerce, manufacture, profession, vocation, adventure, bet or any other similar activity. In addition, any activity undertaken by the Central Govt. or a State Govt. or any local authority in which they are engaged as public authority shall also be construed as business. For any trade, commerce, or any other similar activity to qualify as business, frequency, volume, continuity or regularity of such transaction is not a pre-requisite.</p> <p>Few examples :</p> <p><i>E.g. 1 : Rahul buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rahul to car dealer is not a supply under CGST Act because said supply is not made by Rishabh in the course or furtherance of business.</i></p> <p><i>E.g. 2 : Madhu sold her old gold bangles and earrings to 'Shresth Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual.</i></p> <p><i>E.g. 3 : Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply because 'business' includes vocation, therefore sale of goods or service as a vocation is also a supply under GST.</i></p> |
| (k) Person [Section 2(84)] | <p>Includes—</p> <ul style="list-style-type: none"> (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, State or Provincial Act or a Government company as defined in Section 2(45) of the Companies Act, 2013; (h) any body corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to cooperative societies; (j) a local authority; (k) Central or State Government society as defined under the Societies Registration Act, 1860; (l) trust; and every artificial juridical person, not falling within any of the above. |

MULTIPLE CHOICE QUESTIONS (MCQs)

Q. 1 : (Fill in the blank) : Inclusive meaning of the term 'Supply' under CGST Act is given under section _____.

- (a) Section 5
- (b) Section 8
- (c) Section 9
- (d) Section 7

Q 2 : The term supply in CGST includes :

- (a) Import made with consideration for furtherance of business
- (b) Import made with consideration for personal use
- (c) Both (a) and (b)
- (d) Import is not covered

Q 3 : The term supply in CGST includes exchange :

- (a) If it is made with consideration in course of or furtherance of business
- (b) If it is made with consideration whether or not in course of or furtherance of business
- (c) Both (a) and (b)
- (d) Exchange is not covered in Supply

Q 4 : (Fill in the blank) : Supply in CGST includes activity specified in _____

- (a) Schedule I and scheduled II
- (b) Schedule I and schedule III
- (c) Schedule II and schedule III
- (d) None of the above

Q 5 : Which of the following activity/transaction is not covered in schedule III :

- (a) Sale of land
- (b) Sale of complete building
- (c) Functions performed by MPs/MLAs
- (d) None of the above

Q 6 : Supply includes transactions without consideration referred to in schedule I. Which of the following is not covered by this schedule ?

- (a) Permanent transfer of business assets after taking ITC
- (b) Transfer made by principal to his agent
- (c) Supply between related persons
- (d) Services by employee to his employer

Q 7 : What is the taxable event in GST?

- (a) Manufacturing of goods

- (b) Sales of Goods
- (c) Provision of Services
- (d) Supply

Ans D

Q 8 : (Fill in the blank) : The activities to be treated as supply of goods or supply of services are referred to in _____ of CGST Act, 2017.

- (a) Schedule I
- (b) Schedule III
- (c) Schedule II
- (d) Section 8

Q 9 : (Fill in the blank) : Goods means, every kind of _____ property other than _____ but includes _____.

- (i) Movable property
- (ii) Immovable property
- (iii) Money
- (iv) Securities
- (v) Services
- (vi) Actionable claims

Answers :

- (a) 1st blank (ii), 2nd blank (iii), 3rd blank (vi)
- (b) 1st blank (ii), 2nd blank (iii) & (iv), 3rd blank (vi)
- (c) 1st blank (i), 2nd blank (iii) & (iv), 3rd blank (vi)
- (d) 1st blank (i), 2nd blank (iii) & (v), 3rd blank (vi)

Q 10 : (Fill in the blank) : Money includes _____ but excludes _____.

- (i) Indian legal tender
- (ii) Foreign currency
- (iii) Cheque
- (iv) DD
- (v) Letter of credit
- (vi) Currency held for its numismatic value
- (vii) Commercial paper

Answers :

- (a) 1st blank (i), 2nd blank (ii)
- (b) 1st blank (i), (ii), (iii), (iv), (v), 2nd blank (vi)
- (c) 1st blank (i), (ii), (iii), (iv), 2nd blank (v)
- (d) 1st blank (i), (iii), (iv), 2nd blank (v)

Q 11 : (Fill in the blank) : Supply includes import of services for a consideration _____

- (a) In the course or furtherance of business;
- (b) Not in the course or furtherance of business;
- (c) Whether or not in course or furtherance of business;
- (d) none of the above

Q 12 : Activities made or agreed to be made without a consideration covered in scope of supply are specified in :

- (a) Schedule I
- (b) Schedule III
- (c) Schedule II
- (d) Section 8

Q 13 : (Fill in the blank) : Activities or transactions specified in _____ shall be treated neither as a supply of goods nor a supply of services-

- (a) Schedule I
- (b) Schedule III
- (c) Schedule II
- (d) Section 8

Q 14 : 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 as _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) either as a supply of goods or as a supply of services

Q 15 : (Fill in the blank) : Transfer of the title in goods (i.e. sale) shall be treated as _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 16 : (Fill in the blank) : Transfer of right in goods or of undivided share in goods without transfer of title thereof (i.e. lease) shall be treated as _____ .

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 17 : (Fill in the blank) : Powers to declare certain activities/transactions as neither supply of goods nor of services is given in _____.

- (a) Schedule I
- (b) Section 7(2)(b)
- (c) Schedule II
- (d) Schedule III

Q 18 : (Fill in the blank) : 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 (i.e. hire purchase) _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 19 : (Fill in the blank) : Any lease, tenancy, easement, licence to occupy land is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 20 : (Fill in the blank) : Any lease or letting out of the building including a commercial industrial or residential complex for business or commerce/ either wholly or partly, is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 21 : (Fill in the blank) : Any treatment or process which is applied to another person's goods is _____

- (a) Supply of goods

- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 22 : (Fill in the blank) : 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, whether or not for a consideration such transfer or disposal is _____ by the person.

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 23 : (Fill in the blank) : 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 made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is _____.

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 24 : (Fill in the blank) : Renting of immovable Property is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 25 : (Fill in the blank) : Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier is _____.

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.

- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 26 : (Fill in the blank) : Temporary transfer or permitting the use or enjoyment of any intellectual property right is _____.

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 27 : (Fill in the blank) : 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 is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 28 : (Fill in the blank) : Works contract as defined in Section 2(119) of CGST Act 2017, being composite supply shall be treated as _____.

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 29 : Works contract under GST deals with work relating to -

- (a) Movable property
- (b) Both movable and immovable property
- (c) Immovable Property
- (d) Any of the above

Q 30 : Which of the following activities is a supply of services?

- (a) Transfer of right in goods/ undivided share in goods without transfer of title in goods
- (b) Transfer of title in goods
- (c) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

- (d) All of the above

Q 31 : Restaurant and Catering is :

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 32 : (Fill in the blank) : Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 33 : (Fill in the blank) : Services by an employee to the employer in the course of or in relation to his employment is _____.

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services.
- (d) Either as a supply of goods or as a supply of services.

Q 34 : (Fill in the blank) : Services by any court or Tribunal established under any law for the time being in force is _____ .

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) either as a supply of goods or as a supply of services

Q 35 : (Fill in the blank) : The functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services,

- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 36 : (Fill in the blank) : The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity is _____ .

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) either as a supply of goods or as a supply of services

Q 37 : (Fill in the blank) : The duties performed by any person as a chairperson or a member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of CGST Act, 2017 is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) either as a supply of goods or as a supply of services

Q 38 : (Fill in the blank) : Activity of funeral, burial, crematorium or mortuary including transportation of the deceased is _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 39 : (Fill in the blank) : Actionable claims, other than lottery, betting and gambling are _____

- (a) Supply of goods
- (b) Neither as a supply of goods nor a supply of services.
- (c) Supply of services
- (d) Either as a supply of goods or as a supply of services

Q 40 : (Fill in the blank) : Gifts not exceeding _____ in value in a financial year by an employer to an employer shall not be treated as supply of goods or services or both.

- (a) Rs. 50,000
- (b) Rs. 5,000
- (c) Rs. 1,00,000
- (d) Rs. 1,50,000

Q 41 : (Fill in the blank) : The _____ shall be treated as supply even if made without consideration:

- (a) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (b) Permanent transfer or disposal of business assets where input tax credit has not been availed on such assets.
- (c) Both of the above
- (d) None of the above

Q 42 : (Fill in the blank) : _____ shall be treated as supply even if made without consideration:

- (a) Supply of goods by a principal to his agent where the agent undertakes to supply goods on behalf of the principal.
- (b) Supply of goods by an agent to his principal where agent undertakes to receive such goods on behalf of principal.
- (c) Both of the above only if invoice is raised in name of Agent
- (d) Both of the above only if invoice is raised in name of Principal

Q 43 : (Fill in the blank) : _____ shall be treated as supply even if made without consideration:

- (a) Supply of goods by a principal to his agent where the undertakes to supply such goods on behalf of the principal
- (b) Supply of goods by an agent to his principal where agent undertakes to receive such goods on behalf of principal
- (c) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- (d) All of the above.

Q 44 : Import of services by a taxable Person from a related person or from any of his other establishments outside India, in the course or furtherance of business shall :

- (a) Not be treated as supply of services
- (b) Be treated as supply when made with consideration

- (c) Be treated as supply even if without consideration
- (d) Be treated as supply of goods

Q 45 : Example of 'Supply, of Goods in which possession of the goods is transferred, but, the title on the same will be transferred at a future date' is :

- (a) Normal Sale of goods
- (b) Sales on Approval Basis or Hire purchases
- (c) Rent a Car
- (d) None of the Above

Q 46 : Example of a Supply of Goods in which possession of the goods is transferred, but, the Title of the Goods is not transferred at all and thereby attains the character of a supply of Service,

- (a) Normal Sale of goods
- (b) Sales on Approval Basis or Hire Purchases
- (c) Rent a Car or Lease
- (d) None of the above

Q 47 : Suppose, a person has a permit to operate a business venture, but he refrains from operating such a business venture as per a contract with other businessman in the same line of business for a consideration. It is :

- (a) Taxable Service
- (b) Exempted Service
- (c) Taxable Goods
- (d) Exempted Goods

Q 48 : Which of the following 'free supply' of goods and services are taxable supply in GST?

- (a) Free Transfer of business assets to someone else
- (b) Temporary application of business asset for a non- business needs or self-supply of goods or services
- (c) Stock/branch transfer out to another state
- (d) All of the above

Q 49 : (Fill in the blank) : Actionable claims are _____

- (a) Specifically included in definition of goods
- (b) Specifically included in definition of services
- (c) Specifically excluded from definition of goods
- (d) specifically excluded from definition of services

Q 50 : (Fill in the blank) : Money is _____ .

- (a) Included in definition of goods
- (b) excluded from definition of goods and services
- (c) included in definition of services
- (d) excluded from the definition of services only

Q 51 : Which of the following is not a supply as per section 7 of the CGST Act?

- (a) Consultancy provided not in course or furtherance of business
- (b) Import of service for consideration not in course or furtherance of business
- (c) Both (a) and (b)
- (d) None of the above

Q 52 : Which of the following activity is outside the scope of supply and not taxable under GST?

- (a) Services by an employee to the employer in the course of or relation to his employment
- (b) Renting of commercial property by MLA
- (c) Lottery, betting and gambling
- (d) All of the above

Q 53 : Supply of 'goods' between principal-agent will be treated as 'supply' if

- (a) It is made with consideration
- (b) It is made without consideration
- (c) Both of the above
- (d) None of the above

Q 54 : Supply of 'services' between principal-agent will be treated as 'supply' if

- (a) It is made with consideration
- (b) It is made without consideration
- (c) Both of the above
- (d) None of the above

Q 55 : Taxable supply within its meaning under Section 2(108), includes

- (a) Supply of goods
- (b) Provision of service
- (c) Both
- (d) None of the above

Q 56 : Recipient of supply of goods or services means

- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered
- (d) All of the above

Q 57 : Supplier within the meaning of supply includes

- (a) Person supplying goods
- (b) Person providing services
- (c) Both
- (d) None of the above

Q 58 : Items out of the purview of Supply are provided in

- (a) Schedule I
- (b) Schedule II
- (c) Schedule III
- (d) None of the above

Q 59 : Flow of consideration is not a mandatory field under supply, in case of:

- (a) Imports
- (b) Activities specified under schedule I
- (c) Both
- (d) None of the above

Q 60 : A famous singer paints some paintings and sells them. The consideration from such sale is to be donated to a charitable trust. Does the above activity qualify as supply?

- (a) Yes
- (b) No
- (c) With prior permission of Government
- (d) None of the above

Q 61 : Can an activity be considered supply even when not made in course or furtherance of business?

- (a) Yes, import of services under section 7(1)(b)
- (b) No
- (c) On prior permission by the Government
- (d) Not applicable

Q 62 : Supply can be made to:

- (a) Taxable person only
- (b) Non-taxable person
- (c) Both of the above
- (d) None

Q 63 : Who is taxable person under the definition of supply?

- (a) Registered taxable person
- (b) Unregistered person liable to be registered as taxable person
- (c) Person not liable to take registration but takes voluntary registration under GST
- (d) All of the above

Q 64 : A business man has received certain architectural services for his house for which he pays a consideration of Rs. 1,25,000. He claims that, as such supply was NOT made in the course or furtherance of business, therefore the same does not fall in the definition of 'supply', do you agree?

- (a) Not agree. This is a 'supply' because it is made in course or furtherance of business.
- (b) Agree. This is not a 'supply' because it is not received in course or furtherance of business
- (c) Agree, but the reason for not treating it as 'supply' is it being below the threshold limit of Rs.20 lakh
- (d) Not agree because every monetary transaction/economic activity is treated as 'supply'

Q 65 : ABC Ltd. donates old computers to a charitable institution after they purchased new computer systems. Such donation of computers on permanent basis is

- (a) Supply under GST
- (b) Shall not be a supply
- (c) On prior approval of Government
- (d) Not any

Q 66 : A Holding entity made certain transfer of fixed asset on permanent basis to its subsidiary entity without any consideration and not in course of furtherance of business. Does the same classify as a supply under GST?

- (a) Yes
- (b) No because transfer between holding-subsidiary does not fall in section 7 nor in schedule I and schedule II
- (c) Yes but only if Government notifies it by a notification in official gazette
- (d) No because it falls in Schedule III

Q 67 : Mr. A being an employee of XYZ Ltd. provided (in his personal capacity) certain services to the director of the company. The same qualify as supply when :

- (a) Made in course or in relation to his employment
- (b) Is not made in the course or in relation to his employment
- (c) Either A or B
- (d) None of the above

Q 68 : M/s Deepak Ltd. made certain gifts to its employees, as

- (i) Ram Rs. 50000
- (ii) Shyam Rs. 47000
- (iii) Ghanshyam Rs. 57000

Which of these gifts shall be liable to GST?

- (a) (i), (ii) & (iii)
- (b) (i) & (iii)
- (c) Only (iii)
- (d) None of the above

Q 69 : Any gift made by an employer to an employee shall be considered as supply. What is the limit prescribed for the same?

- (a) Less than or equal to Rs.50,000
- (b) More than Rs.50,000
- (c) Exactly Rs.50,000
- (d) Rs.50,000 and above

Q 70 : What are the transactions to be classified as supply even if made without consideration?

- (a) Permanent transfer or disposal of business asset
- (b) Supply between related or distinct person
- (c) Import of services from related persons or from self-establishment outside India
- (d) All of the above

Q 71 : Supply of goods or other similar articles for human consumption as a part of service, shall be classified as:

- (a) Supply of goods
- (b) Supply of services
- (c) Both
- (d) None of the above

Q 72 : Saurabh Associates of Delhi receives certain consultancy services from Helen Corporates in USA. Both are not related person. The services received is

without any consideration. Does the same classify as supply?

- (a) Yes, being import of services in the course of business
- (b) No, since party to the contract are not related
- (c) On the prior approval of the Government
- (d) None of the above

Q 73 : Transfer of rights in goods has been considered as supply under schedule II. What type of supply is it?

- (a) Supply of Goods
- (b) Supply of Services
- (c) Either of two at the option of authority
- (d) None of the above

Q 74 : What type of supply shall transfer of title in goods under works contract constitute?

- (a) Supply of Goods
- (b) Supply of services
- (c) Either of the two at the option of authority
- (d) None of the above

Q 75 : Any transfer made of title in goods shall be considered as:

- (a) Supply of services
- (b) Supply of goods
- (c) Does not qualify as supply
- (d) At the option of taxpayer

Q 76 : A job worker performed certain dyeing operations on fabrics. Does the given operation qualify as supply?

- (a) Yes
- (b) No
- (c) On the prior approval of government
- (d) None of the above

Q 77 : ABC Co. Pvt. Ltd. transferred certain assets forming part of business asset. The same was transferred free of cost without any consideration. What shall be the classification of such supply?

- (a) Supply of Goods
- (b) Supply of Services
- (c) Does not qualify as supply
- (d) As per the opinion of tax authority

Q 78 : Vikas, being a director of Delhi Pharma Pvt. Ltd. is provided with a car which he uses for his personal

purpose. Does the same classify as supply? If yes what type?

- (a) Yes, Supply of Goods
- (b) Yes, Supply of Services
- (c) Does not qualify as Supply
- (d) None of the above.

Q 79 : Mr. Ajay a taxable person initiates action of winding up his business due to any non-compliance clause under legal verdict of court. As a result of such incidence, he shall cease to be taxable person under GST. All the stocks standing as on date of winding up of business shall hence be classified as:

- (a) Supply of Goods
- (b) Supply of Services
- (c) Does not qualify as supply
- (d) None of the above

Q 80 : What shall be the proper classification of Renting of immovable property under supply?

- (a) Supply of Goods
- (b) Supply of Services
- (c) Does not qualify as supply
- (d) None of the above

Q 81 : Temporary transfer or permitting use of intellectual right or property is classified as:

- (a) Supply of Goods
- (b) Supply of Services
- (c) Does not qualify as supply
- (d) Supply on the prior permission of Government

Q 82 : Software solutions shall be considered as :

- (a) Supply of Goods
- (b) Supply of Services
- (c) Does not qualify as supply
- (d) None of the above

Q 83 : Mr. Ramesh agreed with Delhi Housing and Finance Corporation Ltd. to withdraw the suit filed against the company, if principle amount of loan paid by him to company is returned to him within prescribed time. Does the withdrawal of the suit qualify as supply?

- (a) Yes
- (b) No
- (c) At the approval of Government
- (d) None of the above

Q 84 : A local club supplies lunch to its members during its quarterly meetings without any consideration or payment. The same for the purpose of the Act, is classified as:

- (a) Supply
- (b) Sale
- (c) Does not qualify as supply
- (d) None of the above

Q 85 : Which among the following is included in Schedule II

- (a) Transfer of title in goods
- (b) Renting of Immovable property
- (c) Temporary transfer or permitting use of intellectual property rights
- (d) All of the above

Q 86 : Transaction falling outside the ambit of supply are provided in:

- (a) Schedule I
- (b) Schedule II
- (c) Schedule III
- (d) None of the above

Q 87 : Which of the following actionable claims are excluded from the definition of 'supply' :

- (a) Lottery, betting and gambling
- (b) All actionable claims other than those mentioned in (a) above
- (c) All actionable claims including those mentioned in (a) above
- (d) None of the above

Q 88 : What is the classification of sale of land and complete building under GST?

- (a) Supply of Goods
- (b) Supply of Services
- (c) Does not qualify as supply
- (d) None of the above

Q 89 : Schedule III of the CGST Act includes which of the following?

- (a) Funeral, Burial, Crematorium
- (b) Functions performed by MP's, MLA's
- (c) Services by any court or tribunal
- (d) All of the above

Q 90 : Which of the following is NOT the characteristic of the composite supply?

- (a) Naturally bundled
- (b) One supply should be a principal supply
- (c) Single price is charged for the supply
- (d) None of the above

Q 91 : Which of the following is the feature of mixed supply?

- (a) Supply is made at a single price
- (b) Non-taxable Goods are supplied
- (c) Naturally Bundled
- (d) None of the above

Q 92 : ABC Pvt Ltd. manufactures the jeans on order of XYZ Pvt Ltd. Further, after manufacturing, it also gets it delivered to XYZ Ltd. and gets the in transit insurance done. What kind of supply is this?

- (a) Mixed Supply
- (b) Composite supply
- (c) Exempt supply
- (d) Non-leviable supply

Q 93 : Which of the following is NOT a composite supply?

- (a) Goods are packed and transported with insurance
- (b) Supplier of machinery providing erection and commissioning services
- (c) Goods transport agency arranging for loading and unloading facility
- (d) None of the above

Q 94 : What does composite supply means?

- (a) Supply of two or more goods together
- (b) The goods or services as provided are naturally bundled
- (c) Both (a) and (b)
- (d) Neither (a) or (b)

Q 95 : What does mixed supply means under GST?

- (a) Combination of two or more goods or services made together for a single price.
- (b) Each of supply made together are naturally bundled.
- (c) Both (a) and (b)
- (d) None of the above

Q 96 : Amit went into Big Bazaar Outlet and purchased a gift wrap containing canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit Juices. What type of supply it shall constitute?

- (a) Composite Supply

- (b) Mixed Supply
- (c) Non Taxable Supply
- (d) Not a supply under GST

Q 97 : Mr. Sumit received a gift from a relative on the occasion of Diwali. The packed box contains canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit Juices all together. What type of supply shall it constitute?

- (a) Composite Supply
- (b) Mixed Supply
- (c) Non-taxable supply
- (d) Not a supply under GST

Q 98 : What shall be the tax rate applicable in case of Composite supply?

- (a) Tax rate on principal item
- (b) Highest tax rate of all the items
- (c) Average rate of the taxes on all goods or services bundled
- (d) None of the above

Q 99 : What shall constitute the main item under composite supply?

- (a) Principal Item of the supplies naturally bundled
- (b) Item with highest tax rate
- (c) As per the option of the taxpayer
- (d) None of the above

Q 100 : What shall be the tax rate under mixed supply?

- (a) Tax rate as applicable on principal supply
- (b) Highest tax rate of all items bundled in supply
- (c) Either (a) or (b), at the option of the taxpayer
- (d) None of the above

Q 101 : A person purchase a bundle of toothpaste along with Tooth brush. Toothpaste under this case is liable to GST at 12% and tooth brush for instance is liable to GST at 18% and is sold as a single unit for a single price. What shall be the tax rate applicable in case of such supply?

- (a) 18%
- (b) 12%
- (c) NIL
- (d) None of the above

Q 102 : A person purchases laptop from a vendor along with laptop bag. What types of supply it shall constitute?

- (a) Composite supply
- (b) Mixed Supply
- (c) Neither of the two
- (d) As per recommendation of Government

Q 103 : Anmol purchased a packet of snacks constituting sweets, chocolates, dry fruits and aerated drinks. What types of supply shall it be considered?

- (a) Composite supply
- (b) Mixed Supply
- (c) Normal Supply
- (d) Does not qualify as supply

Q 104 : Which of the following are not composite supply?

- (a) 'Best Garments Manufacturers' entered into a contract with 'Your Designs Ltd.' for supply of readymade shirts packed in designer boxes at 'Your Designs Ltd.'s outlet. Further, 'Best Garments Manufacturers' would also get them insured during transit.
- (b) Ramesh (a consumer) buys a television set and he also gets mandatory warranty and a maintenance contract with the TV.
- (c) Suresh books a travel ticket from Mumbai to Delhi which includes service of food (to be served on board), free insurance, and the use of airport lounge.
- (d) None of the above

Q 105 : What is the treatment of composite supply under GST?

- (a) Entire supply is treated as supply of principal item and GST rate applicable to the principal item will be applied on the entire supply
- (b) Entire supply is taxed at the highest rate of GST applicable on items falling in it.
- (c) Both (a) and (b)
- (d) None of the above

Q 106 : What is the treatment of mixed supply under GST?

- (a) Entire supply is treated as supply of principal item and GST rate applicable to the principal item will be applied on the entire supply
- (b) Entire supply is taxed at the highest rate of GST applicable on items falling in it.
- (c) Both (a) and (b)
- (d) None of the above

Q 107 : For a transaction to be considered as supply, it should fulfil certain requirements:

- (a) It should be of goods and services
- (b) It should be made for a consideration by a taxable person
- (c) It should be made in the course or furtherance of business
- (d) All of the above

Q 108 : Consideration within the meaning of supply consists of:

- (a) Money
- (b) Any payment made in kind
- (c) Money value of forbearance of any act
- (d) All of the above

Q 109 : 'Business' consists of:

- (a) Any trade, commerce, manufacture
- (b) Supply and acquisition of capital goods and services
- (c) Any activity of Government/Local Authority in which it is engaged as public authority
- (d) All of the above

Q 110 : What are the differentiating factors between composite and mixed supplies?

- (a) Existence of principal supply
- (b) Nature and manner of bundling
- (c) Manner of pricing
- (d) All of the above

Q 111 : What are different forms of supply of goods?

- (a) Sale
- (b) Transfer
- (c) Barter
- (d) Activities specified in section 7 of the CGST Act

Q 112 : Sudhir purchased a car for personal consumption which after two years of use was sold to a car dealer, Chawla Motors for certain consideration. Does the same qualify as supply?

- (a) No, since the supply is not made in course or furtherance of business
- (b) Yes, since it is made for consideration
- (c) Neither of the two
- (d) As per the opinion of appropriate Authority

Q 113 : Any transaction of goods and services made without consideration shall only qualify as supply when:

- (a) Notified by the Government
- (b) Specified under schedule I of CGST Act
- (c) Both (a) and (b)
- (d) None of the above

Q 114 : A managing director of ABC Ltd. made gifts to his employees worth of Rs.60,000 each for assisting in the architectural work of his house. Does the same be considered supply?

- (a) Yes, since the value of gift exceeds the provided limit of INR 50000
- (b) No, since the gift is not made in course or furtherance of business
- (c) As per the option of appropriate authority
- (d) No

Q 115 : Does the supply by the employer to the employee in terms of contractual agreement entered into between employer and employee is covered under the ambit of supply and consequently GST?

- (a) Yes
- (b) No
- (c) As per the opinion of the appropriate authority
- (d) None of the above

Q 116 : X Ltd. made gifts to its employees worth 51,000 each, in consideration of execution of a particular project of the company. Does the same qualify as supply?

- (a) Yes, since the value exceed 50000 per employee
- (b) No, since such gift is made against a consideration
- (c) No, since its between employer and employee therefore it does not fall in 'supply';
- (d) None of the above

Q 117 : Any agreement entered into as of hire purchase of any goods shall be classified as :

- (a) Supply of Goods
- (b) Supply of Services
- (c) Neither of the two
- (d) At the option of taxpayer

Q 118 : Ajay let out his land for tenancy for a period of 3 years to Mohan. Such tenancy shall be classified as:

- (a) Supply of goods
- (b) Supply of services
- (c) Either of the two
- (d) None of the above

Q 119 : Mr. A has been paid Rs. 50,000 by Mr. C for not selling the goods in his vicinity for a month. Does this constitute a supply?

- (a) Yes, as per Schedule II
- (b) No, as it is not covered by section 7
- (c) No, since the consideration does not exceed Rs.50,000
- (d) No, it's neither supply of goods nor a service.

Q 120 : Mr. A had a capital asset on which he did not avail ITC instead claimed depreciation on it. Now he has permanently transferred the same to Mr. B without consideration. Is this a supply?

- (a) Yes as it falls in Schedule II
- (b) No it does not fall in Schedule II
- (c) Yes, transfer of depreciable assets (even if without consideration) constitutes supply
- (d) None of the above

Q 121 : As per which section or schedule does this transaction constitute a supply - Mr. A, being principal supplies goods to his agent, Mr. B who will sell the same on behalf of Mr. A.

- (a) Schedule I
- (b) Schedule II
- (c) Schedule III
- (d) Section 8

Q 122 : Mr. A of Delhi is transferring stock to its branch in UP. Is this transaction taxable?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 123 : Whether supply of goods by principal to his agent or by agent to his principal is taxable in the absence of consideration?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 124 : What kind of supply is this transaction: "Food supplied to the in-patients as advised by the doctor in the hospital."

- (a) Composite Supply
- (b) Mixed Supply
- (c) Works Contract Service

- (d) None of the above

Q 125 : Comment on the tax rate applicable in case of composite supply?

- (a) Tax rate as applicable on principal supply
- (b) Tax rate as applicable on ancillary supply
- (c) Tax rate as applicable on respective supply
- (d) Highest tax rate of all supplies

Q 126 : Mr. A has sold his old furniture of the house. Does this constitute a supply?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 127 : Mr. A has 2 places of business in Delhi & both of them has separate registration number. Will both these places be considered as 'distinct person' for the purpose of Supply in GST?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 128 : GST is _____ on the fringe benefits supplied to employees even if no recovery is made in respect to them.

- (a) Payable
- (b) Not payable
- (c) Either (a) or (b)
- (d) None of the above

Q 129 : Free food is supplied in the religious institutions. Is the same taxable?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 130 : Which of the following statements are correct?

- (a) Sale of flat in a residential complex before it is occupied is liable to GST.
- (b) Any sale by the buyer will not attract GST if he occupies the complex even if completion certificate is not obtained.
- (c) If builder is selling any residential complex, he will be exempt from GST only if he sells after completion certificate is obtained

- (d) All the above statements are correct.

Q 131 : Sale of tinned food is supply of _____

- (a) Goods
- (b) Services
- (c) Both (a) & (b)
- (d) None of the above

Q 132 : As partners are not the employees of the partnership firm, so, the salary paid to them is liable to GST. Comment.

- (a) Correct
- (b) Incorrect
- (c) Partially correct
- (d) None of the above

Q 133 : Actionable claim other than _____ shall not be considered as supply.

- (a) Lottery
- (b) Betting
- (c) Gambling
- (d) All of the above

Q 134 : Mr. A gave Rs. 500 note to Mr. B, who in return gave 5 notes of Rs. 100 back to Mr. A. Does this qualify "service" definition as per GST Law?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 135 : Securities are _____

- (a) Goods
- (b) Services
- (c) Supplies
- (d) Neither goods nor services

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | D | 2 | C | 3 | A | 4 | A | 5 | D |
| 6 | D | 7 | D | 8 | C | 9 | C | 10 | B |
| 11 | C | 12 | A | 13 | B | 14 | B | 15 | A |
| 16 | C | 17 | B | 18 | A | 19 | C | 20 | C |
| 21 | C | 22 | A | 23 | C | 24 | C | 25 | C |
| 26 | C | 27 | C | 28 | C | 29 | C | 30 | A |
| 31 | C | 32 | A | 33 | B | 34 | B | 35 | B |
| 36 | B | 37 | B | 38 | B | 39 | B | 40 | A |
| 41 | A | 42 | C | 43 | D | 44 | C | 45 | B |
| 46 | C | 47 | A | 48 | D | 49 | A | 50 | B |
| 51 | A | 52 | A | 53 | C | 54 | A | 55 | C |
| 56 | D | 57 | C | 58 | C | 59 | B | 60 | A |
| 61 | A | 62 | C | 63 | D | 64 | A | 65 | A |
| 66 | B | 67 | B | 68 | C | 69 | B | 70 | D |
| 71 | B | 72 | B | 73 | B | 74 | B | 75 | B |
| 76 | A | 77 | A | 78 | B | 79 | A | 80 | B |
| 81 | B | 82 | B | 83 | A | 84 | A | 85 | D |
| 86 | A | 87 | B | 88 | C | 89 | D | 90 | D |
| 91 | A | 92 | B | 93 | D | 94 | C | 95 | A |
| 96 | B | 97 | D | 98 | A | 99 | A | 100 | B |
| 101 | A | 102 | A | 103 | B | 104 | D | 105 | A |
| 106 | B | 107 | D | 108 | D | 109 | D | 110 | D |
| 111 | D | 112 | A | 113 | B | 114 | D | 115 | B |
| 116 | A | 117 | A | 118 | B | 119 | A | 120 | B |
| 121 | A | 122 | A | 123 | A | 124 | A | 125 | A |
| 126 | B | 127 | A | 128 | A | 129 | B | 130 | D |
| 131 | A | 132 | A | 133 | D | 134 | B | 135 | D |



CHAPTER FOUR EXEMPTIONS IN GST

GST Exemption is provided in respect of many Goods and Services. This chapter contains the supplies which attract no GST. Mega Exemption Notification No 2/2017 deals with Exempted Goods and Mega Exemption Notification No 12/2017 deals with Exempted Services.

4.1 POWER OF GOVT TO GRANT EXEMPTION FROM GST [SECTION 11 OF CGST]

This section gives power to the Government to grant exemption from levy of GST. This section provides as under :

| Nature of exemption | Power of the Government - details |
|---|--|
| General Exemption by 'Notification' [Sub-Section (1)] | <ul style="list-style-type: none"> - Where the Government is <i>satisfied</i> that it is necessary in the public interest so to do, it may, on the recommendations of the Council, - by <i>notification</i>, - exempt generally, <ul style="list-style-type: none"> (a) either absolutely or (b) 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. |
| Exceptional Exemption by 'Special Order' [Sub-Section (2)] | <ul style="list-style-type: none"> - Where the Government is <i>satisfied</i> that it is necessary in the public interest so to do, it may, on the recommendations of the Council, - by <i>special order</i> in each case - under <i>circumstances of an exceptional nature</i> to be stated in such order - exempt from payment of tax on any goods or services or both on which tax is leviable. |
| Power to insert explanation in the 'Notification' or in the Special Order [Sub-Section (3)] | <ul style="list-style-type: none"> - The Government may, if it <i>considers necessary</i> or expedient so to do - for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), - insert an explanation in such notification or order, as the case may be, - by notification at any time within one year of issue of the original notification or order - and every such explanation shall have effect as if it had always been the part of the first (i.e. original) such notification or order. |

Explanation.—For the purposes of this section, 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 Notifications issued so far :

| Nature | Exemption details |
|---|---|
| Mega Exemption – Goods | In exercise of the powers conferred by section 11(1) <i>above</i> , the Central Government, has issued this Mega Exemption Notification consisting 153 Goods which are fully exempt from GST. [N.N. 2/2017 CT (R) dt. 28/6/2017] |
| Mega Exemption – Services | In exercise of the powers conferred by section 11(1) <i>above</i> , the Central Government, has issued this Mega Exemption Notification consisting 81 Services which are fully exempt from GST. (Detailed list given below) [N.N. 12/2017 CT (R) dt. 28/6/2017] |
| Special GST Rates | In exercise of the powers conferred by section 9(1), section 11(1), section 15(5) and section 16(1) of the CGST Act, 2017, the Central Government has notified certain services on which GST shall be levied at the rate as specified in the said notification subject to the conditions as specified therein. [N.N. 11/2017 CT (R) dt. 28/6/2017] |
| Supply of heavy water and nuclear fuels, exempt from GST | In exercise of the powers conferred by section 11(1) of the CGST Act, 2017, the Central Government exempts intra state supply <ul style="list-style-type: none"> ✓ of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the CTA, 1975 ✓ by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd ✓ from the whole of the central tax leviable thereon under section 9 of CGST Act, 2017. [N.N. 26/2017 CT (R) dt. 21/9/2017] |
| Licensing or leasing relating to petroleum etc. | In exercise of the powers conferred by section 11(1) of the CGST Act, 2017, the Central Government exempts the intra-State supply of <ul style="list-style-type: none"> ✓ services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, ✓ from so much of the central tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf. [N.N. 5/2018 CT (R) dt. 25/1/2018] |

4.2 Exempted Services under GST [N.N. 12/2017 Central Tax (Rate) dt. 28.6.2017]

In exercise of the powers conferred by section 11(1) of the CGST Act, 2017, the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of services, the description of which is specified in column (3) of the Schedule given below, from the whole of the central tax leviable thereon under section 9 of the CGST Act, 2017 :

| Sr. No. | Description of Services |
|---------|---|
| 1 | Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. |

| Sr. No. | Description of Services |
|---------|---|
| 2 | Services by way of transfer of a going concern, as a whole or an independent part thereof. |
| 3 | 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 or a Governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution. |
| 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 CG, SG, UT, LA or a GA or a GE by way of any activity in relation to any function entrusted to a Panchayat or a Municipality under article 243G or 243W respectively of the Constitution.</p> <p style="text-align: right;">[Inserted by N.N. 2/2018 CT(R) dt. 25.1.2018]</p> |
| 4 | Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution. |
| 5 | Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution. |
| 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"> (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; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities. |
| 7 | <p>Services provided by the Central Government, State Government, Union territory or local authority <i>to a business entity with an aggregate turnover of up to 20 lakh rupees (10 lakh rupees in case of a special category state) in the preceding financial year</i> such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 [Amended w.e.f. 1.10.2019 by NN 21/2019-CT (R)].</p> <p>Explanation.- For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to-</p> <ul style="list-style-type: none"> (a) services,- <ul style="list-style-type: none"> (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the CG, SG, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and (b) services by way of renting of immovable property. |
| 8 | <p>Services provided by the Central Government, State Government, Union territory or local authority <i>to another Central Government, State Government, Union territory or local authority.</i></p> <p>Explanation.- For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to services,-</p> <ul style="list-style-type: none"> (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the CG, SG, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and |
| 9 | Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed Rs.5,000: |

| Sr. No. | Description of Services |
|------------|--|
| | <p>Provided that nothing contained in this entry shall apply to-</p> <ul style="list-style-type: none"> (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, (ii) Union territory; (iii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iv) transport of goods or passengers: <p>Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed Rs.5,000 in a financial year.</p> |
| 9A | Services provided by and to Fédération 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. 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 U17 World Cup 2017. |
| 9AA | <p>Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India.</p> <p>Condition to be fulfilled : Director (Sports), Ministry of Youth Affairs and Sports have to certify that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.</p> <p style="text-align: right;">[Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> |
| 9B | Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries). |
| 9C | Supply of service by a Government Entity to CG, SG, UT, LA or any person specified by CG, SG, UT, or LA against consideration received from CG, SG, UT, or LA, in the form of grants. |
| 9D | Services by an old age home run by CG, SG or by an entity registered under section 12AA of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto Rs.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. |
| 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. |
| 11A | Service provided by Fair Price Shops to Central Government by way of sale of wheat, rice and coarse grains under Public Distribution System(PDS) against consideration in the form of commission or margin. |
| 11B | Service provided by Fair Price Shops to State Governments or Union territories by way of sale of kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin. |
| 12 | Services by way of renting of residential dwelling for use as residence. |
| 13 | <p>Services by a person by way of-</p> <ul style="list-style-type: none"> (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered |

| Sr. No. | Description of Services |
|---------|--|
| | <p>as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under section 10(23C)(v) or a body or an authority covered under section 10(23BBA) of Income-tax Act:</p> <p>Provided that nothing contained in entry (b) of this exemption shall apply to,-</p> <ul style="list-style-type: none"> (i) renting of rooms where charges are Rs. 1,000 or more per day; (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are Rs.10,000 or more per day; (iii) renting of shops or other spaces for business or commerce where charges are Rs. 10,000 or more per month. |
| 14 | <p>Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to Rs.1,000 per day or equivalent.</p> <p style="text-align: right;">[Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> |
| 15 | <p>Transport of passengers, with or without accompanied belongings, by –</p> <ul style="list-style-type: none"> (a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal; (b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or (c) stage carriage other than air-conditioned stage carriage. |
| 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>Provided that 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"> (a) railways in a class other than— <ul style="list-style-type: none"> (i) first class; or (ii) an air-conditioned coach; (b) metro, monorail or tramway; (c) inland waterways; (d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and (e) metered cabs or auto rickshaws (including e-rickshaws). |
| 18 | <p>Services by way of transportation of goods-</p> <ul style="list-style-type: none"> (a) by road except the services of— <ul style="list-style-type: none"> (i) a goods transportation agency; (ii) a courier agency; (b) by inland waterways. |
| 19 | <p>Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.</p> |
| 19A | <p>Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India upto 30.9.2019 upto 30.9.2020.</p> <p style="text-align: right;">[Amended w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> |

| Sr. No. | Description of Services |
|---------|--|
| 19BB | Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India upto 30.9.2019 upto 30.09.2020. [Amended w.e.f. 1.10.2019 by NN 21/2019-CT (R)] |
| 20 | Services by way of transportation by rail or a vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure. |
| 21 | Services provided by a goods transport agency, by way of transport in a goods carriage of - (a) agricultural produce; (b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; (c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; (d) milk, salt and food grain including flour, pulses and rice; (e) organic manure; (f) newspaper or magazines registered with the Registrar of Newspapers; (g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or (h) defence or military equipments. |
| 21A | Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely : (a) any registered factory; or (b) any registered society; or (c) any co-operative society; or (d) any person registered under GST Act; or (e) any body corporate; or (f) any partnership firm including any AOP; or (g) any casual taxable person. |
| 21B | Services provided by a GTA by way of transportation of goods in a goods carriage to - (i) a Department or Establishment of the CG or SG or UT or LA or Governmental agencies, which has taken registration only for the purpose of deducting tax at source (i.e. TDS) and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act. |
| 22 | Services by way of giving on hire – (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (aa) to a local authority, an Electrically operated vehicle (EOV) meant to carry more than 12 passengers; EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to such road vehicle. |

| Sr. No. | Description of Services |
|------------|---|
| | <p>[Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> <p>(b) to a goods transport agency, a means of transportation of goods;</p> <p>(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.</p> |
| 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 | Services by way of warehousing of minor forest produce. |
| 24B | <p>Services by way of storage/ warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea.</p> <p>[Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> |
| 25 | Transmission or distribution of electricity by an electricity transmission or distribution utility. |
| 26 | Services by the Reserve Bank of India. |
| 27 | <p>Services by way of—</p> <p>(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</p> <p>(b) inter se (<i>i.e.</i> in between) sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.</p> |
| 27A | Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY). |
| 28 | Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013. |
| 29 | Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government. |
| 29A | Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government. |
| 29B | <p>Services of life insurance provided/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.</p> <p>[Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> |
| 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. |

| Sr. No. | Description of Services |
|---------|--|
| 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 set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market. |
| 34 | Services by an acquiring bank, to any person in relation to settlement of an amount upto Rs.2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. |
| 34A | Services supplied by CG, SG, UT to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and the financial institutions. |
| 35 | <p>Services of general insurance business provided under following schemes—</p> <ul style="list-style-type: none"> (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Restructured Weather Based Crop Insurance Scheme (RWCIS) approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; (j) Pradhan Mantri Fasal BimaYojana (PMFBY); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; (o) Coconut Palm Insurance Scheme; (p) Pradhan Mantri Suraksha BimaYojna; (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. <p>(r) Bangla Shasya Bima</p> <p style="text-align: right;">[Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)]</p> |
| 36 | <p>Services of life insurance business provided under following schemes—</p> <ul style="list-style-type: none"> (a) Janashree Bima Yojana; (b) Aam Aadmi Bima Yojana; (c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of Rs.2,00,000; (d) Varishtha Pension Bima Yojana; |

| Sr. No. | Description of Services |
|---------|---|
| | (e) Pradhan Mantri Jeevan Jyoti Bima Yojana; (f) Pradhan Mantri Jan Dhan Yojana; (g) Pradhan Mantri Vaya Vandana Yojana. |
| 36A | Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 or 40. |
| 37 | Services by contribution Yojana. |
| 38 | Services by way of collection of contribution under any pension scheme of the State Governments. |
| 39 | Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area. |
| 39A | 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). |
| 40 | 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. |
| 41 | This entry provides exemption as under : ♦ 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 30 years, or more) of ✓ industrial plots or ✓ plots for development of infrastructure for financial business, ♦ provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of CG, SG, UT to the industrial units or the developers in any industrial or financial business area. |
| 42 | 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. |
| 43 | Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways. |
| 44 | Services provided by an incubatee up to a total turnover of Rs.50 lakh in a financial year subject to the following conditions, namely:- (a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and (b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee. |
| 45 | Services provided by- (a) an arbitral tribunal to – (i) any person other than a business entity; or (ii) a business entity with an aggregate turnover up to Rs.20 lakh (Rs. 10 lakh in the case of special category states) in the preceding financial year up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 [Amended w.e.f. 1.10.2019 by NN 21/2019-CT (R)]; (iii) the GC, SG, UT, LA, GA or GE |

| Sr. No. | Description of Services |
|---------|---|
| | <p>(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-</p> <ul style="list-style-type: none"> (i) an advocate or partnership firm of advocates providing legal services; (ii) any person other than a business entity; or (iii) a business entity with an aggregate turnover up to Rs.20 lakh (Rs. 10 lakh in the case of special category states) in the preceding financial year up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 [Amended w.e.f. 1.10.2019 by NN 21/2019-CT (R)]; (iv) the GC, SG, UT, LA, GA or GE <p>(c) a senior advocate by way of legal services to-</p> <ul style="list-style-type: none"> (i) any person other than a business entity; or (ii) a business entity with an aggregate turnover up to Rs.20 lakh (Rs. 10 lakh in the case of special category states) in the preceding financial year up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 [Amended w.e.f. 1.10.2019 by NN 21/2019-CT (R)]; (iii) the GC, SG, UT, LA, GA or GE. |
| 46 | Services by a veterinary clinic in relation to health care of animals or birds. |
| 47 | <p>Services provided by the Central Government, State Government, Union territory or local authority by way of-</p> <ul style="list-style-type: none"> (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 recognized 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. |
| 51 | Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax. |
| 52 | Services by an organiser to any person in respect of a business exhibition held outside India. |
| 53 | <p>Services by way of sponsorship of sporting events organised -</p> <ul style="list-style-type: none"> (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 Kreedha Aur Khel Abhiyaan Scheme. |

| Sr. No. | Description of Services |
|---------|---|
| 53A | Services by way of fumigation in a warehouse of agricultural produce. |
| 54 | 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— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (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; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (e) loading, unloading, packing, storage or warehousing of agricultural produce; (f) agricultural extension services; (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce. (h) services by way of fumigation in a warehouse of agricultural produce. |
| 55 | Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce. |
| 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, pre-cooling, 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. |
| 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. |
| 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 installments, for assignment of right to use such natural resource. |

| Sr. No. | Description of Services |
|---------|--|
| 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. |
| 66B | <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. Explanation.- "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 under sub-section (1) of section 15 of the Mines and Minerals (Development and Regulation) Act, 1957.</p> <p>Provided that at the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.</p> |
| 66 | <p>Services provided -</p> <ul style="list-style-type: none"> (a) by an educational institution to its students, faculty and staff; (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee; (b) to an educational institution, by way of,- <ul style="list-style-type: none"> (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; (v) supply of online educational journals or periodicals <p>Provided that nothing contained in entry (b) sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p> <p>Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course.</p> |
| 68 | <p>Services provided to a recognised sports body by-</p> <ul style="list-style-type: none"> (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body; (b) another recognised sports body. |
| 69 | <p>Any services provided by, -</p> <ul style="list-style-type: none"> (a) the National Skill Development Corporation set up by the Government of India; (b) a Sector Skill Council approved by the National Skill Development Corporation; (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation; (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, (e) in relation to- |

| Sr. No. | Description of Services |
|---------|--|
| | <ul style="list-style-type: none"> (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or (ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (iii) any other Scheme implemented by the National Skill Development Corporation. |
| 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 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> <ul style="list-style-type: none"> (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above. <p>Where :</p> <p>1. “clinical establishment” means :</p> <ul style="list-style-type: none"> - 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 <ul style="list-style-type: none"> ◆ illness, ◆ injury, ◆ deformity, ◆ abnormality or ◆ pregnancy - in any recognised system of medicines in India, or - a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases. <p>2. Recognised system of medicines means :</p> <ul style="list-style-type: none"> ◆ Allopathy ◆ Yoga ◆ Naturopathy ◆ Ayurveda ◆ Homeopathy ◆ Siddha ◆ Unani ◆ Any other system of medicine that may be recognized by Central Government <p>3. “health care services” means :</p> <ul style="list-style-type: none"> - any service by way of diagnosis or treatment or care for <ul style="list-style-type: none"> ◆ illness, ◆ injury, |

| Sr. No. | Description of Services |
|---------|---|
| | <ul style="list-style-type: none"> ◆ deformity, ◆ abnormality or ◆ pregnancy - in any recognised system of medicines in India and - includes services by way of transportation of the patient to and from a clinical establishment, - but does not include <ul style="list-style-type: none"> ◆ hair transplant or ◆ cosmetic or ◆ plastic surgery, - except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects (by birth), developmental abnormalities, injury or trauma. |
| 74A | <p>Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of -</p> <ul style="list-style-type: none"> ◆ rehabilitation, ◆ therapy or ◆ counselling and ◆ such other activity as covered by the said Act <p>at medical establishments, educational institutions, rehabilitation centers established by CG, SG, UT or a trust registered under section 12AA of the Income tax Act, 1961.</p> |
| 75 | Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto. |
| 76 | Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets. |
| 77 | <p>Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution –</p> <ol style="list-style-type: none"> (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of GST; or (c) up to an amount of Rs.7,500 pm 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. <p>[Vide Circular No. 109/28/2019, CBIC has clarified that GST will be levied only if such subscription is more than Rs. 7,500 per month per member AND the annual aggregate turnover of RWA by way of supplying of services and goods is also Rs. 20 lakh or more.]</p> |
| 77A | <p>Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-</p> <ol style="list-style-type: none"> (i) activities relating to the welfare of industrial or agricultural labour or farmers; or (ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, <p>to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs.1000) per member per year.</p> |
| 78 | <p>Services by an artist by way of a performance in folk or classical art forms of-</p> <ol style="list-style-type: none"> (a) music, or (b) dance, or (c) theatre, <p>if the consideration charged for such performance is not more than Rs. 1,50,000:</p> |

| Sr. No. | Description of Services |
|------------|---|
| | Provided that the exemption shall not apply to service provided by such artist as a brand ambassador. |
| 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- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act. |
| 81 | Services by way of right to admission to- (a) circus, dance, or theatrical performance including drama or ballet; (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event; (c) recognised sporting event; (d) planetarium where the consideration for admission is not more than Rs. 500 per person as referred to in (a), (b), (c) and (d) above. |
| 82 | Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017. |
| 82A | Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020. [Inserted w.e.f. 1.10.2019 by NN 21/2019-CT (R)] |

PRACTICAL QUESTIONS

Problem 4.1 : As per charging Section 9 of CGST Act, state whether GST would be applicable or not :

Case 1 : Supply of high speed diesel

Case 2 : Supply of alcoholic liquor for human consumption

Case 3 : Supply made to an unregistered recipient

Case 4 : Supply made with a consideration in kind.

Solution :

Case 1 : No. Section 9(2) provides that GST on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the GST Council.

Case 2 : No. Section 9(1) provides that GST shall be levied on supply of goods or service or both except on supply of alcoholic liquor for human consumption.

Case 3 : Yes. Provisions of section 9 read with section 22 provides that except the cases where provisions of reverse charge apply, GST shall be collected by the supplier from recipient and paid to the credit of Government. Further, every supplier whose turnover exceeds Rs.20 lakh (Rs.10 lakh in case of notified states) is required obtain GST registration and start charging GST on supplies made by him. In the instant case, assuming he is a registered supplier, therefore GST will apply.

Case 4 : Yes. Provisions of section 9 read with section 15 provides that GST will be levied on value of supply. Value means transaction value which is the price actually paid or payable for said supply. Value may be in the monetary or non-monetary form. Thus, GST will be levied irrespective of its form.

Problem 4.2 : Discuss whether GST is applicable in the following transactions -

1. Ramesh transfer 500 shares of X Ltd. Transfer took place on Stock Exchange.
2. Ganesh transfers a plot of land situated in Delhi for a consideration of Rs. 60 lakh.
3. Mahesh (a software developer) receives salary of Rs. 1,50,000 p.m. from TCS Ltd (employer).
4. Hitesh takes a housing loan of Re. 1.5 crore from Axis Bank Rate of interest is 7.9%. Loan is repayable after 3 years. Rs. 10,000, being documentation charges, is payable by Hitesh at the time of taking loan. Interest would be part of EMI which will be payable on 10th day of every month.

Solution :

1. *Transfer of shares* - GST is applicable on supply of goods or services or both. Definition of Goods and Services does not include shares/ securities (whether transferred through stock exchange or otherwise). Thus, transfer of shares is not subject to GST.
2. *Transfer of plot of land* - Transfer of immovable property is not subject to GST. Immovable property is not included in the definition of goods.
3. *Salary to employee* - Schedule III specifies certain activities or transaction which are neither 'supply of goods' nor 'supply of services'. Salary received by employees falls in Schedule III, therefore, no GST will apply of salary received by Mahesh from his employer.
4. *Housing loan* - Taking a loan from a bank is not supply of goods and /or services by bank. GST is not applicable. However, document charges of Rs. 10,000 is subject to GST.

Problem 4.3 : In the following cases, discuss who is the person liable to pay GST :

1. Ram & Sons Transporters (a partnership firm) provides transportation service from Delhi to Mumbai. Goods were loaded from the factory of X (P) Ltd (i.e. consignor) to the factory of Y (P) Ltd (i.e. consignee). Freight is paid by Y (P) Ltd.
2. Shyam & Sons Transporters (a partnership firm) provides transportation service from Delhi to Mumbai. Goods consisting furniture were loaded from the residence of Mr. Amit (i.e. consignor) and u loaded to the residence of Mr. Sumit (i.e. consignee). Freight is paid by Mr. Amit.
3. Mr. Jolly is an advocate (other than senior advocate) in Delhi High Court. During December 2018, he provides legal service to Raghu Nath Rai & Co. (a firm of advocates in Delhi) for a fee of Rs. 1,45,000. Turnover of Raghu Nath Rai & Co. far the preceding financial year is Rs. 28 lakh.
4. Mr. A (a cab owner) has provided 'transportation of passengers' service to Mr. B (an engineer) from Mumbai to Pune. This service is provided via ANI technologies India Pvt Ltd. (generally known as OLA cabs). Mr. B has paid cash to Mr. A at the time of termination of his journey.
5. Mr. R (a private cab owner who is operating at his own) has provided 'transportation of passengers' service to Mr. S (a doctor) from Delhi to Chandigarh. Mr. B has paid cash to Mr. A at the time of termination of his journey.

Solution :

1. **GTA :** As per section 9(3) read with NN 13/2017, in case of GTA service, GST will be paid by the recipient under reverse charge mechanism if (either or both) consignor or consignee are specified persons (like company, factory, firm etc.)
In this case, since consignor and consignee both are specified persons, therefore GST will paid by the 'recipient' of service. Recipient means the person who pays the freight. So in this GST will be paid by Y (P) Ltd.
2. **GTA :** As per section 9(3) read with NN 13/2017, in case of GTA service, GST will be paid by the recipient under reverse charge mechanism if (either or both) consignor or consignee are specified persons (like company, factory, firm etc.)
In this case, since neither consignor nor consignee are specified person (as both are individuals) therefore, reverse charge will not apply. So GST will be paid by GTA itself i.e. Shyam & Sons Transporters.

3. **Mega Exemption Entry 45** : If an advocate (other than senior advocate) provides legal service to a firm of advocates, it is exempt from GST *vide* Exemption Notification (Entry 45) in the following 3 cases -
 - (a) If the recipient is an advocate/a firm of advocates.
 - (b) If recipient is a person other than business entity.
 - (c) If recipient is a business entity (*i.e.* a person carrying on business/ profession) and turnover in the immediately preceding financial year does not exceed Rs. 20 lakh (Rs. 10 lakh in the case of special category States). However, if service provider is a senior advocate, then exemption under (a) is not available.

In this case, exemption is available under (a). It may be noted that exemption under (a) is not available if service is provided by a senior advocate.
4. **ECO** : As per section 9(5) read with NN 17/2017 as amended from time to time, in case of certain specified services, E-Commerce Operation (ECO) will be liable to pay GST.
Service of transportation of passengers falls within the ambit of NN 17/2017, therefore in this case, GST will be paid by OLA Cabs (*i.e.* ECO).
5. **No ECO** : As in this case, there is no ECO and Mr. R a private cab owner operates on his own, GST will be paid Mr. R himself.

Problem 4.4 : Discuss whether GST is applicable in the following cases-

1. Ramesh having a bank account with Axis Bank, Gurgaon. He deposits Rs. 1.5 lakh cash in his savings account.
2. Transfer of derivatives by Suresh (a dealer in shares and security) for a consideration of Rs. 3,00,000.
3. Ganesh takes a housing loan of Rs. 50 lakh from HDFC Bank. Rate of interest is 7.9%. Loan is repayable after 3 years. Rs. 5,000, being documentation charges, is payable by Ganesh at the time of taking loan. Interest would be part of EMI which will be payable on 10th day of every month.
4. Mahesh let's out his vacant plot of land at a monthly rent of Rs.2,50,000 to Mahindra First Choice India Pvt Ltd. which is engaged in the business of sale-purchase of used cars. Mahindra First Choice uses it for parking of unsold cars.
5. Rakesh owns a vacant land in a village. It is given on rent to B (monthly rent being Rs. 3,50,000). B uses the land for agricultural activities. Annual income from agricultural activity is more than Rs. 80 lakh.
6. Rajesh is in the business of selling furniture. He closes down his business on March 31, 2018. Value of unsold stock of furniture on that date is Rs. 9 lakh.

Solution :

1. *Transaction in money – No GST* : It is a transaction in money. GST is not applicable on making a bank deposit.
2. *Transfer of securities – No GST* : Derivatives are securities. GST is not applicable on transfer of securities.
3. *Transaction in money – No GST* : Taking a loan from a bank is not supply of goods and/or services by bank. GST is not applicable. However, document charges of Rs. 5,000 is subject to GST.
4. *Renting of vacant land* - Renting of dwelling units for use as residence is not subject to GST. However, renting of residential plot for commercial use is chargeable to GST.
5. *Renting of agricultural land* - Renting of agriculture land for agricultural activities is not chargeable to GST
6. *Business goods when a person ceases to be a taxable person* - It is covered by Item 4(c) of Schedule II. Rajesh is registered under GST. He closes his business on March 31, 2018. At the time of transfer, he has a closing stock of Rs. 9 lakh. By virtue of Item 4(c), law will assume that the unsold stock has been supplied by him in the course of his business and GST is applicable.

Problem 4.5 : Mr. Ram is a registered dealer. He incurred the following costs to manufacture finished product Z :

| | |
|--|-----------|
| | Rs. |
| Intra-state purchase of product 'P' (purchase price includes CGST & SGST of 10% each) | 5,00,000 |
| Inter-state purchase of product 'Q' (excluding IGST of 18%, which is also paid) | 12,00,000 |
| Processing expenses | 2,00,000 |
| Profit 6% on sale price | |
| 10,000 units of 'Z' are sold inter-state and 5,000 units are sold to intra-state. Rate of SGST/CGST/UTGST is 9% and IGST is 18%. Calculate taxes payable, sale price and amount to be charged from buyers. | |

Solution :

Calculation of ITC

| | |
|--|----------|
| | Rs. |
| ▪ ITC of CGST on Product 'P' ($5,00,000 / 120 \times 10$) | 46,667 |
| ▪ ITC of SGST on Product 'P' ($5,00,000 / 120 \times 10$) | 46,667 |
| ▪ ITC of IGST on Product 'Q' ($12,00,000 \times 18 / 100$) | 2,16,000 |
| Total ITC | 3,09,334 |

Calculation of Sale Price

| | |
|--|-----------|
| | Rs. |
| ▪ Purchase cost of Product 'P' (Purchase price minus ITC i.e. $5,00,000 - 46,667 - 46,667$) | 406,666 |
| ▪ Purchase cost of Product 'Q' (Purchase price doesn't include GST) | 12,00,000 |
| ▪ Processing cost | 2,00,000 |
| Total cost | 18,06,666 |
| ▪ Profit (if it's 6% of sale price then on cost it would be $18,06,666 / 94 \times 6$) | 1,15,319 |
| Sale price | 19,21,985 |

Calculation amount to be charged

| | |
|---|-----------|
| | Rs. |
| ▪ Intra-state sale ($19,21,985 / 15,000 \times 5,000$) | 640,662 |
| ▪ CGST@9% | 57,660 |
| ▪ SGST@9% | 57,660 |
| Total amount to be charged | 7,55,982 |
| ▪ Inter-state sale ($19,21,985 / 15,000 \times 10,000$) | 12,81,323 |
| ▪ IGST@9% | 2,30,638 |
| Total amount to be charged | 15,11,961 |

Problem 4.6 : Compute the invoice value to be charged and amount of GST payable by a dealer who had purchased goods for Rs. 1,20,000 (excluding CGST and SGST of 9% each) and after adding for expenses of Rs. 10,000 and of profit Rs. 15,000 had sold out the same.

Solution :

Computation of GST payable

| | |
|--|----------|
| | Rs. |
| Purchase price of goods (excluding GST, as it would be allowed as ITC) | 1,20,000 |

| | | |
|--|--------|----------|
| Add: Expenses | 10,000 | |
| Profit margin | 15,000 | 25,000 |
| Sale price | | 1,45,000 |
| Add : SGST @9% | | 13,050 |
| Add : CGST @9% | | 13,050 |
| Total Sale price including GST | | 1,71,100 |
| GST payable : | | |
| | CGST | SGST |
| GST on sale | 13,050 | 13,050 |
| Less : ITC on purchase (CGST = $1,20,000 \times 9\%$) & (SGST = $1,20,000 \times 9\%$) | 10,800 | 1,0800 |
| GST payable | 2,250 | 2,250 |

Problem 4.7 : Compute the GST amount payable by Mr. A who purchases goods from a manufacturer on payment of Rs. 2,36,000 (including GST) and earns 10% profit on sale to retailers.

GST rate on purchase and sale is 18%.

Answer :

Computation of GST payable by Mr. A

| | |
|---|----------|
| | (Rs.) |
| Payment made to manufacturer | 2,36,000 |
| Less : GST paid ($2,36,000 \times 18$)/118 | 36,000 |
| Purchase price | 2,00,000 |
| Add: Profit margin (10% of Cost Price) | 20,000 |
| Sale price before GST | 2,20,000 |
| Add: GST @18% on Rs. 2,20,000 | 39,600 |
| Invoice value after 10% profit margin | 2,59,600 |
| Output GST | 39,600 |
| Less: GST credit ($2,36,000 \times 18$)/118 | 36,000 |
| GST payable | 3,600 |

Problem 4.8 : Mr. Goenka, a trader selling raw materials to a manufacturer of finished products in the same state. He purchases raw material inter-state as well as intra-state. Following transaction took place during financial year 2018-19.

Calculate the GST and invoice value charged by him to a manufacturer. Assume the rate of IGST is 12%, rate of CGST is 6% and SGST is 6% :

| | |
|--|----------|
| | Rs. |
| (i) Cost of imported materials (from other State) excluding GST | 1,00,000 |
| (ii) Cost of local materials including CGST and SGST | 2,24,000 |
| (iii) Other expenditure includes storage, transport, interest and loading and unloading and profit earned by him | 87,500 |

Solution :**Computation of selling price**

| | Rs. |
|--|-----------------|
| Cost of materials purchased under inter-state supply (excluding GST) | 1,00,000 |
| Cost of local materials (without CGST & SGST) i.e. $\text{Rs. } 2,24,000 \times 100/112$ | 2,00,000 |
| Other expenditure and profit element | 87,500 |
| Selling price | 3,87,500 |
| Add : CGST @6% of Rs. 3,87,500 | 23,250 |
| Add : SGST @6% of Rs. 3,87,500 | 23,250 |
| Selling price including GST | 4,34,000 |

Computation of GST payable

| | CGST | SGST |
|--|------------|---------------|
| GST on sale | 23,250 | 23,250 |
| Less : ITC on intra-state purchase ($\text{CGST} = 2,24,000 \times 6/112$) & ($\text{SGST} = 2,24,000 \times 6/112$) | 12,000 | 12,000 |
| Less : ITC on inter-state purchase ($\text{IGST} = 1,00,000 \times 12/100$) | 11,250 | 750 |
| GST payable | Nil | 10,500 |

Problem 4.9 : Mr. X (of Delhi) a manufacturer sells goods to Mr. B (of Delhi), a distributor for Rs.2,000 (excluding of GST) Mr. B sells goods to Mr. K (of Delhi) a wholesale dealer for Rs. 2,400. The wholesale dealer sells the goods to a retailer (of Delhi) for Rs.3,000, who ultimately sells to the consumers (of Delhi) for Rs. 4,000.

Compute the tax liability, input credit availed and tax payable by the manufacturer, distributor, wholesale dealer and retailer assuming CGST and SGST rates @9% each.

Solution :

| | Tax Liability | | | |
|-------------------------|---------------|-----------|-----------|-----------|
| | X | B | K | Retailer |
| | Rs. | Rs. | Rs. | Rs. |
| Selling price | 2,000 | 2,400 | 3,000 | 4,000 |
| CGST@9% | 180 | 216 | 270 | 360 |
| SGST@9% | 180 | 216 | 270 | 360 |
| Less : ITC | | | | |
| ♦ CGST | Nil | 180 | 216 | 270 |
| ♦ SGST | Nil | 180 | 216 | 270 |
| Net CGST payable | 180 | 36 | 54 | 90 |
| Net SGST payable | 180 | 36 | 54 | 90 |

Problem 4.10 : Mr. Rakesh is a registered dealer in Mumbai. He purchased Product 'X' from Mumbai and sold it to a customer in Mumbai after adding further cost of Rs. 2,00,00 and profit @ 20% of sale price. Rate of GST on these goods is IGST 12%; CGST 6% and SGST 6%. Calculate GST payable on the following assumption :

(a) He has purchased these goods from a normal GST registered supplier at Rs.10,00,000 (GST extra);

(b) He has purchased these goods from a composition scheme registered supplier at Rs.11,00,000 (no GST);

Solution :

(a) Purchase from normal GST registered supplier

| | Rs. |
|---|-----------|
| Purchase (Excluding GST) | 10,00,000 |
| Other costs | 2,00,000 |
| Profit (20% of sale, thus, 25% of cost) [12,00,000 × 25%] | 3,00,000 |
| | <hr/> |
| Selling price | 15,00,000 |
| Add : CGST @6% of Rs. 15,00,000 | 90,000 |
| Add : SGST @6% of Rs. 15,00,000 | 90,000 |
| | <hr/> |
| Selling price including GST | 16,80,000 |

Computation of GST payable

| | CGST | SGST |
|--|--------|--------|
| GST on sale | 90,000 | 90,000 |
| Less : ITC on intra-state purchase (CGST = 10,00,000×6%) & (SGST = 10,00,000×6%) | 60,000 | 60,000 |
| | <hr/> | <hr/> |
| GST payable | 30,000 | 30,000 |

(b) Purchase from composition scheme registered supplier

| | Rs. |
|---|-----------|
| Purchase | 11,00,000 |
| Other costs | 2,00,000 |
| Profit (20% of sale, thus, 25% of cost) [12,00,000 × 25%] | 3,00,000 |
| | <hr/> |
| Selling price | 16,00,000 |
| Add : CGST @6% of Rs. 16,00,000 | 96,000 |
| Add : SGST @6% of Rs. 16,00,000 | 96,000 |
| | <hr/> |
| Selling price including GST | 17,92,000 |

Computation of GST payable

| | CGST | SGST |
|--|--------|--------|
| GST on sale | 96,000 | 96,000 |
| Less : ITC on supply received from composition scheme supplier | Nil | Nil |
| | <hr/> | <hr/> |
| GST payable | 96,000 | 96,000 |

Problem 4.11 : Mr. Ashok of Delhi is a technical consultant. He is a registered supplier under GST. He provides his technical services to many corporates including DAD India Pvt Ltd a Delhi based company. On 1.10.2018, DAD India Pvt Ltd. paid a sum of Rs. 50,00,000 to Mr. Ashok for not to provide similar technical consultancy to any other person for a period of next 5 years. is a registered dealer. Mr. Ashok is of the view that no GST would be payable on said 50,00,000 as he has not charged any GST from DAD India. What's your view?

Solution : Scope of supply is specified by section 7(1). It includes deemed supply given under Schedule II. Under item 5(e) of Schedule II, any consideration received for agreeing to the obligation to refrain from an act, is subject to GST. Consideration received for none provision of services is deemed supply by virtue of said item. Therefore, GST would be chargeable on it.

Now, since he has not charged GST separately on said amount, it will be assumed that this amount is inclusive of GST. Thus, value of supply and GST payable will be calculated as under :

| | |
|--|-----------|
| | Rs. |
| ▪ Taxable value of supply $(50,00,000 / 118 \times 100)$ | 42,37,288 |
| ▪ Add : CGST $(42,37,288 \times 9\%)$ | 3,81,356 |
| ▪ Add : SGST $(42,37,288 \times 9\%)$ | 3,81,356 |
| Total amount charged | 50,00,000 |

Problem 4.12 : Bhaskar and Associates is a firm of architects which is based out in Mumbai. During 2018-19, it prepared a building plan of a new Taj Hotel for Indian Hotels Company Ltd. which will be constructed at Aero City, New Delhi. For this, the firm charges Rs. 1.5 crore from Indian Hotels Company Ltd. In addition, Indian Hotels Company Ltd. provides 5 complimentary dine out vouchers of a value of Rs.10,000 each and 5 stay vouchers of Rs.80,000 each for a stay of 2 days and 2 nights.

While calculating GST payable by Indian Hotels Company Ltd., the firm is of the view that only monetary consideration of Rs. 1.5 crore is chargeable to GST at the rate of 18% and nothing else. Do you agree? If not, calculate the GST payable in this case.

Solution :

Consideration for supply of goods and/or services can be received in money or in kind. In either case, it is charged to GST. The firm is not legally correct to claim dine out and stay vouchers as tax-free. In this case, GST liability of the firm will be calculated as follows-

| | |
|--|-------------|
| | Rs. |
| ▪ Monetary consideration | 1,50,00,000 |
| ▪ Add : Non-monetary consideration (being dine out vouchers) $(10,000 \times 5)$ | 50,000 |
| ▪ Add : Non-monetary consideration (being stay vouchers) $(80,000 \times 5)$ | 4,00,000 |
| Total value | 1,54,50,000 |
| IGST payable $(1,54,50,000 \times 18\%)$ | 27,81,000 |

Problem 4.13 : If in the above example, Indian Hotels Company Ltd. denied to pay GST on dine out and stay vouchers and paid IGST only on Rs. 1.5 crores?

Solution :

If recipient denied to pay GST, it doesn't mean that GST liability is vanished. GST will be payable assuming the amount received is inclusive of GST. Thus, GST payable would be as under :

| | |
|---|-------------|
| | Rs. |
| ▪ Monetary consideration | 1,50,00,000 |
| ▪ Add : Non-monetary consideration (being dine out vouchers) $(10,000 \times 5) \times 100 / 118$ | 42,373 |
| ▪ Add : Non-monetary consideration (being stay vouchers) $(80,000 \times 5) \times 100 / 118$ | 3,38,983 |
| Total value | 1,53,81,356 |
| IGST payable $(1,53,81,356 \times 18\%)$ | 27,68,644 |

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1 : (Fill in blank) : Powers to grant exemptions from levy of GST is given in _____.

- (a) Section 2 of CGST Act, 2017
- (b) Section 12 of CGST Act, 2017
- (c) Section 7 of CGST Act, 2017
- (d) Section 11 of CGST Act, 2017

Q 2 : (Fill in blank) : Powers to grant exemptions from levy of GST are _____ and _____.

- (a) Mandatory Exemptions; Optional Exemptions
- (b) General Exemptions; Special Order
- (c) Primary Exemptions; Secondary Exemptions
- (d) Central level Exemptions; State level Exemptions

Q 3 : (Fill in blank) : Where the Government is satisfied that it is necessary in _____ so to do, it may, on _____, by notification, exempt goods/services.

- (a) the public safety; the recommendations of the Finance Minister
- (b) the public safety; the recommendations of the Council
- (c) the public interest; the recommendations of the Council
- (d) the public interest; the recommendations of the State Finance Ministers.

Q 4. Special exemption can be given by the Government, when :

- (a) it is *satisfied* that it is necessary in the public interest so to do
- (b) GST council has made the recommendations
- (c) circumstances of an exceptional nature exist
- (d) all of the above

Q 5. (Fill in blank) : General exemption can be given by the Government _____.

- (a) absolutely
- (b) subject to such conditions as may be specified

- (c) both of the above
- (d) either (a) or (b)

Q 6. Powers to insert explanation in the original notification

- (a) is with GST Council
- (b) is with Government
- (c) is with both of the above
- (d) does not exist with any of them

Q 7. (Fill in blank) : An explanation can be inserted in the original notification within _____.

- (a) 1 year from the issue of the original notification
- (b) 2 year from the issue of the original notification
- (c) 6 months from the issue of the original notification
- (d) such time as the GST council recommends.

Q 8. (Fill in blank) : Mega exemption for Goods and Services _____.

- (a) given in Notification No. 2/2017 and 3/2017 respectively.
- (b) given in Notification No. 2/2017 and 12/2017 respectively.
- (c) given in Notification No. 3/2017 and 2/2017 respectively.
- (d) given in Notification No. 11/2017 and 12/2017 respectively.

Q 9. Which of the following service(s) is(are) exempt :

- (a) services by an entity registered under section 12AA of the Income-tax Act, 1961
- (b) services to an entity registered under section 12AA of the Income-tax Act, 1961
- (c) both of the above
- (d) none of the above

Q 10. (Fill in blank) : The action of removing any tax obligation or liability imposed can be called as _____ -

- (a) Refund

- (b) Discount
- (c) Exemption
- (d) Allowance

Q. 11 : What are the ways of granting exemption?

- (a) By general exemption notification and by special order
- (b) By general and specific exemption notifications
- (c) By public notification and by specific announcement in official Gazette
- (d) None of the above.

Q.12 : (Fill in blank) : Under _____ section of CGST/SGST Act and _____ section of IGST Act, Government can issue a general exemption notification.

- (a) 6(1) and 11(1)
- (b) 11(1) and 6(1)
- (c) 11(2) and 6(2)
- (d) 6(2) and 11(2)

Q 13. Which of the following service is exempt :

- (a) Services provided by the CG, SG, UT or LA to a business entity with an aggregate turnover of up to 20 lakh rupees (10 lakh rupees in case of a special category state) in the preceding financial year
- (b) Services provided by the CG, SG, UT or LA to a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017
- (c) Services provided by the CG, SG, UT or LA to a business entity with an aggregate turnover of up to 20 lakh rupees (10 lakh rupees in case of a special category state) in the preceding financial year
EXCEPT : (i) 4 services by department of post, (ii) services in relation to an aircraft or vessel, (iii) transport of goods or passengers, (iv) services by way of renting of immovable property.
- (d) Services provided by the CG, SG, UT or LA to a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017 EXCEPT : (i) 4 services by department of post, (ii) services in relation to an aircraft or vessel, (iii) transport of goods or passengers, (iv) services by way of renting of immovable property.

Q 14. Services provided by the CG, SG, UT or LA [EXCEPT : (i) 4 services by department of post, (ii) services in relation to an aircraft or vessel, (iii) services relating to transport of goods or passengers] if they are provided TO :

- (a) a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017
- (b) another CG, SG, UT or LA
- (c) any person where the consideration for such services does not exceed Rs.5,000
- (d) all of the above

Q 15. Services provided by the CG, SG, UT or LA [EXCEPT : (i) 4 services by department of post, (ii) services in relation to an aircraft or vessel, (iii) services relating to transport of goods or passengers] if they are provided TO :

- (a) a business entity with an aggregate turnover of up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017
- (b) another CG, SG, UT or LA
- (c) any person where the consideration for such services does not exceed Rs.5,000
- (d) all of the above.

Q 16. Services by an old age home run by CG, SG or by an entity registered under section 12AA of the Income-tax Act, 1961 to its residents (aged 60 years or more) is exempt provided it is :

- (a) against consideration upto Rs.25,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.
- (b) against consideration upto Rs.20,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.
- (c) against consideration upto Rs.20,000 per month per member, provided that the consideration charged is exclusive of charges for boarding, lodging and maintenance.
- (d) against consideration upto Rs.15,000 per month per member, provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance.

Q 17. Renting service is exempt from GST provided that :

- (a) such services is for commercial purpose
- (b) such services is for commercial purpose and rent per month does not exceed Rs.25,000
- (c) such services is by way of renting of residential dwelling for use as residence.
- (d) such services is by way of renting of residential dwelling for use as residence and rent per month does not exceed Rs.10,000

Q 18. Services by a person by way of conduct of any religious ceremony :

- (a) is taxable in GST
- (b) is exempt from GST
- (c) is exempt from GST provided that charges does not exceed Rs.10,000
- (d) is exempt from GST provided that charges does not exceed Rs.25,000

Q.19 : The Government has issued a notification providing exemption to a small scale manufacturer. Some other manufacturer union stands against it in the view that it is not in public interest rather it would be in interest of a particular smaller section, harming the competitive environment, are they correct in their view point?

- (a) Yes, because the exemption is not bona fide for all.
- (b) Yes, because Government cannot grant exemption to a different classes or categories.
- (c) No, because Government is not bound to issue any exemption notification along with the explanation of public interest.
- (d) Both (a) and (b) are correct.

Q.20 : What would be the consequence of challenging a notification not in public interest?

- (a) The person shall be solely responsible to prove it.
- (b) The person shall not be given any opportunity of being heard.
- (c) The person shall have to pay a heavy penalty for challenging it.
- (d) Both (b) and (c) are correct.

Q.21 : Which of the following statements is correct with respect to exemption by way of special order?

(i) Exemption by way of special order can be issued retrospectively.

(ii) It is necessary to publish the order in official gazette.

- (a) Only (i) is correct.
- (b) Only (ii) is correct.
- (c) Both (i) and (ii) are correct.
- (d) Both (i) and (ii) are incorrect.

Q.22 : A person forgot to avail exemption before supply of goods and charged GST, what would be its consequence-

- (a) After supply, no option is available to the assessee for claiming exemption.
- (b) Exemption can be claimed in the form of ITC.
- (c) Exemption can be claimed in the form of refund claim.
- (d) Person can still claim the exemption in next supplies

Q.23 : Which of the following statement is correct?

- (a) Exemption cannot be claimed by making a refund claim.
- (b) Exemption cannot be claimed at adjudication stage if not claimed at investigation stage.
- (c) Exemption can be claimed at any stage as it is a legal right.
- (d) Exemption cannot be claimed at later stage as the assessee would be debarred, prohibited and estopped for it.

Q.24 : An exemption notification should be construed strictly. Comment.

- (a) Correct, so that no scope for any intendment (*i.e. misinterpretation*) is left.
- (b) Incorrect, because it would result in losing the object and purpose of the notification.
- (c) Strictly, but word can also be replaced with reasonably and rationally.
- (d) Both (a) and (c) are correct.

Q 25. Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961, provided that :

- (a) renting of rooms where charges are less than Rs. 1,000 per day
- (b) renting of premises, community halls, kalyanmandapam or open area etc. where charges are

less than Rs.10,000 per day

- (c) renting of shops or other spaces for business or commerce where charges are less than Rs. 10,000 per month.
- (d) All of the above

Q 26. (Fill in blank) : Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having _____ of a unit of accommodation _____:

- (a) value of supply, not exceeding Rs.1,000 per day
- (b) tariff, not exceeding Rs.1,000 per day
- (c) value of supply, exceeds Rs.1,000 per day
- (d) tariff, exceeds Rs.1,000 per day

Q 27. Service of transportation of passengers is exempt if—

- (a) if it is provided by railways in first class,
- (b) if it is provided by railways in AC Coach
- (c) none of the above
- (d) both of the above

Q 28. Service of transportation of passengers is exempt—

- (a) if it is provided by metro, monorail or tramway
- (b) if it is provided by inland waterways
- (c) if it is provided by metered cabs or auto rickshaws (including e-rickshaws)
- (d) all of the above

Q 29. Service of transportation of goods is exempt—

- (a) if it is provided by road by goods transportation agency
- (b) if it is provided by road by a courier agency
- (c) none of the above
- (d) both of the above

Q 30. Services by way of transportation by rail or a vessel from one place in India to another is exempt if it is of the following goods :

- (a) defence or military equipments
- (b) railway equipments or materials
- (c) milk, salt and food grain including flours, pulses and rice
- (d) all of the above

Q 31. Services provided by a goods transport agency, by way of transport in a goods carriage of :

- (a) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs.1,500;
- (b) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs.750
- (c) both of the above
- (d) none of the above

Q 32. Which of the following service will be taxable :

- (a) Services of transportation of goods provided by a GTA to an unregistered person
- (b) Services of transportation of goods provided by a GTA to any registered factory
- (c) Services of transportation of goods provided by a GTA to an unregistered casual taxable person
- (d) Services of transportation of goods provided by a GTA a registered person paying tax under section 10 of CGST Act, 2017.

Q 33. Which of the following hire service will be exempt :

- (a) Giving on hire, to a state transport undertaking, a motor vehicle meant to carry more than 12 passengers
- (b) Giving on hire, to a goods transport agency, a means of transportation of goods
- (c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent
- (d) all of the above.

Q 34. Which of the following service will NOT be exempt :

- (a) Transmission or distribution of electricity TO an electricity transmission or distribution utility
- (b) Services TO the RBI.
- (c) Both of the above
- (d) None of the above

Q 35. Which of the following service will NOT be exempt :

- (a) Transmission or distribution of electricity BY an electricity transmission or distribution utility

- (b) Services BY the RBI.
- (c) Both of the above
- (d) None of the above

Q 36. In which of the following case, the service of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, will be exempt :

- (a) Interest on housing loan
- (b) Interest on personal loan
- (c) Interest on educational loan
- (d) Interest on credit card bill

Q 37. Services of life insurance being Life micro-insurance product as approved by the IRDA, will be exempt provided that :

- (a) it has a maximum cover of Rs.1,50,000
- (b) it has a maximum cover of Rs.2,00,000
- (c) it has a maximum cover of Rs.2,50,000
- (d) it has a maximum cover of Rs.3,00,000

Q 38. Services provided by an incubatee will be exempt provided that :

- (a) the total turnover had not exceeded Rs.50 lakh during the preceding financial year
- (b) a period of 3 years has not elapsed from the date of entering into an agreement as an incubatee
- (c) both of the above
- (d) no such conditions, it is always exempt

Q 39. Services provided by an arbitral tribunal will NOT be exempt if it is provided to :

- (a) a business entity which is (although) not required to be registered, but it voluntarily registered itself.
- (b) a business entity which is (although) required to be registered, but it has not registered itself, yet.
- (c) both of the above
- (d) none of the above

Q 40. Legal services provided by an individual as an advocate other than a senior advocate, will be exempt if it is provided to-

- (i) an advocate or partnership firm of advocates providing legal services
- (ii) any person other than a business entity
- (iii) a business entity with an aggregate turnover not exceeding the registration limit
- (iv) the GC, SG, UT, LA, GA or GE

Options are :

- (a) (i) and (ii)
- (b) (ii) and (iv)
- (c) (ii), (iii) and (iv)
- (d) All of the above

Q 41. Legal services provided by an individual who is a senior advocate, will be exempt if it is provided to-

- (i) an advocate or partnership firm of advocates providing legal services
- (ii) any person other than a business entity
- (iii) a business entity with an aggregate turnover not exceeding the registration limit
- (iv) the GC, SG, UT, LA, GA or GE

Options are :

- (a) (i) and (ii)
- (b) (ii) and (iv)
- (c) (ii), (iii) and (iv)
- (d) All of the above

Q 42. Under _____ section of CGST/SGST Act and _____ section of IGST Act, Government can grant exemption by way of special order.

- (a) 6(1) and 11(1)
- (b) 11(1) and 6(1)
- (c) 11(2) and 6(2)
- (d) 6(2) and 11(2)

Q 43. A product 'D' has become taxable on 21.07.2018 vide a notification dated 20.07.2018. After that, an exemption notification has been issued on 24.09.2018 to provide for an exemption for product 'D' stating that exemption would be applicable from 01.10.2018. From which date onwards suppliers of product 'D' can claim exemption?

- (a) 20.07.2018
- (b) 24.09.2018
- (c) 01.10.2018
- (d) 21.07.2018

Q 44. Exemption notification can be withdrawn from _____ effect.

- (a) Retrospective
- (b) Prospective
- (c) Either (a) or (b)
- (d) Exemption notification can never be withdrawn.

Q 45. Is it permissible to grant different exemptions to different categories or classes?

- (a) Yes
- (b) No, it would result in discrimination.
- (c) Only on the request of certain class of people.
- (d) Permission of Parliament is required.

Q 46. Services of which of the following doctor will be exempt :

- (a) the veterinary
- (b) the dentist
- (c) the gynaecologist
- (d) the paediatrician

Q 47. Services of collecting or providing news will be taxable if it is provided by -

- (a) An independent journalist
- (b) India Today
- (c) Press Trust of India
- (d) United News of India

Q 48. Services relating to rearing of all forms of animals is exempt, do you agree?

- (a) Yes, services relating to rearing of all forms of animals is exempt
- (b) Yes, services relating to rearing of all forms of animals (except sheep) is exempt.
- (c) Yes, services relating to rearing of all forms of animals (except horses) is exempt.
- (d) Yes, services relating to rearing of all forms of animals (except cow) is exempt.

Q 49. X Ltd is engaged in agriculture, during the year 2019-20, it receives the following services, it seek your advise as to which service is taxable :

- (a) leasing of tractor from a local vendor Mr. Ram
- (b) service of farm labour by a contractor Mr. Shyam for cutting of agriculture crop
- (c) Mr. Balram carried out some processes of cleaning, cutting and bulk packaging of potatoes
- (d) Mr. Ghanshyam carried out some processes of cleaning, cutting and making pickle of carrot and packaging it into the containers.

[Assume, all these service providers are registered suppliers of GST]

Q 50. Y Ltd (Sahibabad, UP, India) is engaged in business of export of meat and meat products. It has

onboard a few vendors who provide services relating slaughtering of animals. All these vendors are registered suppliers under GST. It seeks your advise as to service of which of the following vendor is taxable :

- (a) Khan Chacha who provides services relating to slaughtering of Goat
- (b) Amit Bhai who provides services relating to slaughtering of Turkeys
- (c) John Bro who provides services relating to slaughtering of Cattle
- (d) All of the above
- (e) None of the above

Q 51. Mr. Shresth, who is planning to visit USA on B1 visa, has an appointment with US Foreign Diplomatic Mission (New Delhi). There will be a visa fees of Rs.45,000. But he is not sure, if GST will be levied on such visa fees or not. What do you suggest?

- (a) Yes, GST will be levied on it
- (b) No, GST will be levied on it
- (c) GST levy will depend upon the policies and procedures of the concerned Foreign Diplomatic Mission
- (d) GST levy will depend upon recommendation of the GST council.

Q 52. Delhi Public School has its branch in Gurgaon. During the year 2019-20 it has received the following services, it seeks your advice as which service will be subject to GST :

- (a) 'Balaji Travel Agency' has provided 12 buses for transportation of students, faculty and staff
- (b) 'G4 Security Agency' has provided 10 security guards
- (c) 'JMD Travel Agency' has provided the service of transportation of decorative items, tent materials etc.
- (d) 'NCR Tutorials' has provided services relating conduct of examinations and admissions.

Q 53. Which of the following services is taxable :

- (a) Services provided by Virat Kohli to BCCI as a Player
- (b) Services provided by Ravi Shastri to BCCI as a Coach
- (c) Services provided by Simon Taufel to BCCI as an Umpire
- (d) Services provided by Dr. Vishal Kapoor to BCCI as Team Physio

Q 54. Does exemption from CGST automatically operate as exemption from SGST?

- (a) Yes
- (b) No
- (c) In selected cases
- (d) Yes, and from IGST also.

Q 55. Does exemption from IGST automatically operate as exemption from CGST?

- (a) Yes
- (b) No
- (c) In selected cases
- (d) Yes, and from SGST also.

Q 56. Does exemption from IGST automatically operate as exemption from GST on imports?

- (a) Yes
- (b) No
- (c) Partially correct
- (d) None of the above

Q 57. Is the exemption or exclusion from GST the same thing?

- (a) Yes
- (b) No
- (c) In selected cases
- (d) Can't be differentiated.

Q 58. Can Court amend or enlarge scope of exemption notification?

- (a) Yes
- (b) No
- (c) Court can only strike it down.
- (d) Both (b) and (c) are correct.

Q 59. If the effective date is not mentioned in the notification, date of issue of notification shall be treated as effective date. Comment.

- (a) True
- (b) False
- (c) Maybe
- (d) The situation is not possible

Q 60. Is it necessary to deposit the tax collected wrongly on the supply of goods or services exempted?

- (a) No, if he doesn't want to claim ITC
- (b) Yes, it is compulsory
- (c) No, it's prohibited

- (d) None of these

Q 61. Which one of the following is true?

- (a) Entire income of any trust is exempted from GST
- (b) Entire income of a registered trust is exempted from GST
- (c) Incomes from specified/defined charitable activities of a trust are exempted from GST
- (d) Incomes from specified/defined charitable activities of a registered trust (u/s 12AA of Income-tax Act) are exempted from GST

Q 62. Services by a person by way of conduct of any _____ is exempt from GST.

- (a) Religious Ceremony
- (b) Marriage Ceremony
- (c) Festival Ceremony
- (d) Entertainment Ceremony

Q 63. Services provided to the Central Government, State Government or Union Territory or local authority or a Governmental Authority by way of _____ are exempt.

- (a) In relation to any function entrusted to a Panchayat under article 243G of the Constitution
- (b) In relation to any' function entrusted to a Municipality under article 243W of the Constitution
- (c) In relation to any function entrusted to a Municipality under article 243G of the Constitution
- (d) Both (a) and (b)

Q 64. Composite supply of goods and services in which the value of supply of goods constitutes not more than of the value of the said composite supply provided to the CG, SG, UT, LA or a GA or a GE by way of any activity in relation to any function entrusted to a Panchayat or a Municipality under article 243G or 243W respectively of the Constitution will be exempt from GST.

- (a) 10%
- (b) 25%
- (c) 50%
- (d) 75%

Q 65. Which of the following services of the Department of post is exempt?

- (a) Basic mail services
- (b) Speed post services
- (c) Express parcel post services
- (d) Life insurance services

Q 66. 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 (DTC) for :

- (i) Illness,
- (ii) Injury,
- (iii) Pregnancy,
- (iv) Abnormality,
- (v) Obesity
- (vi) Deformity
- (vii) Allergy

Options are :

- (a) (i), (ii) and (iii)
- (b) All except (iv) and (vi)
- (c) All except (v) and (vii)
- (d) All of the above

Q 67. Recognised System of Medicine means :

- (i) Allopathy
- (ii) Yoga
- (iii) Naturopathy
- (iv) Ayurveda
- (v) Homeopathy
- (vi) Siddha
- (vii) Unani
- (viii) Any other system of medicine that may be recognized by Central Government

Options are :

- (a) (i), (ii), (iii) and (viii)
- (b) All except (ii) and (vii)
- (c) All except (vi) and (vii)
- (d) All of the above

Q 68. health Care Services does not include :

- (i) hair transplant
- (ii) cosmetic surgery
- (iii) plastic surgery

Options are :

- (a) All of the above
- (b) (i) and (ii)
- (c) (i) and (iii)
- (d) None of the above

Q 69. Services provided by RWA to its members will be subject to GST if :

- (a) subscription from its members is more than Rs. 7,500 per month per member
- (b) annual aggregate turnover of RWA by way of supplying of services and goods is Rs. 20 lakh or more.

- (c) Both of the above
- (d) None of the above

Q 70. Renting of residential dwelling for any purpose is exempt from GST. Comment.

- (a) Yes, it can be rented for usage of any purpose.
- (b) No, it should have been rented for residential purpose only.
- (c) No, it should have been rented for commercial purpose only.
- (d) No, it should have been rented for charitable purpose only.

Q 71. Power to grant exemption is given in Section 11 of the CGST Act. Which section of the Act empowers Government to withdraw the exemption?

- (a) Section 11
- (b) Section 12
- (c) Section 13
- (d) Section 10

Q 72. "The exemption was issued by the Government on 1st July 2019 & it was supposed to be effective till 31st August 2019. But due to some reasons Government has to withdraw the same on 31st July 2019. The reasons for the same were explained in the public domain." Is the statement correct?

- (a) Correct
- (b) Partially correct
- (c) Incorrect
- (d) None of the above

Q 73. The exemption notification must be issued in public interest. Public interest means _____

- (a) Greatest happiness of the mass
- (b) Greatest happiness of a section of society
- (c) Unhappiness of a segment of society
- (d) Both (a) & (b)

Q 74. Where two exemption notifications are available for the assessee, which exemption can the person opt?

- (a) Any one of them
- (b) Both of them
- (c) It doesn't matter
- (d) None of the above

Q 75. Government granted exemption to PSU's but did not gave the same to private sector. Comment.

- (a) Permissible

- (b) Not permissible
- (c) Discriminatory
- (d) Both (b) & (c)

Q 76. The exemption notification cannot be amended retrospectively. But if there is some drafting error or mistake or ambiguity, can it be clarified retrospectively?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q 77. Exemption can be claimed at _____ stage even if not claimed at _____ stage.

- (a) Investigation, adjudication
- (b) Adjudication, investigation
- (c) None of the above
- (d) Any, prior

Q 78. True or false: "If an exemption notification is found to be unlawful, High Court can strike it down. However, Court cannot expand the exemption to others. It cannot give a general remission when only restricted exemption is intended."

- (a) True
- (b) False
- (c) Maybe
- (d) None of the above

Q 79. Where there are two possible interpretations of taxing provisions, one which is _____ to the assessee should be preferred.

- (a) Against
- (b) Less favourable
- (c) Favourable
- (d) None of the above

Q 80. Following artists performed at Delhi Folk and Classical Sammelan during Feb 10, 11 and 12, 2020. They seek your advice as to who among them should charge GST on his/her fees :

- (a) Ms. Kalpana performed in Bharatanatyam and charged a fees of Rs.1,30,000
- (b) Ms. Sumitra performed in Kathak and charged a fees of Rs.1,60,000
- (c) Mr. Ranveer Sodhi performed in Bhangra and charged a fees of Rs.1,30,000
- (d) Mr. Ravinder Singh performed in Dandiya and charged a fees of Rs.1,20,000

Q 81. Mr. Amitabh Bachchan (being a brand ambassador) performed for Gujrat Tourism in folk dance and charged a fees of Rs. 1,20,000. He seeks your advice as to should he charge GST on his fees :

- (a) No GST will be levied, as the consideration does not exceed Rs.1,50,000
- (b) No GST will be levied, as he folk dance is exempt service.
- (c) GST will be levied, as folk dance as a brand ambassador will be taxable irrespective of the consideration
- (d) GST will be levied, as the consideration exceeds Rs.1,00,000.

Q 82. Which is the following ticket does NOT contain GST in it ?

- (i) A museum ticket of Rs. 300
- (ii) A ticket of national park of Rs. 650
- (iii) A ticket of wildlife sanctuary of Rs.700
- (iv) A ticket of tiger reserve or zoo Rs.500

Options are :

- (a) (i) and (iv)
- (b) (ii) and (iii)
- (c) All of the above
- (d) None of the above

Q 83. Which is the following ticket does NOT contain GST in it ?

- (i) A circus ticket of Rs. 700
- (ii) A ticket of dance program of Rs. 650
- (iii) A ticket of theatrical performance of Rs.450
- (iv) A ticket of drama or ballet Rs.500

Options are :

- (a) (iii) and (iv)
- (b) (iv)
- (c) (i) and (ii)
- (d) None of the above

Q 84. In which of the following cases no GST will apply?

- (i) 5 circus tickets of Rs. 200 each
- (ii) 4 museum tickets of Rs. 600 each
- (iii) A ballet ticket of Rs.500
- (iv) An IPL ticket of Rs.550 for adults

Options are :

- (a) (i) and (ii)
- (b) (i), (ii) and (iii)
- (c) All of the above
- (d) None of the above

Q 85. Which of the following incubate is exempt from GST ?

- (a) Saurabh is providing IT services since last 5 years has a turnover of preceding FY of Rs.45 lakh
- (b) Saksham is providing IT services since last 2 years has a turnover of preceding FY of Rs.55 lakh
- (c) Samarth is providing IT services since last 2.5 years has a turnover of preceding FY of Rs.45 lakh
- (d) Sarthak is providing IT services since last 1 years has a turnover of preceding FY of Rs.65 lakh

Q 86. Which of the following service is exempt from GST ?

- (a) Services provided BY FSSAI TO Food Business Operators
- (b) Services provided BY Food Business Operators TO FSSAI
- (c) None of the above
- (d) Both of the above

Q 87. Whether services of providing information under RTI Act is exempt from GST ?

- (a) No, fully exempt
- (b) Yes, fully taxable
- (c) Partially exempt
- (d) Currently not exempt, but in future it may exempt is any exemption notification comes.

Q 88. Which of the following services is exempt :

- (a) Ticket of FIFA-U17 World Cup 2017
- (b) Ticket of FIFA-U17 Women World Cup 2017
- (c) Both of the above
- (d) None of the above

Q 89. Which of the following services of public conveniences is exempt :

- (a) facilities of bathroom
- (b) facilities of washrooms
- (c) facilities of lavatories
- (d) facilities of urinal/toilets
- (e) All of the above
- (f) None of the above

Q 90. Shilpa Shetty undergone plastic surgery for her face just to improve her look, she consults you whether she will be subject to GST by the clinical establishment :

- (a) No services by clinical entablements are not subject to GST
- (b) Yes, since plastic surgery does not fall in the definition of 'health care services'
- (c) No, service of personal nature are not subject to GST.
- (d) Yes, because 'health care services' are always subject to GST

PAST EXAM

91. The exempt supply has been defined as supply of any goods/services/both, which attract a Nil rate of tax, or which may be wholly exempt from tax and therefore, includes non-taxable supplies. Which of the following is covered as an exempt supply under GST ?

- (a) Branded Aata/Basin/Maida
- (b) Services by IRDA, SEBI, RBI, EPFO
- (c) Services by Post Office
- (d) Services by the Government for transportation of passenger

[CS. Executive Dec.2019]

92. Which of the following goods is not exempt from GST?

- (a) Fish seed
- (b) Ice Cream
- (c) Pappad
- (d) Plastic Bangles

[CS. Executive June 2019]

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | D | 2 | B | 3 | C | 4 | D | 5 | D |
| 6 | B | 7 | A | 8 | B | 9 | A | 10 | C |
| 11 | A | 12 | B | 13 | D | 14 | D | 15 | D |
| 16 | A | 17 | C | 18 | B | 19 | C | 20 | A |
| 21 | C | 22 | D | 23 | C | 24 | A | 25 | D |
| 26 | D | 27 | C | 28 | D | 29 | C | 30 | D |
| 31 | C | 32 | B | 33 | D | 34 | C | 35 | C |
| 36 | D | 37 | B | 38 | C | 39 | C | 40 | D |
| 41 | C | 42 | C | 43 | C | 44 | A | 45 | A |
| 46 | A | 47 | B | 48 | C | 49 | D | 50 | E |
| 51 | B | 52 | C | 53 | D | 54 | A | 55 | B |
| 56 | A | 57 | B | 58 | D | 59 | A | 60 | B |
| 61 | D | 62 | A | 63 | D | 64 | B | 65 | A |
| 66 | C | 67 | D | 68 | A | 69 | C | 70 | B |
| 71 | A | 72 | A | 73 | A | 74 | B | 75 | A |
| 76 | A | 77 | B | 78 | A | 79 | C | 80 | B |
| 81 | C | 82 | C | 83 | A | 84 | B | 85 | C |
| 86 | A | 87 | B | 88 | B | 89 | E | 90 | B |
| 91 | B | 92 | B | | | | | | |

GST

Goods &
Services
Tax

Point of taxation



CHAPTER FIVE POINT OF TAXATION IN GST

Point of taxation in GST means the time when GST is levied on that particular supply. It is a date of levy of GST and thereby helps in identifying the rate of GST, the exchange rate, and the due date for the payment of GST.

5.1 WHAT IS POINT OF TAXATION IN GST [SECTION 12 and 13 OF CGST]

Point of taxation means the point in time when goods have been deemed to be supplied or services have been deemed to be provided. *The point of taxation enables us to determine the rate of tax, value, and due dates for payment of taxes.* Under GST the point of taxation, *i.e.*, the liability to pay GST, will arise at the time of supply as determined for goods and services. CGST Act, 2017 states provisions to determine time of supply of goods under section 12 and time of supply of services under section 13 of the Act.

1. Point of taxation (*i.e.* time of supply) in case of Goods [Section 12 of CGST Act, 2017]

| Situation | Time of supply |
|-------------|--|
| Normal case | <p>The time of supply shall be the <i>earliest</i> of the following dates :</p> <ol style="list-style-type: none"> Date of issue of 'invoice' or the last date on which 'invoice' was <i>required to be issued</i> under section 31 [12(2)(a)] Date of receipt of <i>payment</i> [12(2)(b)] <p>Notes—</p> <ul style="list-style-type: none"> ◆ Here “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. ◆ No GST on advance receipts in case of registered suppliers of GOODS : Central Government, <i>vide</i> N.N. 66/2017 dt. 15.11.2017, notifies the registered person who did not opt for the composition levy under section 10 of CGST Act <ul style="list-style-type: none"> ✓ as the class of persons ✓ who shall pay the central tax on the outward supply of <i>goods</i> ✓ at the <i>time of supply</i> as specified in clause (a) of section 12(2) of the said Act. [Author: <i>i.e.</i> the date of invoice or the last date on which invoice is required to be issued; Normally, earlier of 'the date of invoice' or 'the date of payment' is taken to be the date of supply, but this is an exceptional case where 'date of supply' will be the date mentioned in clause (a)] ✓ including in the situations attracting the provisions of section 14 of the said Act, and ✓ shall accordingly furnish the details and returns as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the payment of tax by such class of registered persons shall be such as specified in the said Act. |

| | |
|--|---|
| | <p>Author : This exemption will not apply in case of 'supplier of services' and supplier of goods who have opted 'composition levy'.</p> <p>◆ "the date of receipt of payment" shall be the <i>earliest</i> of the following :</p> <p>(a) The date on which the <i>payment is entered in the books</i> of account of the supplier, or</p> <p>(b) The date on which the <i>payment is credited in his bank</i> account.</p> |
| Reverse Charge Cases | <p>The time of supply in case GST is payable by the recipient of supply, shall be the <i>earliest</i> of the following dates :</p> <p>(i) Date of <i>receipt</i> of goods;</p> <p>(ii) <i>Payment</i> date as per books of accounts of the recipient <i>or</i> the payment date as per his bank account, whichever is earlier;</p> <p>(iii) <i>The next date immediately following 30 days</i> from the date of issue of invoice by the supplier.</p> |
| Where payment received exceeds the invoice amount and such difference does not exceed Rs.1000. | <p>At the option of supplier, the point of taxation <i>for such excess amount</i> will be 'date of issue of invoice' in respect of such excess amount (<i>Author :</i> Normally the excess is adjusted in the next invoice; so point of taxation <i>for such excess amount</i> will be 'date of issue of such next invoice').</p> <p>After introduction of N.N. 66/2017 (above), this provision has no relevance except in case of Composition dealers.</p> |

2. Point of taxation (i.e. time of supply) in case of Vouchers [Section 12(4) of CGST Act, 2017]

| Situation | Time of supply |
|--|---|
| (a) If supply is identifiable at the time of issuance of 'voucher'. | The time of supply shall be the date of issue of 'voucher'. |
| (b) If supply is NOT identifiable at the time of issuance of 'voucher'. | The time of supply shall be the date of redemption of such 'voucher'. |
| <p>Vouchers are defined under section 2(118) as under :</p> <ul style="list-style-type: none"> - 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. <p>Examples of vouchers are coupon, token, ticket, pass etc.</p> <p>E.g. 1</p> <p>On 10th Oct 2018, Amazon in its 'festive sale' issues 200 Nos. of 'gift vouchers' to first 200 lucky buyers who have purchased goods of worth Rs. 5,000 of more. These vouchers can be used to buy (free of cost) Amazon's fire stick.</p> <p>The time of supply for these vouchers will 10th Oct, 2018 (i.e. the date of issue of these voucher).</p> <p>E.g. 2</p> <p>On 10th Oct 2018, Amazon in its 'festive sale' issues 1 'gift voucher' to the very first lucky buyer who has purchased goods of worth Rs. 10,000 of more. This gift voucher can be used to buy anything upto a sum of Rs.4,000 (but before Diwali i.e. 7th Nov' 2018).</p> <p>Mr. Ramesh (the lucky buyer who won this voucher) has redeemed such vouchers on 6th Nov against a portable speaker of Rs.3,000 and a T-shirt of Rs.1,000.</p> <p>The time of supply for such vouchers will 7th Nov, 2018 (i.e. the date of redemption of such voucher).</p> | |

3. Point of taxation (i.e. time of supply) in case of Services [Section 13 of CGST Act, 2017]

| Situation | Time of supply |
|---|---|
| <i>Normal case</i> | <p>The time of supply shall be as under :</p> <ol style="list-style-type: none"> If invoice is issued within time limit of section 31 : Date of invoice or the date of payment, whichever is earlier. If invoice is NOT issued within said time : Date of provision of service or the date of payment, whichever is earlier. In any other case, the date payment so received is entered in books of accounts. <p>Notes—</p> <ul style="list-style-type: none"> ◆ Here “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. ◆ “the date of receipt of payment” shall be the <i>earliest</i> of the following : <ol style="list-style-type: none"> The date on which the <i>payment is entered in the books of account</i> of the supplier, or The date on which the <i>payment is credited in his bank account</i>. |
| <i>Reverse Charge Cases</i> | <p>The time of supply in case GST is payable by the recipient of supply, shall be the <i>earliest</i> of the following dates :</p> <ol style="list-style-type: none"> Payment date as per books of accounts of the recipient or the payment date as per his bank account, whichever is earlier; The next date immediately following 60 days from the date of issue of invoice by the supplier. |
| <i>Supply of services by associated enterprises</i> | <p>Where the supplier of service is located outside India, the point of taxation will on earlier of the following two dates :</p> <ol style="list-style-type: none"> the date of entry in the books of account of the recipient the date of payment |
| <i>Where payment received exceeds the invoice amount and such difference does not exceed Rs.1000.</i> | <p>At the option of supplier, the point of taxation for such excess amount will be ‘date of issue of invoice’ in respect of such excess amount (<i>Author: Normally the excess is adjusted in the next invoice; so point of taxation for such excess amount will be ‘date of issue of such next invoice’.</i>)</p> |

Notes—

- Where it is not possible to determine the time of supply under aforesaid provisions, the time of supply shall be as under :
 - ◆ In a case where a periodical return has to be filed, be the date on which such return is to be filed;
 - ◆ In any other case, be the date on which the tax is paid
- 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.

4. Point of taxation (i.e. time of supply) in case of change of rate of GST [Section 14 of CGST Act, 2017]

As per this section, the time of supply, where there is a change in the rate of tax in respect of goods or services or both will be as under :

| Situation | Time of supply |
|--|--|
| <i>SUPPLY BEFORE : In case the goods or services or both have been supplied before the change in rate of tax</i> | <p>Case 1 : Invoice and payment BOTH after change : where issuance of invoice and receipt of payment both are after the change in rate of tax, the time of supply shall be, <i>earlier</i> of the following :</p> <ul style="list-style-type: none"> ◆ the date of receipt of <i>payment</i>, or |

| | |
|---|---|
| | <p>♦ the date of issue of <i>invoice</i>,</p> <p>Case 2 : Invoice before but payment after : where invoice is issued before such change but payment is received after such change, the time of supply shall be the date of issue of <i>invoice</i>;</p> <p>Case 3 : Payment before but invoice after : 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 <i>payment</i></p> |
| SUPPLY AFTER : In case the goods or services or both have been supplied after the change in rate of tax | <p>Case 1 : Invoice and payment BOTH before : where issuance of invoice and receipt of payment both are before the change in rate of tax, the time of supply shall be, earlier of the following :</p> <p>♦ the date of receipt of payment, or</p> <p>♦ the date of issue of invoice,</p> <p>Case 2 : Invoice before but payment after : where invoice is issued before such change but payment is received after such change, the time of supply shall be date of receipt of payment.</p> <p>Case 3 : Payment before but invoice after : 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 issue of invoice;</p> |

Note : 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 four working days from the date of change in the rate of tax.

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1. Point of taxation in GST means,

- (a) the point in time when goods have been deemed to be supplied or services have been deemed to be provided
- (b) the date when payment for the supply is received.
- (c) it, in respect of the goods, means the date when goods are delivered or in respect of the services means, the date when services have provided
- (d) the date which is agreed between supplier and recipient and mentioned on the tax-invoice

Q 2. Point of taxation for Goods is given under section _____ of _____ Act, 2017.

- (a) 12, IGST
- (b) 13, CGST
- (c) 12, CGST
- (d) 13, CGST

Q 3. Point of taxation for Services is given under section _____ of _____ Act, 2017.

- (a) 12, IGST
- (b) 13, CGST
- (c) 12, CGST
- (d) 13, CGST

Q 4. Point of taxation in case of Goods is,

- (a) The date of issue of invoice or the date of receipt of payment, whichever is earlier
- (b) The date of issue of invoice or the last date on which invoice was required to be issued, as the case may be or the date of receipt of payment, whichever is earlier
- (c) The date of issue of invoice or the last date on which invoice was required to be issued, whichever is earlier
- (d) The date of payment

Q 5. Point of taxation in case of Service is,

- (a) The date of issue of invoice or the date of receipt of payment, whichever is earlier (if invoice is issued within the time limit of section 31)
- (b) The date of provision of service or the date of receipt of payment, whichever is earlier (if invoice is not issued within the time limit of section 31)
- (c) Both of the above
- (d) The date of invoice or the last date when invoice is required to be issued.

Q 6. As per notification no _____ the tax on supply of _____ will be paid at the time of supply, therefore, the date of payment doesn't matter in this case.

- (a) 66/2017, services
- (b) 66/2017, goods
- (c) 66/2018, services
- (d) 66/2018, services

Q 7. The meaning of "the date of receipt of payment"

- (a) The date on which the payment is entered in the books of account of the supplier
- (b) The date on which the payment is credited in his bank account
- (c) Earlier of the above
- (d) Later on the above

Q 8. Notification no 66/2017, does not apply

- (a) In case of services
- (b) Composition dealer
- (c) Both of the above
- (d) None of the above

Q 9. What is "the date of receipt of payment" : date of supply 18.8.2019, date of receipt of payment cheque 28.9.2019, the date of entering the cheque in the books of accounts of the supplier 25.10.2019, the date of clearance of such cheque 6.11.2019.

- (a) 18.8.2019
- (b) 28.9.2019
- (c) 25.10.2019
- (d) 6.11.2019

Q 10 : The invoice for supply of goods was raised on 1 August, 2017. The payment in respect of such supply was credited in bank on 10 September 2017 whereas it was entered in the books of supplier on 5 October 2017. What is the time of supply in this case ?

- (a) 1 August 2017
- (b) 10 September 2017
- (c) 5 October 2017
- (d) 1 August 2017 + 31 days = 1 September 2017

Q 11 : Details in respect of a supply of goods on which reverse charge applies, are as under :

- Date of invoice : 18.8.2017
- Date of receipt of goods : 10.12.2017
- Date of making payment : 30.11.2017

What is the time of supply in this case ?

- (a) 18.08.2017
- (b) 10.12.2017
- (c) 30.11.2017
- (d) 18.8.2017 + 31 days = 18.9.2017

Q 12 : Details in respect of a supply of services on which reverse charge applies, are as under :

- Date of invoice : 18.8.2017
- Date of completion of service : 10.9.2017
- Date of making payment : 30.11.2017

What is the time of supply in this case ?

- (a) 18.08.2017 + 61 days = 18.10.2017
- (b) 10.09.2017
- (c) 30.11.2017
- (d) 18.8.2017 + 31 days = 18.9.2017

Q 13: In respect of a service the GST rate increased from 15% to 18% on 15 November 2017. Other details are as under :

- Date of completion of service : 10 November 2017
- Date of invoice : 25 November 2017
- Date of receipt of payment : 10 December 2017

What is the time of supply in this case?

- (a) 15 November 2017
- (b) 10 November 2017
- (c) 25 November 2017
- (d) 10 December 2017

Q 14: In respect of a service the GST rate increased from 15% to 18% on 15 November 2017. Other details are as under :

- Date of completion of service : 10 November 2017
- Date of invoice : 14 November 2017
- Date of receipt of payment : 10 December 2017

What is the time of supply in this case?

- (a) 15 November 2017
- (b) 10 November 2017
- (c) 14 November 2017
- (d) 10 December 2017

Q 15 : In respect of a service the GST rate increased from 15% to 18% on 15 November 2017. Other details are as under :

- Date of completion of service : 25 November 2017
- Date of invoice : 12 October 2017
- Date of receipt of payment : 14 November 2017

- (a) 15 September 2017
- (b) 28 September 2017
- (c) 15 October 2017
- (d) 30 October 2017

What is the time of supply in this case?

- (a) 15 November 2017
- (b) 25 November 2017
- (c) 12 October 2017
- (d) 14 November 2017

Q 16 : X Ltd raised an invoice (No.X100/2017 for August 2017) of Rs. 5,970 to a customer, who however paid Rs. 6,000 for this. In the next month X Ltd raised another invoice (No.X101/2017 for September 2017) of Rs. 4,410 after adjusting Rs.30 advance paid in the last month. Other details are as under :

- Date of issue of invoice No.X100/2017 : 15 Sep 2017 (due date for payment 30 Sep 2017)
- Date of issue of invoice No.X101/2017 : 15 Oct 2017 (due date for payment 30 Oct 2017)
- Date of payment for invoice No.X100/2017 : 28 Sep 2017
- Date of payment for invoice No.X101/2017 : 30 Oct 2017

For Rs.30 (extra paid), what is the date of supply?

Q 18. Who is the recipient in case, the consideration is payable for the supply of goods?

- (a) Person liable to pay consideration for such goods
- (b) Person to whom goods are delivered
- (c) Person to whom the possession of goods are given
- (d) Both (b) and (c) are correct

Q.19. Who is the recipient in case, the consideration is not payable for the supply of goods?

- (a) Person liable to pay consideration for such goods
- (b) Person to whom goods are delivered
- (c) Person to whom the possession of goods are given
- (d) Both (b) and (c) are correct

Q.20. Who is the recipient in case, the consideration is payable for the supply of service?

- (a) Person liable to pay consideration for such service
- (b) Person to whom the service is rendered
- (c) Either of (a) and (b)
- (d) Service recipient shall always be the person paying consideration.

Q 17 : X Ltd raised an invoice (No.X100/2017 for August 2017) of Rs. 58,700 to a customer, who however paid Rs. 60,000 for this. In the next month X Ltd raised another invoice (No.X101/2017 for September 2017) of Rs. 44,100 after adjusting Rs.1,300 advance paid in the last month. Other details are as under :

- Date of issue of invoice No.X100/2017 : 15 Sep 2017 (due date 30 Sep 2017)
- Date of issue of invoice No.X101/2017 : 15 Oct 2017 (due date 30 Oct 2017)
- Date of payment for invoice No.X100/2017 : 28 Sep 2017
- Date of payment for invoice No.X101/2017 : 30 Oct 2017

For Rs.1,300 (extra paid), what is the date of supply?

- (a) 15 September 2017
- (b) 28 September 2017
- (c) 15 October 2017
- (d) 30 October 2017

Q.21. Who is the recipient in case, the consideration is not payable for the supply of service?

- (a) Person liable to pay consideration for such service
- (b) Person to whom the service is rendered
- (c) Either of (a) and (b)
- (d) Service recipient shall always be the person paying consideration.

Q.22. Reverse charge means the liability to pay tax by the _____ of goods or services or both instead of the _____ of such goods or services or both.

- (a) Recipient, Supplier.
- (b) Recipient, Agent.
- (c) Supplier, Recipient
- (d) Agent, Recipient

Q.23. What is the time of supply of goods, in case of forward charge?

- (a) Date of issue of invoice
- (b) Due date of issue of invoice
- (c) Date of receipt of consideration
- (d) Earlier of (a), (b) or (c)

Q.24. What is the date of receipt of payment?

- (a) Date on which payment is entered in the books of account
- (b) Date on which payment is credited to the bank account
- (c) Earlier of (a) or (b)
- (d) Either of (a) or (b)

Q.25. With the help of following data, determine the time of supply?

- Date of Removal 01.09.2018
- Date of Invoice 02.09.2018
- Date when goods made available to recipient 03.09.2018
- Date of receipt of payment 15.09.2018

Options are

- (a) 01.09.2018
- (b) 02.09.2018
- (c) 03.09.2018
- (d) 15.09.2018

Q.26. With the help of following data, determine the time of supply?

- Date of Invoice 30.09.2018
- Invoice Due Date 18.09.2018
- Payment entry in supplier's books 10.09.2018
- Credit in bank account 28.09.2018

Options are

- (a) 30.09.2018
- (b) 18.09.2018
- (c) 10.09.2018
- (d) 28.09.2018

Q.27. With the help of following data, determine the time of supply?

- Date of Removal 10.09.2018
- Date of Invoice 05.09.2018
- Date when goods made available to recipient 16.09.2018
- Credit in bank account 20.09.2018

Options are

- (a) 10.09.2018
- (b) 05.09.2018

- (c) 16.09.2018
- (d) 20.09.2018

Q.28. With the help of following data, determine the time of supply?

- Date of Removal 10.09.2018
- Date of Invoice 16.09.2018
- Date when goods made available to recipient 16.09.2018
- Date of receipt of payment 16.09.2018

Options are

- (a) Invoice Date
- (b) Date of removal
- (c) Date of delivery
- (d) Date of receipt of payment

Q.29. Determine the amount of GST in case of supply of service of Rs. 15,00,000 on 04-09-2018 and invoice has been issued on 31-08-2018. The date of payment is 08-09-2018. The CGST rate has been increased from 5% to 12% w.e.f. 01-09-2018.

- (a) Rs. 1,80,000
- (b) Rs. 1
- (c) Rs. 75,000
- (d) Rs. 1,20,000

Q.30. What is the time of supply of goods liable to tax under reverse charge mechanism?

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

Q.31. On 04-09-2018, supplier invoices goods taxable on reverse charge basis to AB & Co. AB & Co. receives the goods on 12-09-2018 and makes payment on 30-09-2018. Determine the time of supply,

- (a) 04-09-2018
- (b) 03-10-2018
- (c) 12-09-2018
- (d) 30-09-2018

Q.32. _____ is an instrument where there is an obligation to accept it as a consideration for supply of goods or services.

- (a) Voucher

- (b) Payment receipt
- (c) Promissory note
- (d) Cheque

Q.33. What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?

- (a) Date of issue of voucher
- (b) Date of redemption of voucher
- (c) Earlier of (a) & (b)
- (d) (a) and (b) whichever is later

Q.34. ABC Ltd. has purchased for its customers 50 vouchers dated 20-08-2018 worth Rs. 100 each from XYZ Ltd., a footwear manufacturing company. The vouchers were issued by XYZ Ltd. on 20-09-2018. The vouchers can be encashed at retail outlets of XYZ Ltd. The employees of ABC Ltd. encashed the same on 01-10-2018. Determine the time of supply of vouchers.

- (a) 20-08-2018
- (b) 20-09-2018
- (c) 01-10-2018
- (d) Supply is not identified

Q.35. What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?

- (a) Date of issue of voucher
- (b) Date of redemption of voucher
- (c) Earlier of (a) & (b)
- (d) (a) and (b) whichever is later

Q.36. Ms. Reena purchased a gift voucher (it can be redeemed against any product of the departmental store) from a departmental store worth Rs. 2000 on 30-07-2018 and gifted it to her friend on the occasion of her marriage on 05-08-2018. Her friend encashed the same on 01-09-2018 for purchase of a cosmetic product. Determine the time of supply.

- (a) 30-07-2018
- (b) 05-08-2018
- (c) 01-09-2018
- (d) Supply is identified

Q.37. What is the time of supply of goods in residuary cases, in case where a periodical return has to be filed?

- (a) Date on which return is to be filed
- (b) Actual date of filing of return
- (c) Date of payment of tax
- (d) Date of collection of tax

Q.38. What is the time of supply in residuary cases i.e. in all the remaining cases where periodical return is not to be filed?

- (a) Date on which return is to be filed
- (b) Actual date of filing of return
- (c) Date of payment of tax
- (d) Date of collection of tax

Q.39. What is the time of supply in case of addition in the value by way of interest, late fee or penalty or any delayed payment of consideration?

- (a) Last date on which such late fees/penalty has been charged
- (b) Date of payment of such additional amount
- (c) Date of collection of whole amount
- (d) It doesn't constitute supply.

Q.40. What is the time of supply of service if the invoice is issued within 30 days from the date of provision of service?

- (a) Date of issue of invoice
- (b) Date on which the supplier receives payment
- (c) Date of provision of service
- (d) Earlier of (a) and (b)

Q.41. What is the time of supply of service if the invoice is not issued within the period prescribed?

- (a) Date of issue of invoice
- (b) Date on which the supplier receives payment
- (c) Date of provision of service
- (d) Earlier of (b) and (c)

Q.42. Date of receipt of advance is the time of supply in case of advance received for supply for services especially when the invoice & provisioning of service is done post advance receipt. Comment.

- (a) True
- (b) False
- (c) Partially correct
- (d) None of the above

Q.43. Continuous supply of services means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding ____ with ____ payment obligations.

- (a) 1 year, annual
- (b) 3 months, periodic
- (c) 6 months, half yearly

- (d) 1 year, periodic

Q.44. What is the maximum time limit for issue of tax invoice in case of insurance service providers and banks?

- (a) 30 days
(b) 45 days
(c) At the time when supply ceases
(d) At the time when supply started

Q.45. With the help of following data, determine the time of supply?

- Date of provision of service 10-09-2018
- Date of completion of service
- Date of Invoice 30-09-2018
- Date of receipt of payment
- Payment entry in supplier's books 15-10-2018 (full)
- Credit in bank account

Options are

- (a) 10-09-2018
(b) 30-09-2018
(c) 15-09-2018
(d) 15-10-2018

Q.46. With the help of following data, determine the time of supply?

- Date of completion of service 16-07-2018
- Date of Invoice 26-08-2018
- Payment entry in supplier's books 28-09-2018
- Credit in bank account 30-09-2018

Options are

- (a) 16-07-2018
(b) 26-08-2018
(c) 28-09-2018
(d) 30-09-2018

Q.47. With the help of following data, determine the time of supply?

- Date of provision of service 10-09-2018
- Date of Invoice 30-09-2018
- Date of receipt of payment 06-09-2018 (part) 09-09-2018 (remaining)

Options are

- (a) 30-09-2018
(b) 06-09-2018
(c) 09-09-2018
(d) Both (b) and (c) for respective amounts

Q.48. With the help of following data, determine the time of supply?

- Date of completion of service 20-09-2018
- Date of Invoice 30-09-2018
- Payment entry in supplier's books 24-09-2018
- Credit in bank account 22-09-2018

Options are

- (a) 30-09-2018
(b) 20-09-2018
(c) 24-09-2018
(d) 22-09-2018

Q.49. With the help of following data, determine the time of supply?

- Date of provision of service 10-09-2018
- Date of Invoice 30-09-2018
- Date of receipt of payment 15-09-2018 (part) 10-10-2018 (remaining)

Options are

- (a) 30-09-2018
(b) 15-09-2018
(c) 10-10-2018
(d) Both (b) and (c) for respective amounts.

Q.50. What is the time of supply of service in case of reverse charge mechanism?

- (a) Date of payment as entered in the books of account of the recipient
(b) Date on which the receipt of payment is credited in the bank account
(c) Earlier of (a) and (b)
(d) (a) and (b) whichever is later

Q.51. What is the time of supply of service in case of an associated enterprise receives services from the service provider located outside India?

- (a) Date of entry in the books of account of associated enterprise (recipient)
(b) Date of payment
(c) Earlier of (a) or (b)

- (d) Date of entry in the books of the supplier of service

Q.52. What is the time of supply of vouchers when the supply of services with respect to the voucher is identifiable?

- (a) Date of issue of voucher
(b) Date of redemption of voucher
(c) Earlier of (a) & (b)
(d) (a) and (b) whichever is later

Q.53. What is the time of supply of vouchers when the supply of services with respect to the voucher is not identifiable?

- (a) Date of issue of voucher
(b) Date of redemption of voucher
(c) Earlier of (a) & (b)
(d) (a) and (b) whichever is later

Q.54. What is the time of supply of service for the supply of taxable services up to Rs. 1000 in excess of the amount indicated in the taxable invoice?

- (a) At the option of the supplier- Invoice date or date of receipt of consideration
(b) Date of issue of invoice
(c) Date of receipt of consideration
(d) Date of entry in the books of account

Q.55. Mr. X has received the payment, but has not deposited the cheque in the bank account, what is the date of receipt of payment?

- (a) Date of receipt of payment
(b) Date of credit in the bank account
(c) Date on which payment is entered in the books of account of the supplier
(d) Earlier of (b) and (c)

Q.56. Which section governs the provision for determining time of supply in case of change in rate of tax?

- (a) Section 12
(b) Section 13
(c) Section 14
(d) Section 15

Q.57. In which of the following situations, 'New rate' shall be applicable?

- (a) When the goods have been supplied before the change in rate of tax but issue of invoice and receipt of payment is after the change in rate of tax.
(b) When the goods have been supplied after the change in rate of tax but issue of invoice and receipt of payment is before the change in rate of tax.
(c) When the supply of goods and issue of invoice has been done before the change in rate of tax but receipt of payment is after the change in rate of tax.
(d) When the supply of goods and receipt of payment has been done before the change in rate of tax but issue of invoice is after the change in rate of tax.

Q.58. In which of the following situations, 'Old rate' shall be applicable?

- (a) When the goods have been supplied before the change in rate of tax but issue of invoice and receipt of payment is after the change in rate of tax.
(b) When the goods have been supplied after the change in rate of tax but issue of invoice and receipt of payment is before the change in rate of tax.
(c) When the supply of goods and issue of invoice has been done after the change in rate of tax but receipt of payment is before the change in rate of tax.
(d) When the supply of goods and receipt of payment has been done after the change in rate of tax but issue of invoice is before the change in rate of tax.

Q.59. Determine the time of supply in following cases. The tax rate has been changed w.e.f. 01-09-2018.

- | | |
|------------------------------|------------|
| • Date of supply of service | 10-08-2018 |
| • Date of Invoice | 05-09-2018 |
| • Date of receipt of payment | 08-09-2018 |

Options are :

- (a) 10-08-2018
(b) 05-09-2018
(c) 08-09-2018
(d) Either of 05-09-2018 or 08-09-2018

Q.60. Determine the time of supply in following cases. The tax rate has been changed w.e.f. 01-09-2018.

- | | |
|-----------------------------|------------|
| • Date of supply of service | 10-08-2018 |
| • Date of Invoice | 25-08-2018 |
| • Date of payment | 08-09-2018 |

Options are

- (a) 10-08-2018
- (b) 25-08-2018
- (c) 08-09-2018
- (d) 25-09-2018

Q.61. Determine the time of supply in following cases. The tax rate has been changed w.e.f. 01-09-2018.

- Date of supply of service 10-08-2018
- Date of Invoice 05-09-2018
- Date of receipt of payment 27-08-2018

Options are

- (a) 10-08-2018
- (b) 05-09-2018
- (c) 27-08-2018
- (d) Either of 05-09-2018 or 27-08-2018

Q.62. Determine the time of supply in following cases. The tax rate has been changed w.e.f. 01-09-2018.

- Date of supply of service 06-09-2018
- Date of Invoice 25-08-2018
- Date of receipt of payment 08-09-2018

Options are

- (a) 25-08-2018
- (b) 06-09-2018
- (c) 08-09-2018
- (d) Either of 06-09-2018 or 08-09-2018

Q.63. Which notification removed the requirement of payment of tax on advance receipt in case of supply of goods?

- (a) Notification No. 10/2017-Central Tax dated 15.11.2017
- (b) Notification No. 66/2017-Central Tax dated 15.11.2017

- (c) Notification No. 70/2017-Central Tax dated 15.11.2017
- (d) None of the above

Q.64. Is composition dealer required to pay tax on the advance received by it in respect to supply of goods?

- (a) Yes
- (b) No
- (c) Maybe
- (d) None of the above

Q.65. What will be the time of supply where multiple invoices are issued for a single consignment involving supply of goods?

- (a) Time of supply of each invoice to be calculated separately
- (b) Time of supply of first invoice shall be applied for remaining invoices
- (c) Time of supply to be determined as per the discretion of supplier
- (d) None of the above

Q.66. Composite supply will attract the provisions pertaining to time of supply of goods or services. - Comment.

- (a) Correct
- (b) Incorrect
- (c) Partially correct
- (d) None of the above

Q.67. In composite supply, the principal supply is supply of goods whereas the ancillary supply is supply of services. Which provision shall apply in respect of time of supply?

- (a) Time of supply of service
- (b) Time of supply of goods
- (c) Either (a) or (b)
- (d) None of the above

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | A | 2 | C | 3 | D | 4 | C | 5 | C |
| 6 | B | 7 | C | 8 | C | 9 | C | 10 | A |
| 11 | D | 12 | A | 13 | C | 14 | C | 15 | C |
| 16 | C | 17 | A | 18 | A | 19 | D | 20 | A |
| 21 | B | 22 | A | 23 | D | 24 | A | 25 | A |
| 26 | B | 27 | B | 28 | B | 29 | A | 30 | A |
| 31 | A | 32 | A | 53 | A | 54 | B | 35 | B |
| 36 | A | 37 | A | 58 | A | 59 | B | 40 | D |
| 41 | D | 42 | A | 63 | B | 64 | B | 45 | B |
| 46 | A | 47 | D | 68 | D | 69 | D | 50 | A |
| 51 | A | 52 | A | 73 | B | 74 | A | 55 | D |
| 56 | A | 57 | A | 78 | B | 79 | B | 60 | B |
| 61 | A | 62 | A | 83 | B | 84 | A | 65 | A |
| 66 | A | 67 | B | | | | | | |



COMPOSITION LEVY SCHEME IN GST

The Composition levy scheme is a very simple, hassle free compliance scheme for small taxpayers. It is a voluntary and optional scheme. Its benefits are :

- *Easy compliance as no elaborate accounts and records to be maintained*
- *Simple Quarterly Return*
- *Quarterly payment of tax*

6.1 WHAT IS COMPOSITION LEVY [SECTION 10 OF CGST read with NN 8/2017 amended from time to time and Rule 7 of CGST Rules, 2017]

Under the GST regime, liability to pay tax arises when a person crosses the turnover threshold of Rs.20 lakhs (Rs. 10 lakhs for North Eastern and Special Category States) except in certain specified cases where the taxable person is liable to pay GST even though he has not crossed the threshold limit.

A Composition Scheme, which is mainly devised for small taxpayers, provides concessional rate of tax and filing of quarterly returns instead of monthly return. To be eligible for registration under Composition scheme it is required that the aggregate turnover during the preceding financial year of a registered tax payer should not exceed the following amount :

| | |
|-----------------|--|
| Upto 12.10.2017 | Rs. 75 lakh (Rs.50 lakh for 9 North Eastern and Special Category States) |
| Upto 31.3.2019 | Rs. 1 crore (Rs.75 lakh for 9 North Eastern and Special Category States) |
| W.e.f. 1.4.2019 | Rs. 1.5 crore (Rs.75 lakh for 8 North Eastern and Special Category States) |

Details about composition scheme are as below:

1. What is composition levy (scheme) : Section 10 of CGST Act deals with provisions relating to composition levy. Eligible registered person whose 'aggregate turnover' (aggregate of turnover in all States) of the preceding financial year did not exceed the above limits, will be eligible to opt for payment of tax under the composition scheme. Under this scheme, the tax will be payable @1% or 5% depending upon nature of supplier's business.

♦ **Section 10(1) provides as under :**

- Notwithstanding anything to the contrary contained in this Act
- but subject to the provisions of sub-sections (3) and (4) of section 9 [*Author* : It means person falling in reverse charge mechanism are not eligible for composition levy],
- a registered person,
- whose aggregate turnover in the *preceding financial year* did not exceed :

Rs. 50 lakh.

As per Act

[**Note** : This is the original limit prescribed by the sub-section (1) of section 10.]

| | |
|---|--|
| However, 1 st Proviso to section 10 empowers the Government to increase this limit (by notification) to such amount as is recommended by the GST Council.] From time to time, Government has increased such limit (<i>see below</i>) | |
| Rs. 75 lakh (Rs.50 lakh for 9 North Eastern and Special Category States) | vide NN 8/2017-CT [Applicable up to 12.10.2017] |
| Rs. 1 crore (Rs.75 lakh for 9 North Eastern and Special Category States) | vide NN 46/2017-CT [Applicable up to 31.3.2019] |
| Rs. 1.5 crore (Rs.75 lakh for 8 North Eastern and Special Category States) | vide NN 14/2019-CT [w.e.f. 1.4.2019] |

- *may* opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed (*see* Rule 7 of CGST Rules, 2017), but not exceeding,—

(*Author* : These are the maximum rate for composition scheme as are prescribed by the Act)

| Supplier | CGST | SGST/UTGST | Total GST |
|---------------------|--------------------------------------|--------------------------------------|------------------------------------|
| (a) Manufacturer | 1% of the turnover in the state/UT | 1% of the turnover in the state/UT | 2% of the turnover in the state/UT |
| (b) Restaurants | 2.5% of the turnover in the state/UT | 2.5% of the turnover in the state/UT | 5% of the turnover in the state/UT |
| (c) Other suppliers | 0.5% of the turnover in the state/UT | 0.5% of the turnover in the state/UT | 1% of the turnover in the state/UT |

◆ **Rate of tax for composition scheme [Rule 7 of CGST Rules, 2017] :**

| Supplier | CGST | SGST/UTGST | Total GST |
|--|---|---|---|
| Manufacturer other than manufacturers of such goods as may be notified by the Government | 0.5% of the turnover in the State/UT (<i>vide</i> NN 1/2018 dt. 1.1.2018, before amendment it was 1%) | 0.5% of the turnover in the State/UT (<i>vide</i> NN 1/2018 dt. 1.1.2018, before amendment it was 1%) | 1% of the turnover in the State/UT (<i>vide</i> NN 1/2018 dt. 1.1.2018, before amendment it was 2%) |
| Restaurant | 2.5% of the turnover in the State/UT | 2.5% of the turnover in the State/UT | 5% of the turnover in the State/UT |
| Other suppliers | 0.5% of the turnover of taxable supplies of <i>goods and services</i> in the State/UT | 0.5% of the turnover of taxable supplies of <i>goods and services</i> in the State/UT | 1% of the turnover of taxable supplies of <i>goods and services</i> in the State/UT |

◆ **1st Proviso to Section 10 :** This proviso provides that the Government may, by notification, increase the said limit to such higher amount, not exceeding Rs. 1.5 crore (Increased by GST Amendment Act, 2018, *w.e.f.* 1.2.2019, earlier it was Rs.1 crore), as may be recommended by the Council.

◆ **2nd Proviso to Section 10 [Inserted by GST Amendment Act, 2018, w.e.f. 1.2.2019] :** Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than restaurant services), of value not exceeding, HIGHER of the following :

- ✓ 10% of turnover in a State or Union territory in the preceding financial year or
- ✓ Rs.5,00,000

Analysis of introduction of 2nd proviso : With the introduction of this proviso manufacturers and traders can opt for

composition scheme even if they supply services, provided that the value of such service does not exceed Rs.5 lakh or 10% of turnover in the preceding FY, whichever is high. This amendment is directed to solve the problem of small businesses who were earlier unable to opt for composition in lieu of very small income of service nature (like commercial rent, commission etc).

2. Eligibility for composition scheme [Section 10(2)] : The registered person shall be eligible to opt for composition scheme, if :

- (a) *He is NOT a service provider* : he is not engaged in the supply of services EXCEPT
 - ✓ the supplies referred to in clause (b) of paragraph 6 of Schedule II [i.e. supply with consideration, by way of or as 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)]
 - ✓ the services of a value not exceeding, 10% of turnover or Rs.5,00,000, whichever is HIGHER
- (b) *Supplier of non-leviable goods* : he is not engaged in making any supply of goods which are not *leviable* to tax under this Act (*Author* : Hence, suppliers supplying alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel is not eligible for composition scheme);
- (c) *Supplier of inter-state supplies* : he is not engaged in making any inter-State outward supplies of goods;
- (d) *E-commerce operator* : he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) *Other notified supplier* : he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council.

Vide NN 14/2019 (i.e. the original Notification), the Central Government has notified the following goods, the manufacturer of which cannot opt for composition scheme:

| | |
|-------------------------------------|--|
| Tariff Heading No 2105 00 00 | Ice cream and other edible ice, whether or not containing cocoa. |
| Tariff Heading No 2106 90 20 | Pan Masala |
| All goods under Chapter 24 | All goods i.e. tobacco and manufactured tobacco substitutes |
| Tariff Heading No 2202 10 10 | Manufacturer of aerated water [w.e.f. 1.10.2019 vide NN 43/2019 CT] |

Provided that where more than one registered persons are having the same Permanent Account Number (PAN), the registered person shall not be eligible to opt for the composition scheme unless all such registered persons opt to pay tax under that sub-section.

Notes—

For the purpose of this section, following points are worth to note :

a. North Eastern and Special Category States :

| Upto 31.3.2019 | W.e.f. 1.4.2019 |
|----------------------|----------------------|
| 1. Arunachal Pradesh | 1. Arunachal Pradesh |
| 2. Assam | Assam |
| 3. Manipur | 2. Manipur |
| 4. Meghalaya | 3. Meghalaya |
| 5. Mizoram | 4. Mizoram |

| | |
|---------------------|------------------|
| 6. Nagaland | 5. Nagaland |
| 7. Sikkim | 6. Sikkim |
| 8. Tripura | 7. Tripura |
| 9. Himachal Pradesh | Himachal Pradesh |
| | 8. Uttarakhand |

- b. **“Aggregate Turnover” means :** As per section 2(6) of the CGST Act, 2017 “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 Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess. It means all taxable persons covered by the same PAN shall be under composition across India.

E.g. M/s ABC and Associates, (a firm of whole sale dealers) having shops in Delhi and Haryana have a single PAN for both these shops. They have obtained two separate GST Registrations for Delhi and Haryana shops. Both these shops fulfil all conditions of Section 10(2). Details relating to the preceding F.Y. are as under :

| | Delhi (Rs.) | Haryana (Rs.) |
|---|-------------|---------------|
| Intra-state supplies of taxable goods : | 60,00,000 | 10,00,000 |
| Inter-state supplies of taxable goods : | 15,00,000 | 2,00,000 |
| Intra-state supplies of exempt goods : | 26,00,000 | 35,00,000 |
| Supplies received on which GST is payable under RCM : | 14,00,000 | - |

Discuss whether M/s ABC and Associates is eligible to claim composition levy in current F.Y. or not.

Composition levy in the current F.Y. can be claimed if its “aggregate turnover” during preceding F.Y. did not exceed Rs.1.5 crore. “Aggregate turnover” during preceding F.Y. = 148 lakh. (60+15+10+2+26+35). So M/s ABC and Associates is eligible to claim composition levy in the current F.Y.

- c. **In case of ‘other suppliers’, 1% tax to be levied on ‘turnover of taxable supplies’ :** As per NN 1/2018-CT, turnover in case of ‘other suppliers’ has been defined as ‘Turnover of taxable supplies’. Thus, for ‘other suppliers’, exempted supplies would not be added in the turnover for the purpose of levy of 1% Composition levy.
- d. **Scheme to lapse on the day turnover exceeds 1.5 crore :** The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).
- e. **Composition scheme not applicable for tax payable under RCM :** It is important to note that for any tax payable under reverse charge mechanism, the option of payment under this scheme will not be available. In other words, a taxable person opting for composition scheme will be required to pay tax on supplies taxable under RCM at regular rates and not the composition rate.

- f. **Composition dealer cannot charge GST in his invoices and he is not eligible to claim ITC :** A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

However, if the taxable person becomes ineligible to remain under composition scheme, the taxable person will become entitled to take input tax in respect of inputs held in stock (as inputs, contained in semi-finished or finished goods) on the day immediately preceding the date from which he becomes liable to pay tax under Section 9. A statement of stock shall be filed in Form GST ITC-1 within 30 days from the date from which the option is withdrawn or the order cancelling the composition option is passed.

6.2 COMPOSITION RULES [CGST Rules, 2017]

RULE 3 : Intimation for Composition Levy

Sub-rule (3) of this rule provides as under :

Any registered person who opts to pay tax under section 10 :

- ◆ shall electronically file an *intimation* in **FORM GST CMP-02**, duly signed or verified, on the common portal, prior to the commencement of the financial year for which the option to pay tax under section 10 is exercised, and
- ◆ shall furnish the *statement* in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 (*i.e.* manner of reversal of credit in respect of inventory held under stock) within a period of 60 days from the commencement of the relevant financial year.

RULE 4 : Effective date for Composition Levy

The option to pay tax under section 10 shall be effective from the beginning of the financial year, where the intimation is filed under sub-rule (3) (above).

RULE 5 : Conditions for Composition Levy

This rule provides as under :

- (1) The person exercising the option to pay tax under section 10 shall comply with the following **conditions**, namely :
 - (a) *No CTP/NRTP* : he is neither a casual taxable person nor a non-resident taxable person;
 - (b) *RCM* : the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9;
 - (c) *RCM* : he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both;
 - (d) *Not manufacturing negative list goods* : he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year (*i.e.* Ice cream and other edible ice, Pan Masala, tobacco and its substitutes);
 - (e) *Mention on Bills* : 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) *Mention on Sign Boards* : 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.
- (2) The registered person paying tax under section 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.

RULE 6 : Validity of Composition Levy

This rule provides as under :

- (1) *Eligible, till the time he satisfies the conditions* : The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.
- (2) *Falls in normal scheme of Section 9(1), if he ceases to satisfy conditions of CLS* : The person referred to in sub-rule (1) shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 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 seven days of the occurrence of such event.
- (3) *Voluntary withdrawal from CLS* : The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04**, duly signed or verified through electronic verification code, electronically on the common portal.
- (4) *SCN for denial of CLS* : Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 or has contravened the provisions of the Act or provisions of this Chapter, he may issue a notice to such person in **FORM GST CMP-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) *Order of Proper Officer* : Upon receipt of the reply to the show cause notice issued under sub-rule (4) 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 under section 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.
- (6) *Details of Stock (Input, Semi-Finished or Finished Goods)* : Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in **FORM GST CMP-07** under sub-rule (5), 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 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 under sub-rule (2) or (3) or denial of the option to pay tax under section 10 in accordance with sub-rule (5) 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.

6.3 OPTION TO PAY CONCESSIONAL GST @3% IN CASE OF SMALL SUPPLIERS [NN 2/2019 CT(R), w.e.f. 1.4.2019]

The Government introduced the composition scheme (referred to in Section 10 read with Notification No. 8/2017) to assist small taxpayers and reduce their compliance burden. A dealer under composition scheme is required to maintain fewer records/books of accounts and not required to file monthly returns.

This scheme is available only to the suppliers of goods, restaurants, and small service providers having turnover from services of an amount not exceeding the higher of 10% of their total turnover (*i.e.* turnover of both goods and services) and Rs.5,00,000.

So the existing composition scheme, does not apply to :

- ♦ those suppliers who are exclusively engaged in providing services (other than restaurants), or

- ◆ those suppliers who supplies both goods and services but their turnover from services exceeds the higher of 10% of their total turnover (*i.e.* turnover of both goods and services) and Rs.5,00,000.

So in order to give composition like scheme to the above suppliers, Govt *vide* N.N. 2/2019, has brought a concessional scheme (details given below) :

In exercise of the powers conferred by section 9(1), section 11(1), section 16(1) of CGST Act, 2017, the Central Government, on the recommendations of the Council, notifies that the central tax, on the intra-State supply of goods or services or both as specified in column (1) of the Table below, shall be levied at the rate specified in the corresponding entry in column (2), subject to the conditions as specified in column (3) of the said table below, namely:

Table

| Description of supply | Rate | Conditions |
|--|------------------------------|--|
| (1) | (2) | (3) |
| First supplies of goods or services or both up to an aggregate turnover of Rs.50 lakh made on or after the 1 st day of April in any FY, by a registered person. | 3% (total GST will be 6%) | <ol style="list-style-type: none"> ELIGIBILITY: Supplies are made by a registered person, - <ol style="list-style-type: none"> whose aggregate turnover in the preceding FY was Rs.50 lakh or below, who is not eligible to be Composition Dealer referred to in section 10, who is not engaged in making any supply which is not leviable to tax, who is not engaged in making any inter-State outward supply, who is neither a casual taxable person nor a non-resident taxable person, who is not engaged in making any supply through an ECO who is required to collect tax at source under section 52, and who is not engaged in making supplies of : <ul style="list-style-type: none"> ◆ Ice cream and other edible ice, whether or not containing cocoa ◆ Pan masala ◆ Tobacco and manufactured tobacco substitutes ◆ Manufacturer of aerated water [w.e.f. 1.10.2019 vide NN 18/2019 CT (R)] SCHEME TO APPLY ON ALL GSTINs OF SAME PAN : Where more than one registered persons are having the same PAN, central tax on supplies by all such registered persons is paid at the rate specified in column (2). NO ITC ON PURCHASE NO GST ON SALE : The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax. BILL OF SUPPLY : The registered person shall issue, instead of tax invoice, a bill of supply as referred to in section 31(3)(c) with particulars as prescribed in rule 49 of CGST Rules. MENTION ON BILL OF SUPPLY : The registered person shall mention the following words at the top of the bill of supply, namely : 'taxable person paying tax in terms of notification No. 2/2019-CT(R) dated 07.03.2019, not eligible to collect tax on supplies'. ALL SUPPLIES AT CONCESSIONAL GST RATE : The registered person opting to pay central tax at the rate of 3% (total GST 6%) under this notification shall be liable to pay central tax at the rate of 3% (total GST 6%) on all outward supplies specified in column (1) notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act. RCM AT NORMAL GST RATE : The registered person opting to pay central tax at the rate of 3% (total GST 6%) under this notification shall be liable to |

| | | |
|--|--|---|
| | | <p>pay central tax on inward supplies on which he is liable to pay tax under section 9(3) or 9(4) at the applicable rates.</p> <p>Explanation : For the purposes of this notification, the expression “first supplies of goods or services or both” shall,</p> <ul style="list-style-type: none"> ♦ for the purposes of determining eligibility of a person to pay tax under this notification, INCLUDE the supplies from the first day of April of a FY to the date from which he becomes liable for registration under the said Act, ♦ but for the purpose of determination of tax payable under this notification shall NOT INCLUDE the supplies from the first day of April of a FY to the date from which he becomes liable for registration under the Act. |
|--|--|---|

2. In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of three percent under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

[This notification came into force on the 1st day of April, 2019]

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1 : Which of the following persons can opt for composition scheme?

- (a) Person making any supply of goods which are not leviable to tax under this Act;
- (b) Person making any inter-State outward supplies of goods;
- (c) Person effecting supply of goods through an e-commerce operator liable to collect tax at source
- (d) None of the above

- (a) 1%
- (b) 0.5%
- (c) 2.5%
- (d) None of the above

Q 2 : What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme?

- (a) Rs.20 lakh
- (b) Rs.10 lakh
- (c) Rs.1.5 crore
- (d) None of the above

Q 5 : What is the rate applicable under CGST to a registered person opting to taxes under composition scheme, not being a manufacturer or a hotelier?

- (a) 1%
- (b) 2.5%
- (c) 0.5%
- (d) None of the above

Q 3 : What is the TOTAL applicable rate to a registered person being a manufacturer opting to pay taxes under composition scheme?

- (a) 2.5%
- (b) 1%
- (c) 0%
- (d) No composition for manufacturer

Q 6 : Can a registered person opt for composition scheme only for one out of his 3 business locations having same Permanent Account Number?

- (a) Yes
- (b) No
- (c) Yes, subject to prior approval of the Central Government
- (d) Yes, subject to prior approval of the concerned State Government

Q 4 : What is the rate applicable under CGST to a registered person being a hotelier (i.e. restaurant) opting to pay taxes under composition scheme?

Q 7 : Can Composition scheme be availed if the registered person effects interstate supplies?

- (a) Yes
- (b) No
- (c) Yes, subject to prior approval of the Central Government

(d) Yes, subject to prior approval of the concerned State Government

Q 8 : Can a registered person under Composition Scheme claim input tax credit?

- (a) Yes
- (b) No
- (c) Input tax credit on inward supply of goods only can be claimed
- (d) Input tax credit on inward supply of services only can be claimed

Q 9 : Can a registered person opting for composition scheme collect tax on his outward supplies?

- (a) Yes
- (b) No
- (c) Yes, if the amount of tax is prominently indicated in the invoice issued by him
- (d) Yes, only on such goods as may be notified by the Central Government

Q 10 : Which of the following will be excluded from the computation of 'aggregate turnover'?

- (a) Value of Taxable supplies
- (b) Value of Exempt Supplies
- (c) Non-taxable supplies
- (d) Value of inward supplies on which tax is paid on reverse charge basis

Q 11 : What will happen if the turnover of a registered person opting to pay taxes under composition scheme during the year 2019-20 crosses Rs. 1.5 crore (assume his turnover during FY 2018-19 is below Rs.1.5 crore) ?

- (a) He can continue under composition scheme till the end of the financial year
- (b) He will be liable to pay tax at normal rates of GST on the entire turnover for the financial year 2019-20
- (c) He will cease to remain under the composition scheme with immediate effect
- (d) He will cease to remain under the composition scheme from the quarter following the quarter in which the aggregate turnover exceeds Rs.1 crore

PAST EXAM

Q12 Which of the categories of registered person who are being eligible for the composition scheme under the CGST Act, 2017:

- (a) Supplier of the Restaurant Services
- (b) Manufacturer of notified goods
- (c) Non-resident taxable persons

(d) Casual taxable person

[CS. Executive Dec.2019]

Q13. Sumit has opted for composition scheme in the Financial Year 2019-20. His aggregate turnover in Financial Year 2018-19 is Rs. 90 Lakh. In Financial Year 2019-20, Mr. Sumit can supply services (other than restaurant services) up to a value_____.

- (a) Rs. 5,00,000
- (b) Rs. 9,00,000
- (c) Rs. 50,00,000
- (d) Nil

Q14. As per the amendment made in section 10 through CGST (Amendment) Act, 2018, a composition dealer can provide supply of services (other than restaurant services) not exceeding:

- (i) 10% of turnover in preceding financial year
- (ii) 10% of taxable supplies in preceding financial year
- (iii) Rs. 5,00,000
- (iv) Rs. 10,00,000

Options are :

- (a) (i) or (iii), whichever is Lower
- (b) (i) or (iii) whichever is Higher
- (c) (ii) or (iv), whichever is Lower
- (d) (ii) or (iv) whichever is Higher

Q15. With effect from 1-4-2019, a registered person, whose aggregate turnover in the preceding financial year did not exceed_____is_____eligible to opt for composition scheme.

- (a) Rs. 75,00,000
- (b) Rs. 1 Crore
- (c) Rs. 1.5 Crore
- (d) Rs. 2 Crore

Q16. With effect from 1-4-2019, there is a change in the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme for States other than special category States. What is the new threshold limit?

- (a) Rs. 50 Lakhs
- (b) Rs. 75 Lakh
- (c) Rs. 1 Crore
- (d) Rs. 1.5 Crore

Q17. The composition levy payable by a registered person whose aggregate turnover in the preceding

Financial Year did not exceed One Crore and fifty lakh rupees making supply by way of or as part of any services 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 or defer payment or other valuable consideration shall be at _____ of the turnover.

- (a) 0.5%
- (b) 1%
- (c) 2.5%
- (d) 5%

[CS. Executive Dec.2019]

Q18. The supplier registered under Composition Levy Scheme cannot _____.

- (a) Claim ITC
- (b) Collect tax on supply
- (c) Raise tax invoice
- (d) All of the above

Q19. The following categories of registered persons are not being eligible for the Composition Scheme under the CGST Act, 2017:

- (i) Supplier of the Restaurant Services
- (ii) Manufacturer of notified goods
- (iii) Non-resident taxable persons
- (iv) Casual taxable person
- (a) (iii) and (iv)
- (b) (ii), (iii) and (iv)
- (c) (ii) and (iv)
- (d) (i), (iii) and (iv)

[CS. Executive June 2018]

Q20. Which Form has been specified for intimation to pay tax under section 10 (for the persons registered under CGST Act, 2017)?

- (a) GST CMP-01
- (b) GST CMP-02
- (c) GST CMP-03
- (d) GST CMP-04

Q21. What is the due date for GST CMP-03 regarding intimation of details of stock and inward supplies from unregistered person ?

- (a) Within 7 days of exercise of option
- (b) Within 9 days of exercise of option
- (c) Within 1 month of exercise of option
- (d) None of the above

Q22. A registered supplier under composition scheme levy can withdraw at any time and be required to file the Form for withdrawal from composition levy in :

- (a) GST CMP-03
- (b) GST CMP-04
- (c) GST MIS-01
- (d) GST PCT-02

[CS. Executive June 2018]

Q23. Which of the following statement is TRUE as per CGST Rules, 2017, regarding Composition Rules?

- (a) GST CMP-01 is filed for intimation to pay tax under section 10 for persons already registered under GST laws
- (b) GST CMP-02 is applicable to persons registered under the existing law migrating on the appointed day
- (c) GST CMP-03 is for intimation of details of stock and inward supplies from unregistered person
- (d) GST CMP-045 is for show cause notice on contravention of rules or Act by proper officer

Q24. In the case of a manufacturer who opts for composition scheme the rate of GST (including CGST and SGST) is

- (a) 1%
- (b) 2%
- (c) 3%
- (d) 5%

[CS. Executive Dec. 2017]

Q25. Mr. Jethalal was registered taxpayer (in Delhi) under composition scheme during 2018-19. His aggregate turnover in financial year 2018-19 was Rs. 40,00,000. In view of Second Proviso inserted to section 10(1) w.e.f. 1-4-2019, the taxpayer is willing to supply services in Financial Year 2019-20. What is the maximum value of services (other than restaurant) which may be provided in such a manner so that he may continue to remain in composition scheme?

- (a) Rs. 4,00,000
- (b) Rs. 5,00,000
- (c) Rs. 6,00,000
- (d) None of the above

Q26. Which among the following is eligible for availing composition scheme under GST?

- (a) Supply through e-commerce operators

- (b) Engaged in inter-State supply of goods
- (c) Goods not taxable under CGST/SGST/UTGST/IGST
- (d) Restaurants

[CS. Executive Dec. 2017 Modified]

Q27. Which of the following goods cannot be manufactured by a composition dealer?

- (a) Ice Cream
- (b) Pan Masala
- (c) Tobacco & manufactured tobacco substitutes
- (d) All of the above

Q28. Out of the following, who is NOT eligible for the composition scheme under the CGST Act, 2017?

- (a) Casual Taxable Person
- (b) Non-Resident Taxable Person
- (c) Person engaged in Inter-State outward supplies of goods
- (d) None of the above

Q29. Abhijit Sen is engaged in running a textile showroom at Gangtok (Sikkim). In order to avail composition scheme under GST law, his "aggregate turnover" in the preceding financial year should not have exceeded:

- (a) Rs. 10 Lakhs
- (b) Rs. 20 Lakhs
- (c) Rs. 50 Lakhs
- (d) Rs. 1.5 Crore

[CS. Executive Dec. 2017]

Q30. Which of the following statement is TRUE?

- (a) Composition scheme is compulsory
- (b) The taxable person under composition scheme can collect tax from recipients at nominal rate
- (c) Composition dealer may effect inter-State supplies
- (d) Composition dealer issues Bill of Supply rather than Tax Invoice

Q31. For the purpose of eligibility for composition scheme, the following particulars

- 1 Intra- State supply of NIL rated goods 46,00,000
- 2 Intra-State supplies made under forward charge 95,00,000

3 Intra-State supplies of exempted goods 9,00,000

4 Inward supplies of goods on which tax is payable under RCM 4,00,000

The aggregate turnover is ____ and composition scheme is ____.

- (a) Rs. 1.5 Crore; available
- (b) Rs. 1.5 Crore; Not available
- (c) Rs. 1.54 Crore; Not available
- (d) Rs. 1.54 Crore; Not available

Q32. Mr. S, a manufacturer of medicines, whose turnover for financial year 2018-19 was of Rs. 1.2 Crore opted to pay under GST as per composition scheme from 1st April, 2019. His turnover crosses Rs. 1.5 Crore on 30th November, 2019. Will he be allowed to pay tax under composition scheme for the remainder of year i.e. from 1st December, 2019 to 31st March, 2020?

- (a) Yes, he can avail the benefit till 31st March, 2020
- (b) No, the option availed shall lapse from the day on which his aggregate turnover during the financial year 2019-20 exceeds Rs. 1.5 Crore
- (c) Yes, the option can be availed up to completion of financial year i.e. till 30th September, 2019
- (d) None of the above

[CS. Executive Dec. 2018 Modified]

Q33. Composition Scheme is available to

- (a) Supplier of goods
- (b) Restaurant service
- (c) Supplier of service not exceeding 10% of service not exceeding 10% of turnover in preceding financial year or Rs. 5 Lakh, whichever is higher
- (d) All of the above

[CS. Executive June 2019 Modified]

Q34. Mr. Murari is a manufacturer in Lucknow and has opted for composition scheme of taxation under GST. Determine the rate of GST payable by him under composition scheme.

- (a) 0.5% CGST & 0.5% SGST of taxable turnover
- (b) 0.5% CGST & 0.5% SGST of Total turnover including exempted supplies.
- (c) 0.5% CGST & 0.5% SGST of exempted supplies only.
- (d) 1% IGST

Q35. Which section of C G ST Act , 2017 deals with Composition Levy?

- (a) Section 9
- (b) Section 10
- (c) Section 11
- (d) Section 12

Q 36. With effect from 1-4-2019, the eligibility turnover limit for Composition Scheme is enhanced from Rs. 1 Crore to_____.

- (a) Rs. 1.5 Crore
- (b) Rs. 2 Crore
- (c) Rs. 5 Crore
- (d) None of the above

Q37. In which of the following Special Category States, the enhanced limit of Rs. 1.5 Crore is applicable, under Composition Levy?

- (a) Arunachal Pradesh
- (b) Tripura
- (c) Assam
- (d) Mizoram

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | D | 2 | C | 3 | B | 4 | C | 5 | C |
| 6 | B | 7 | B | 8 | B | 9 | B | 10 | D |
| 11 | C | 12 | D | 13 | B | 14 | B | 15 | C |
| 16 | D | 17 | D | 18 | D | 19 | D | 20 | B |
| 21 | B | 22 | B | 23 | C | 24 | A | 25 | B |
| 26 | D | 27 | D | 28 | D | 29 | D | 30 | D |
| 31 | A | 32 | B | 33 | D | 34 | B | 35 | B |
| 36 | A | 37 | C | | | | | | |

VALUATION

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. Where value shall include—

- ♦ any taxes, duties, cesses, fees etc. levied under any law other than GST
- ♦ 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
- ♦ incidental expenses, including commission and packing, charged by the supplier
- ♦ interest or late fee or penalty for delayed payment of any consideration for any supply; and
- ♦ subsidies directly linked to the price excluding subsidies provided by the Govt.

Value however shall not include any discount which is established in terms of an agreement.



7.1 VALUE OF SUPPLY [SECTION 15 OF CGST]

1. Meaning of 'Value of Supply' [Section 15(1)] : This section provides as under :

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

2. Inclusion in the value of supply [Section 15(2)] : The value of supply shall include the following :

| | |
|--|--|
| (a) Taxes and duties | Any taxes, duties, cesses, fees etc. levied under any law other than GST, if they are separately charged by the supplier. [Note : Taxes does not include TCS collected under Income Tax – Cir. 76/50/2018] |
| (b) Expenses relating to said supply incurred by recipient | 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 these are not included in the price actually paid or payable for the goods or services or both. |
| (c) Special charges | Incidental expenses, including commission and packing, charged by the supplier to the recipient and any amount charged for anything done by the supplier in respect of said supply at the time of, or before delivery of goods or supply of services. |
| (d) Financial charges | Interest or late fee or penalty for delayed payment of any consideration for any supply; and |
| (e) Subsidies other than Govt. subsidies | Subsidies directly linked to the price, excluding the subsidies provided by the Central Government and State Governments. Explanation. —The amount of subsidy shall be included in the value of supply of that supplier who receives such subsidy. |

3. Discounts to be excluded from the value of supply [Section 15(3)] : The value of supply however, shall NOT include the following discounts :

| | |
|--|--|
| ◆ Discount which is given BEFORE supply | Discount which is given BEFORE or at the time of the supply shall be excluded from the value of said supply <i>PROVIDED THAT</i> such discount has been duly recorded in the invoice issued for such supply. |
| ◆ Discount which is given AFTER supply | Discount which is given AFTER the supply of goods/services shall be excluded from the value of said supply <i>PROVIDED THAT</i> <ul style="list-style-type: none"> ✓ Such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices, and ✓ ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply |
| ◆ Cir. 92/11/2019 | It is clarified that discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply/volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3) above including the reversal of ITC by the recipient. |

Notes–

- (a) Where the value of the supply of goods or services or both cannot be determined under sub-section (1) of Section 15, the same shall be determined in such manner as may be prescribed.
- (b) 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 they are members of the same family;

4. Valuation Rules : As per section 15(4), where the value of supply cannot be determined under section 15(1), then it shall be determined in such manner as may be prescribed. Hence, recourse to the Valuation Rules is permitted only in the following circumstances :

| | |
|---------------|---|
| Case 1 | Supplies not covered by section 7(1)(a) |
| Case 2 | Supplies covered by section 7(1)(a) but it is between related persons |
| Case 3 | Supplies covered by section 7(1)(a) and it is NOT between related persons BUT it cannot be adjusted for aspects provided by section 15(2) |

7.2 VALUATION RULES [Determination of value of supply, Chapter IV of CGST Rules, 2017]

Valuation as per 'valuation rules' can be summarized as under :

| Rule | Circumstance | Valuation |
|---------|-----------------------------------|--|
| Rule 27 | Consideration not wholly in money | <p>Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall be calculated as under :</p> <p>Situation (i) – If OMV is available : <i>Prima-facie</i> the value of supply shall be the open market value (OMV) of such supply;</p> <p>[Where OMV means : the full value of money excluding GST, payable by the recipient to obtain <i>such supply</i> at the time when supply being valued is made, provided such supply is between unrelated persons and price is the sole consideration for such supply. <i>Author</i> : OMV is not a comparable price of similar supply by similar supplier but it's a price of such supply made to the recipient who is not a related person and the price is the sole consideration]</p> <p><i>E.g. 1</i> Where a new phone is supplied for Rs. 20000 along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000, the open market value of the new phone is Rs 24000.</p> <p><i>E.g. 2</i> A Ltd. supplies TV to Mr. B (a Company Secretary) at Rs.50,000. Mr. B files annual return of A Ltd. Mr. B normally files such annual return at Rs.10,000. Such TV is normally sold by A Ltd to unknown buyers at Rs.65,000. In this case, the value of supply of such TV will be Rs.65,000 i.e. its OMV.</p> <p>Situation (ii) – If OMV is not available : If OMV is not available, the value shall be the sum total of :</p> <p>Consideration in money xxx</p> <p>Such further amount in money (as is equivalent to the consideration not in money) if such amount is known at the time of supply xxx</p> <p><i>E.g. 3</i> Where a laptop is supplied for Rs.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 Rs.4,000 but the open market value of the laptop is not known, the value of the supply of the laptop is Rs.44,000.</p> <p><i>E.g. 4</i> A Ltd. (a new manufacturer and supplier of TVs) supplies TV to Mr. B (a Company Secretary) at Rs.50,000. Mr. B files annual return of A Ltd. Mr. B normally files such annual return at Rs.10,000. A Ltd has not decided the prices of TVs yet. In this case, the value of supply of such TV will be Rs.60,000 i.e. Money + Money value of consideration in kind.</p> <p>Situation (iii) – If value cannot be determined in (i) and (ii) above : If the value of supply is not determinable under Situation (i) and (ii) above, then, the value will be the value of supply of goods or services or both of like kind and quality;</p> <p>[Where <i>Supply of goods or services of like kind and quality</i> 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</p> |

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| | | <p>closely or substantially resembles, that supply of goods or services or both. <i>Author</i>: This is actually the value of <i>similar supply</i> of goods or services or both by a similar supplier.]</p> <p>E.g. 5 A Ltd. (a new manufacturer and supplier of TVs) supplies TV to Mr. B (a newly qualified Company Secretary) at Rs.50,000. Before this, Mr. B has not filed any such return yet. A Ltd has not decided the prices of TVs yet, however, a similar manufacturer sells such TVs to unrelated buyers at Rs.65,000 plus 3000 as handling charges. In this case, the value of supply of such TV will be Rs.68,000 i.e. value of supply of goods of like kind and quality.</p> <p>Situation (iv) – If value cannot be determined in (i), (ii) and (iii) : If value is not determinable under Situation (i), (ii) and (iii), then it shall be the sum total of :</p> <table><tr><td>Consideration in money</td><td>xxx</td></tr><tr><td>Such further amount in money that is equivalent to consideration not in money as determined by application of rule 30 or rule 31 in that order.</td><td>xxx</td></tr></table> <p>E.g. 6 A Ltd. (a new manufacturer and supplier of TVs) supplies TV to Mr. B (a newly qualified Company Secretary) at Rs.50,000. Before this, Mr. B has not filed any such return yet. This TV is based on new technology which no other manufacturer in India has used so far. A Ltd has not decided the prices of TVs yet, however, its cost to A Ltd is Rs.45,000. In this case, the value of supply of such TV will be Rs.49,500 i.e. cost + 10% by applying Rule 30.</p> | Consideration in money | xxx | Such further amount in money that is equivalent to consideration not in money as determined by application of rule 30 or rule 31 in that order. | xxx |
| Consideration in money | xxx | | | | | |
| Such further amount in money that is equivalent to consideration not in money as determined by application of rule 30 or rule 31 in that order. | xxx | | | | | |
| Rule 28 | Supply between related persons | <p>A supply between</p> <ul style="list-style-type: none">✓ related persons, or✓ between distinct persons (with same PAN) <p>is <i>prima facie</i> not fulfilling the requirements of section 15 to admit the transaction value for quantification of GST. In such cases, the value of supply will be:</p> <p>Situation (i) - Normally : OMV (<i>i.e.</i> money payable in respect of such supply/same supply)</p> <p>Situation (ii) - If value cannot determined in (i) : The value shall be the value of supply of goods or services of 'like kind and quality' (<i>i.e.</i> money payable in respect of similar supply)</p> <p>Situation (iii) - If value cannot determined in (i) and (ii) : Value shall be determined by applying rule 30 or rule 31 (discussed below)</p> <p>Situation (iv) - If 'goods' are intended for further supply as such by the recipient to his unrelated customers : If goods are intended for further supply as such by the recipient the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged by the RECIPIENT for the supply of goods of like kind and quality to his unrelated customers. [<i>Author</i>: This valuation is not applicable to the supply of services.]</p> | | | | |

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| | | <p>Situation (v) - If recipient is eligible to claim ITC in respect of such supply : If the recipient is eligible for full ITC (Input Tax Credit), the value declared in the invoice shall be deemed to be the Open Market Value of the goods or services and thus the value of such supply.</p> <p>E.g.7 A Ltd. and B Ltd. are related persons. A Ltd supplies product 'A' to B Ltd at Rs.20,000 per unit. Product 'A' is sold by B Ltd to its unrelated customers at Rs.27,000. B Ltd. is not entitled to claim GST credit for this transaction. So in this case, value of supply by A Ltd. to B Ltd. will be Rs.27,000 i.e. the OMV [Situation (i) above].</p> <p>E.g.8 A Ltd. and B Ltd. are related persons. A Ltd supplies product 'A' to B Ltd free of cost. Product 'A' is sold by B Ltd to its unrelated customers at Rs.27,000. Normally, no GST is paid in case there is no consideration. However, this rule will not apply in case, supply is between related persons or between distinct persons. As in this case, A Ltd and B Ltd are related persons, therefore GST will apply. Value of supply by A Ltd. to B Ltd. will be Rs.27,000 i.e. the OMV [Situation (i) above].</p> <p>E.g.9 A Ltd. and B Ltd. are related persons. A Ltd supplies product 'A' to B Ltd at Rs. 20,000. A Ltd sells product 'A' to unrelated buyers at Rs. 25,000. B Ltd is eligible to claim ITC on these products. As in this case, A Ltd and B Ltd are related persons, and B Ltd is eligible to claim ITS, therefore value of supply by A Ltd to B Ltd will be Rs.20,000. [Situation (v) above].</p> <p>E.g.10 A Ltd. and B Ltd. are related persons. A Ltd supplies product 'A' to B Ltd at Rs. 20,000. A Ltd sells product 'A' to unrelated buyers at Rs. 25,000. B Ltd further sells product 'A' (as such) to its unrelated customers at Rs.26,000. As in this case, A Ltd and B Ltd are related persons, and B Ltd further sells such product as such to its unrelated customers therefore as per Situation (iv) above, the value of supply (at the option of A Ltd.) will be :</p> <ul style="list-style-type: none"> - OMV i.e. Rs.25,000, or - 90% of price charged by B Ltd to its unrelated customers i.e. 90% of Rs.26,000 = Rs.23,400. |
| Rule 29 | Supply through agents | <p>Every supply involving an agent, is not a taxable supply. As discussed earlier, supply by principal and agent inter se (i.e. between) all though merely a channel to supply to the end customer is treated as a supply in Schedule-I where the goods are handled by the agent or principal. Please note that this rule is applicable only in case of 'supply of goods' and not 'supply of services/deemed services'. When this rule is applicable, the value of supply will be :</p> <p>Situation (i) - Normally : OMV (i.e. money payable in respect of such supply/same supply), or</p> <p>E.g.11 Where a principal supplies groundnut to his agent at Rs. 6,000 per quintal. Another independent supplier is supplying same groundnuts to the said agent at the price of Rs. 7,000 per quintal. The value of the supply made by the principal shall be Rs. 7,000 per quintal.</p> |

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| | | <p>Situation (ii) - If goods are intended for further supply as such by the agent : Value of supply will (at the option of the supplier) be 90% of the price charged for the goods of 'like kind and quality' by the agent to his unrelated customers. Thus, this rule provides for an ad hoc reduction of 10% from the price otherwise charged to unrelated customers to accommodate the margin left for the agent in pricing.</p> <p><i>E.g.12</i> Where 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 Rs. 5000 per quintal on the day of supply. Another independent supplier is supplying same groundnuts to the said agent at the price of Rs. 4550 per quintal. The value of the supply made by the principal shall be Rs. 4550 per quintal or where he exercises the option the value shall be 90% of the Rs. 5000 i.e. is Rs. 4500 per quintal.</p> <p>Situation (iii) - If value cannot determined in (i) and (ii) : Value of supply will be determined by applying rule 30 or rule 31 (discussed below)</p> <p>Transactions treated as supply by Schedule I of the CGST Act, which need to be subjected to tax requires a valuation mechanism. Principal and agent do not ipso facto (<i>i.e.</i> by the very fact) become related persons for rule 28 to be applicable to them.</p> |
| Rule 30 | Cost based value | <p>Where cost is used as a base for determining the value of supply and when any of the more specific methods prescribed are unavailable for specific reasons, this rule may be applied. It provides that the value will be 'cost plus 10%'. This rule applies to both goods and services.</p> <p>Every supply claimed to be free but involving non-monetary consideration faces the threat of tax being determined on this method. Cost Accounting Standards may be relied upon to determine cost for purposes this rule.</p> <p>In respect of supply of services (also transactions involving goods treated as supply of services), the supplier is permitted to apply rule 31 instead of rule 30, if that were more favourable.</p> |
| Rule 31 | Residual valuation | <p>Where value cannot be determined by any other method, this rule authorizes the use of 'reasonable' means to arrive at the value. It is important to consider that these reasonable means must be consistent with the principles of section 15.</p> |

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| Rule 32 | 1. Supply of services involving sale/purchase of foreign currency [Rule 32(2)] | Valuation will be as under : | |
| | | Option A | <ul style="list-style-type: none"> ◆ If RBI reference rate is available : Value = Difference between buying-selling rate of RBI reference rate. ◆ If RBI rate is not available but one of the currency is INR : Value = 1% of the INR involved. ◆ If RBI rate is not available and no currency is INR : Value = 1% of the lesser of the Indian Rupee equivalent of each currency exchanged. |
| | | Option B | <ul style="list-style-type: none"> ◆ Exchange amount upto Rs.1,00,000 : 1.0 % thereof (Minimum Rs.250) ◆ Exchange amount exceeding Rs.1,00,000 but upto Rs.10,00,000 : Rs.1,000 + 0.5 % of (exchange amount – Rs.1,00,000) ◆ Exchange amount exceeding Rs.10,00,000 : Rs.5,500 + 0.1 % of (exchange amount – Rs.10,00,000). (Maximum Rs.60,000) |
| | 2. Air Travel Agent [Rule 32(3)] | Valuation will be as under : | |
| | | (a) Domestic bookings | Value = 5% of the basic fare |
| | | (b) International bookings | Value = 10% of the basic fare |
| | | Note : Where 'Basic Fare' means, that part of air fare on which airlines pay commission to its agents. | |
| | 3. Insurance Agent [Rule 32(4)] | Valuation will be as under : | |
| | | (a) Only risk covering policies | Value = 100% of the premium amount. |
| | | (b) Composite policies – If amount allocated for investment/saving is separately given at the time of providing service | Value = Gross premium charged from policy holder minus amount allocated for investment/saving on behalf of policy holder. |
| | | (c) Composite policies – Single premium policy | Value = 10% of the premium amount |
| | | (d) Composite policies – Other policies | Value = <ul style="list-style-type: none"> ▪ First year premium : 5% of the premium amount ▪ Subsequent year's premium : 12.5% of the premium amount |

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| <p>4. Dealer dealing in second hand goods (i.e. Margin Scheme) [Rule 32(5)]</p> | <p>This rule provides as under :</p> <p>(a) Goods other than repossessed goods</p> <ul style="list-style-type: none"> - Where a taxable supply is provided by a person dealing in buying and selling of second hand goods <i>i.e.</i>, 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, - the value of supply shall be Sale price (<i>minus</i>) Purchase price. If, this comes out to be a negative number, then it shall be ignored <p>(b) Repossessed goods</p> <ul style="list-style-type: none"> - 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 calculated as under : <ul style="list-style-type: none"> Purchase price of such goods by the defaulting borrower xxx Less : Reduction @5% per quarter or part thereof between the date of purchase and the date of disposal by the person making such repossession (xxx) <p>(c) Exempt supply of second hand goods : Notification No.10/2017-Central Tax (Rate) New Delhi, dated 28th June, 2017 exempts whole of the GST on Intra-State supplies of second hand goods BY any unregistered supplier TO a registered person, dealing in buying and selling of second hand goods and who pays the GST on outward supply of such second hand goods.</p> <p><i>E.g. 13</i> A company (say) M/s Mahindra First Choice Ltd, which deals in buying and selling of second hand cars, purchases a second hand Maruti Swift Car of March, 2014 make (Original price Rs. 5 lakhs) for Rs. 3 lakhs from an unregistered supplier and sells the same after minor furbishing in July, 2017 for Rs. 3.5 lakhs. The supply of such car by an unregistered supplier to Mahindra First Choice Ltd for Rs. 3 lakhs shall be exempted and the supply of the same by Mahindra First Choice Ltd to its customer for Rs. 3.5 lakhs shall be taxed and GST shall be levied. The value for GST purpose shall be Rs. 50000, i.e. the difference between the selling and the purchase price of the company.</p> <p>In case any other value is added by way of repair, refurbishing, reconditioning etc., the same shall also be added to the value of goods and be part of the margin.</p> <p>If margin scheme is opted for a transaction of second hand goods, the person selling the car to the company shall not issue any taxable invoice and the company purchasing the car shall not claim any ITC.</p> <p><i>E.g. 14</i> On 10.8.2017, Mr. A has purchased a Car of Rs.6,00,000 on EMIs. EMIs are financed by HDFC Bank. On Mr. A's failure to pay 3 consecutive EMIs, HDFC Bank re-possessed the Car on 9.12.2018. On 8.1.2019, HDFC Bank sells such car at Rs.4,50,000.</p> |
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| | | <p><i>In this case, HDFC Bank will be liable to pay GST and the value of supply will be calculated as under :</i></p> <p style="text-align: right;">(Amount in Rs.)</p> <table><tr><td>Selling price</td><td>4,50,000</td></tr><tr><td>Less : Purchased value of goods repossessed</td><td></td></tr><tr><td>Original purchase price</td><td>6,00,000</td></tr><tr><td>Less : Reduction @30% (i.e. 5% per quarter or part thereof from 10.8.2017 to 8.1.2019 i.e. 5 full quarters and a part of quarter. They will be treated as 6 quarters)</td><td>1,80,000</td></tr><tr><td></td><td>4,20,000</td></tr><tr><td>Value of taxable supply</td><td>30,000</td></tr></table> | Selling price | 4,50,000 | Less : Purchased value of goods repossessed | | Original purchase price | 6,00,000 | Less : Reduction @30% (i.e. 5% per quarter or part thereof from 10.8.2017 to 8.1.2019 i.e. 5 full quarters and a part of quarter. They will be treated as 6 quarters) | 1,80,000 | | 4,20,000 | Value of taxable supply | 30,000 |
| Selling price | 4,50,000 | | | | | | | | | | | | | |
| Less : Purchased value of goods repossessed | | | | | | | | | | | | | | |
| Original purchase price | 6,00,000 | | | | | | | | | | | | | |
| Less : Reduction @30% (i.e. 5% per quarter or part thereof from 10.8.2017 to 8.1.2019 i.e. 5 full quarters and a part of quarter. They will be treated as 6 quarters) | 1,80,000 | | | | | | | | | | | | | |
| | 4,20,000 | | | | | | | | | | | | | |
| Value of taxable supply | 30,000 | | | | | | | | | | | | | |
| | 5. Value of token or voucher [Rule 32(6)] | <p>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.</p> <p><i>E.g. 15 Under 'Pre Diwali Offer', Ramesh purchased a voucher of Rs.2,000 from Paytm. Against this voucher, he can purchase articles of Rs.4,000 under 'Shubh Diwali Offer'.</i></p> <p><i>In this case, the value of supply will be Rs.4,000.</i></p> | | | | | | | | | | | | |
| Rule 33 | Service of pure agent | <p>The expenditure and costs incurred by the supplier as a pure agent of the recipient of supply of service, has to be excluded from the value of supply if and only if the following tests are satisfied :</p> <ul style="list-style-type: none">(i) contract of supply (actual or implied) subsists between a third party and beneficiary of supply(ii) actual recipient uses the supply for the purposes of the beneficiary(iii) beneficiary of supply liable to pay third party (due to contract)(iv) beneficiary authorizes (actual or implied) payment to third party by actual recipient(v) beneficiary aware that supply is by such third party and not by actual recipient claiming reimbursement(vi) invoice of actual recipient indicates separately the reimbursement claim(vii) actual recipient claims actuals only from beneficiary(viii) actual recipient supplies (goods or services or both) independent of the reimbursement-supplies. <p><i>E.g.16 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 Registrar of the Companies. The fees charged by the Registrar of the companies 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.</i></p> | | | | | | | | | | | | |

Note–

‘Supply of like kind & quality’ means

- ◆ any other supply
- ◆ made under similar circumstances,
- ◆ is same or closely resembles in respect of characteristics, quality, quantity, functionality, reputation to the supply being valued.

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| Rule 31A | Supply in case of Lottery, betting, gambling and horse racing | <p>(a) Lottery run by the State Government : The value of supply of lottery run by the State Governments shall be deemed to be the HIGHER of :</p> <ul style="list-style-type: none"> ◆ Face value of the ticket <i>multiplied by</i> 100/112, or ◆ The price as notified in the Official Gazette by the organising State <p>(b) Lottery authorised by the State Government : The value of supply of lottery authorised by the State Governments shall be deemed to be the HIGHER of :</p> <ul style="list-style-type: none"> ◆ Face value of the ticket <i>multiplied by</i> 100/128, or ◆ The price as notified in the Official Gazette by the organising State <p>(c) Other actionable claims : The value of supply of other actionable claims in the form of chance to win in betting, gambling or horse racing, shall be 100% of the face value of the bet or the amount paid into the totalisator.</p> |
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INPUT TAX CREDIT (ITC)



Uninterrupted 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 old system of taxation, credit of taxes being levied by Central Government was 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.

8.1 INPUT TAX CREDIT (ITC) – AN INTRODUCTION

Concepts of Input tax credit are not new to India; In 1986, these concepts were initially introduced in Excise wherein they were named as MODVAT. Later on in April 2000, they were renamed as CENVAT. From 2002, these concepts were introduced to Service Tax and from 2005, concepts of Input Tax Credit (ITC) were introduced to State level VAT also.

GST is nothing but a Value Added Tax on goods and services. It is these provisions of ITC that make GST a value added tax. Under GST too, the GST is collected at all points of supply and after deducting the GST paid for input/input services/capital goods, is paid to the credit of Govt. Thus, :

GST Liability = GST on supply of goods/services (*minus*) GST paid on input/input services/capital goods.

Credit of taxes paid for input/input services/capital goods is known as :

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| <i>Under Excise</i> | CENVAT : It is availed in respect of excise duty paid on input/capital goods and service tax paid on input services. It can be utilized for payment of excise and service tax. |
| <i>Under Service Tax</i> | CENVAT : It is availed in respect of excise duty paid on capital goods and service tax paid on input services. It can be utilized for payment of excise and service tax. |
| <i>Under VAT</i> | ITC : It is availed in respect of VAT paid on input/capital goods purchased from the same state (<i>i.e.</i> intra-state) and is utilized for payment of VAT on sale made within the same state. |
| <i>Under GST</i> | ITC : It is availed in respect of GST paid on receipt of supply of input/input services/capital goods and it can be utilized for payment of GST on supply made by him. |

Concepts of credit under the old system of indirect taxes, had few challenges (given below). GST is introduced in India to address all these challenges.

Challenges in the old system of indirect taxes :

1. *Non-availability of CENVAT credit to dealers* : In respect of taxation of goods, CENVAT was confined to the

manufacturing stage and did not extend to the distribution chain beyond the factory gate. As such, CENVAT paid on goods could not be adjusted against State VAT payable on subsequent sale of goods. This was true both for CENVAT collected on domestically produced goods as well as that collected as additional duty of customs on imported goods.

2. *Non-availability of VAT credit to Service Providers* : While input tax credit of CENVAT or additional duty of customs paid on goods was available to service providers paying Service Tax, they were unable to neutralize the State VAT or other State taxes paid on their purchase of goods.
3. *L levy of VAT on value inclusive of Excise Duty* : State VAT was payable on the value of goods inclusive of CENVAT paid at the manufacturing stage and thus the VAT liability of a dealer used to get inflated by this component without compensatory set-off.
4. *Non-availability of credit in case of CST* : Inter-State sale of goods was liable to the Central Sales Tax (CST) levied by the Centre and collected by the States. This was an origin-based tax and could not be set-off against VAT in many situations.
5. *Credit on 'input services' was not available to dealers* : VAT dealers were unable to set-off any Service Tax that they may have paid on their procurement of taxable input services.
6. *Non-availability of CENVAT credit in case of other state levies* : State Govt. also levied and collected a variety of other indirect taxes such as luxury tax, entertainment tax, entry tax etc. for which no set-off was available.

8.2 INPUT TAX CREDIT (ITC) – HOW IT WORKS

As discussed above, GST paid on *supply received* is allowed as credit (ITC) and it can be utilized in discharging the liability of GST arises on *supply made*. Following example will help in understanding the flow of GST and its advantages over the old system of indirect taxes :

Under old system of indirect taxes (all transactions take place in the same state) :

| Particulars | Rate | Manufacturer | Wholesale Dealer | Retail Dealer | Consumer |
|---------------------------------------|------|-----------------|------------------|----------------|--------------|
| Cost | | 1,00,000 | 1,21,000 | 1,33,100 | |
| Profit (%) | 10% | 10,000 | 12,100 | 13,310 | |
| Selling Price | | 1,10,000 | 1,33,100 | 146,410 | |
| Excise 10% | 10% | 11,000 | - | - | |
| VAT 10% (on SP+Excise) | 10% | 12,100 | 13,310 | 14,641 | |
| Invoice value | | 1,33,100 | 1,46,410 | 161,051 | Cost 161,051 |
| Calculation of tax liability : | | | | | |
| Output tax/duty | | 23,100 | 13,310 | 14,641 | |
| Less : Credit | | - | 12,100 | 13,310 | |
| Tax liability | | 23,100 | 1,210 | 1,331 | |

Under GST (all transactions take place in the same state) :

| Particulars | Rate | Manufacturer | Wholesaler | Retailer | Consumer |
|-------------|------|--------------|------------|----------|--------------|
| Cost | | 1,00,000 | 1,10,000 | 1,21,000 | Cost 159,720 |
| Profit (%) | 10% | 10,000 | 11,000 | 12,100 | |

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|---------------------------------------|-----|-----------------|-----------------|----------------|
| Selling Price | | 1,10,000 | 1,21,000 | 133,100 |
| CGST 10% | 10% | 11,000 | 12,100 | 13,310 |
| SGST 10% | 10% | 11,000 | 12,100 | 13,310 |
| Invoice value | | 1,32,000 | 1,45,200 | 159,720 |
| Calculation of tax liability : | | | | |
| Output tax/duty | | 22,000 | 24,200 | 26,620 |
| Less : Credit | | - | 22,000 | 24,200 |
| Tax liability | | 22,000 | 2,200 | 2,420 |

8.3 RELEVANT DEFINITIONS

1. “Capital goods” [Section 2(19)] : “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 [Section 2(19)].

2. Input [Section 2(59)] : “Input” means

- any goods,
- other than capital goods,
- used or intended to be used by a supplier
- in the course or furtherance of business

3. Input service[Section 2(60)] : “Input service” means

- any service,
- used or intended to be used by a supplier,
- in the course or furtherance of business

8.4 REGISTERED PERSON TO TAKE CREDIT [SECTION 16(1)]

This section provides as under :

- Every registered person subject to Section 49 [*Author* : If supplier has deposited such GST]
- shall be entitled to take credit of input tax charged on any supply of goods/services/both to him
- which are used or intended to be used in the course or furtherance of **his** business.
- The input tax credit is credited to the electronic credit ledger.

Rule 1 of the ITC Rules provides that input tax credit can be taken on the basis of invoice or debit note or bill of entry etc. is issued by the supplier.

It is important to observe the words ‘used by him’ and ‘in his business’ appearing in section 16(1). These words refer to the registered taxable person in question and not the legal entity as a whole. So, input tax credit paid in a State must not be in relation to the business of a taxable person in another State though belonging to the same taxable person.

8.5 CONDITIONS FOR AVAILMENT OF CREDIT BY REGISTERED PERSON [SECTION 16(2)]

Subject to section 41, input tax credit is available only if ALL the following conditions are satisfied :

- ✓ The said goods or services or both are used or intended to be used in the course or in the furtherance of his business
- ✓ He is in possession of tax invoice/debit note etc.;
- ✓ He has received the said goods or services or both

“Bill To Ship To” supply deemed as ‘receipt’ : In case of “Bill To Ship To” supplies 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.
- ✓ The supplier has uploaded his return in Form GSTR-1 (details of supplies);
 - ✓ The supplier has paid the said amount of tax (as charged in the invoice) to appropriate Government in cash or by way of utilization of input tax credit, as admissible;
 - ✓ He (the claimant of input tax credit) has furnished return under section 39 in Form-GSTR 2 (details of purchase);

Notes—

- a. **Goods received in instalments:** If goods are received in instalments against a single invoice, credit can be taken upon receipt of last instalment of goods.
- b. **Failure to pay to supplier of goods or service or both, the value of supply and tax thereon:** If recipient of goods or service or both has not paid the supplier within 180 days from date of invoice, the amount equal to input tax credit availed along with the interest will be added to output liability of the recipient. Such non-payment of the value of invoice must be admitted in the return filed in FORM-GSTR 2 (Rule 2) for the month immediately following the period of 180 days from the date of issue of invoice. The said input tax credit can be re-availed on payment of value of supply and tax payable thereon. **[This condition will not apply in case of RCM]**
- c. **Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules]**

Section 16(2) of the CGST Act provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other tax paying document in respect of which he is claiming the ITC. Rule 36 of CGST Rules lays down the documents and other conditions basis which the registered person can claim ITC.

We.f. 9.10.2019, a new sub-rule (4) has been introduced in rule 36 to specify the quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. As per sub-rule (4) of rule 36, ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.

This can be further understood as under-

| Situation | Amount of ITC to be claimed by recipient |
|---|---|
| 1. If invoice/debit note has been uploaded by the supplier in his GSTR-1 | 100% ITC, if all other conditions of availing ITC are fulfilled |
| 2. Where invoice/debit note has not been uploaded by supplier in his GSTR-1 | 20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded. |

[Inserted vide NN 49/2019 CT]

Problem

Mr. Satish, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 2019.

Compute the ITC that can be claimed by Mr. Satish in his GSTR-3B for the month of October 2019 to be filed by 20th November 2019 in the following independent cases assuming that GST of Rs. 10 lakh is otherwise eligible for ITC:

- ♦ **Case I:** Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.
- ♦ **Case II:** Out of 100 invoices, 75 invoices involving GST of Rs. 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Solution

As per sub-rule (4) of rule 36, ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.

Case I

ITC to be claimed by Mr. Satish in his GSTR-3B for the month of October 2019 to be filed by 20th November 2019 will be computed as under-

| Invoices | Amount of ITC involved in the invoices (Rs.) | Amount of ITC that can be availed (Rs.) |
|--|--|---|
| In respect of 80 invoices uploaded in GSTR-1 | 6 lakh | 6 lakh [see Note 1 below] |
| In respect of 20 invoices not uploaded in GSTR-1 | 4 lakh | 1.2 lakh [see Note 2 below] |
| Total | 10 lakh | 7.2 lakh |

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
- (2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to Rs. 1.2 lakh [20% of Rs. 6 lakh].

Case II

ITC to be claimed by Mr. Satish in his GSTR-3B for the month of October 2019 to be filed by 20th November 2019 will be computed as under-

| Invoices | ITC involved in the invoices (Rs.) | ITC that can be availed (Rs.) |
|--|------------------------------------|-------------------------------|
| In respect of 75 invoices uploaded in GSTR-1 | 8.5 lakh | 8.5 lakh [see Note 1 below] |

| | | |
|--|----------|-----------------------------|
| In respect of 25 invoices not uploaded in GSTR-1 | 1.5 lakh | 1.5 lakh [see Note 2 below] |
| Total | 10 lakh | 10 lakh |

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
 - (2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. However, since in this case, the actual ITC [Rs. 1.5 lakh] in respect of 25 invoices not uploaded in GSTR-1 does not exceed 20% of the eligible ITC in respect of invoices uploaded in GSTR-1s [Rs. 1.7 lakh (20% of Rs. 8.5 lakh)], actual amount of ITC can be availed.
- d. **Capital goods on which depreciation is claimed [Section 16(3)]:** Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income Tax Act, 1961, the input tax credit shall not be allowed on the said tax component.
- e. **Time limit to avail the input tax credit [Section 16(4)] :** A registered person is not entitled to take input tax credit on invoice/ debit notes after
- ✓ due date of furnishing of the return under section 39 for the month of September of the subsequent financial year (*i.e.* 20th Oct of the subsequent financial year), or
 - ✓ furnishing of the relevant annual return (*Note* : The due date for filing of annual return is 31st Dec of the subsequent financial year),
- whichever is earlier.

8.6 BLOCKED CREDIT [SECTION 17(5)]

Notwithstanding anything contained in sub-section (1) of section 16 [Section 16 allows credit to taxable persons] and subsection (1) of section 18 [*Author* : This section allow credit in respect of goods held in stock if the person gets himself registered under this act], input tax credit shall not be available in respect of the following namely :

| | |
|---|---|
| 1. Supply of motor vehicles and other conveyances | <p>Input tax credit shall not be available in respect of the following, namely :</p> <p>Section 17(5)(a) : Motor vehicles for transportation of persons : Motor vehicles and other conveyances for transportation of persons having approved seating capacity of not more than 13 persons (including the driver), except when they are used for making the following taxable supplies, namely :</p> <ul style="list-style-type: none"> (A) further supply of such motor vehicles or conveyances (B) transportation of passengers (C) imparting training on driving, such motor vehicle <p>Section 17(5)(aa) : Vessels and aircraft : Vessels and aircraft except when they are used :</p> <ul style="list-style-type: none"> (i) for making the following taxable supplies, namely: <ul style="list-style-type: none"> (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 <p>Section 17(5)(ab) : General Insurance, Servicing, Repair and maintenance : 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).</p> <p>Provided that the input tax credit in respect of such services shall be available—</p> |
|---|---|

| | |
|--|--|
| | <p>(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;</p> <p>(ii) where received by a taxable person engaged—</p> <p>(I) in the manufacture of such motor vehicles, vessels or aircraft; or</p> <p>(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</p> <p>E.g. :</p> <ol style="list-style-type: none"> 1. TCS Ltd (IT Company) purchased a car for one of its director : ITC will not be allowed 2. X Ltd (Maruti distributor) purchased 100 Swifts from Maruti Ltd. : ITC will be allowed 3. Meru Cabs (business of passenger transport), purchased 10 new cars : ITC will be allowed |
| 2. Supply of food beverages, catering, leasing, renting etc. | <p>Section 17(5)(b)(i) : Credit shall not be allowed in respect of inward supply of :</p> <ul style="list-style-type: none"> ◆ food and beverages, ◆ outdoor catering, ◆ beauty treatment, ◆ health services, ◆ cosmetic and plastic surgery, ◆ leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, ◆ life insurance and ◆ health insurance: <p>Provided that 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;</p> <p>E.g. :</p> <ol style="list-style-type: none"> 1. During Sep'2018, TCS Ltd (IT Company) provides 1000 dinners to its employees working in night shift : ITC will not be allowed. 2. Taj Palace (hotel) purchased 500 packs of ice-cream (1 pack = 1kg), to be consumed while serving its clients : ITC will be allowed. 3. TCS Ltd (IT Company) provides cabs to its employees : ITC will not be allowed on cab service. 4. Y Ltd (Manufacturing Company) takes medical insurance policies for its employees and their families : ITC will not be allowed. 5. Meru Cabs (business of passenger transport), hired 100 taxis on a monthly rent of Rs.50,000 each : purchased 10 new cars : ITC will be allowed. |
| 3. Supply of membership of a club, health and fitness centre | <p>Section 17(5)(b)(ii) : Credit shall not be allowed in respect of inward supply of membership of a club, health and fitness centre.</p> <p>Section 17(5)(b)(iii) : Credit shall not be allowed in respect of inward supply of travel benefits extended to employees on vacation such as leave or home travel concession</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.</p> <p>E.g. :</p> |

| | |
|---|--|
| | <p>1. TCS Ltd (IT Company) takes membership of Club Mahindra for one of its director : ITC will not be allowed.</p> <p>2. During a Block of 4 calendar years, TCS Ltd (IT Company) provides Leave Travel Allowance to its employees but not more than 2 times. Its reimburses expenses relating to the flight tickets of the employees and their families : ITC will not be allowed for the GST on flight tickets</p> |
| 4. Supply of works contracts | <p>Credit shall not be allowed in respect of supply of works contract services when supplied for construction of immovable property, (other than plant and machinery).</p> <p>However credit shall be allowed for supply of works contracts where it is an input service for further supply of works contract service.</p> <p>E.g. :</p> <p>1. TCS Ltd (IT Company) received services from a Works Contractor for building a new cafeteria : ITC will not be allowed.</p> <p>2. To complete a real-estate project, ABC Contractors (a firm of contractors) received services from sub-contractors located nearby : ITC will not be allowed to ABC Contractors for the GST levied on tax invoices received from these sub-contractors.</p> |
| 5. Supply of goods or services or both relating to construction of an immovable property | <p>Credit shall not be allowed in respect of goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account, including when such goods or services or both are used in the course or furtherance of business.</p> <p>E.g. :</p> <p>1. ABC Contractors (a firm of contractors) is building a new 3 story building to be allotted to each of its 3 partners. They purchased cement, marble stone etc. for this purpose : ITC will not be allowed to ABC Contractors for the GST levied on tax invoices relating to such cement and marble stones.</p> <p>2. ABC Contractors (a firm of contractors) is building their new office in Delhi. They purchased cement, marble stone etc. for this purpose : ITC will not be allowed to ABC Contractors for the GST levied on tax invoices relating to such cement and marble stones.</p> |
| 6. Composition levy | <p>Credit shall not be allowed in respect of goods or services or both on which tax has been paid under section 10 [i.e. composition levy]</p> <p>E.g. :</p> <p>X Ltd received supply of goods from a Composition Dealer M/s Ram and Sons : ITC will not be allowed to X Ltd in respect of such supply.</p> |
| 7. Non-residents | <p>Credit shall not be allowed on goods or services or both received by a non-resident taxable person EXCEPT on goods which are imported by him.</p> <p>E.g. :</p> <p>Motion Pictures Inc. is shooting their new film and for this, their team has arrived in India. While in Indian, it has purchased goods of Rs.10,00,000 from India and imported goods of \$400,000 from USA : ITC will not be allowed in respect of goods purchased from India (i.e. Rs.10,00,000) but ITC will be allowed in respect of goods imported from USA.</p> |
| 8. Personal consumption | <p>Credit shall not be allowed in respect of goods/services/both, used for personal consumption.</p> <p>E.g. :</p> |

| | |
|--|--|
| | Ramesh runs a pharma shop in Delhi. During Oct'2018, he purchased medicines of Rs.2,00,000, of them, medicines of Rs.5,000 has used by him and his family : ITC will not be allowed in respect of medicines used by him and his family. |
| 9. Goods lost, stolen, gifts etc. | <p>Credit shall not be allowed in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;</p> <p>E.g. :</p> <p>1. Ramesh runs a pharma shop in Delhi. To promote his shop, during Nov'2018, he distributed medicines of Rs.12,000 as free to his friends. : No GST will be levied on free supply; ITC will not be allowed in respect of medicines distributed by him for free.</p> <p>2. Fena India Pvt Ltd (manufacturing company) has purchased chemical of 20,000 kgs. from X Ltd. Such chemical was transported in containers of 500 kg each. Fena India Pvt Ltd is required to return the empty containers to X Ltd. While unloading the chemical from containers, due to its thickness, chemical of 1500 kg. was remained stucked on the containers and could not be removed : GST credit cannot be denied on normal loss of 1500 kgs of chemical.</p> |

8.7 PROPORTIONATE CREDIT [SECTION 17(1) to (4)]

Provisions relating to the proportionate credit can be summarized as under :

| | |
|---|---|
| (a) Goods/services used partly for business purpose and partly for other purpose [Section 17(1)] | 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 ITC shall be allowed of the input tax as is attributable to the business purpose. |
| (b) Goods/services used partly for effecting taxable supplies and partly for exempt supplies [Section 17(2)] | <p>Where the goods/services are used by the registered person :</p> <p>(a) partly for effecting TAXABLE supplies including ZERO-RATED supplies and</p> <p>(b) partly for effecting EXEMPT supplies (<i>Author</i> : this will also include non-taxable and 'nil' rated supplies),</p> <p>the amount of credit shall be allowed of the input tax as is attributable to (a) above.</p> <p>Note : As per section 17(3), the value of "exempt supply" shall be such as may be prescribed, and shall INCLUDE</p> <ul style="list-style-type: none"> ◆ supplies on which the recipient is liable to pay tax on RCM basis, ◆ transactions in securities, ◆ sale of land and, ◆ sale of building. <p>It means, the supplier will not be able to take credit in respect of input tax attributable these supplies.</p> <p>Explanation.—For the purposes of sub-section (3), the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except the sale of land and complete building.</p> |

8.8 TAKING CREDIT IN CASE OF JOB WORK [SECTION 19 read with SECTION 143]

1. Introduction : Job-work sector constitutes a significant industry in Indian economy as the large number of industries get their work done by job workers. As the name implies, the term 'Job-work' means processing of

goods supplied by the principal. The concept of job-work already exists in Central Excise, wherein a principal manufacturer can send inputs or semi-finished goods to a job worker for further processing. Many facilities, procedural concessions have been given to the job workers as well as the principal supplier who sends goods for job-work.

The whole idea is to make the principal responsible for meeting compliances on behalf of the job-worker on the goods processed by him (job-worker), considering the fact that typically the job-workers are small persons who are unable to comply with the discrete provisions of the law.

2. What is “Job work” and “Job worker” [Section 2(68)] : As per this section-

- “job work” means any treatment or process undertaken by a person
- on goods belonging to another registered person’ and
- the expression “job worker” shall be construed accordingly.

The ownership of the goods does not transfer to the job-worker but it rests with the principal. The job worker is required to carry out the process specified by the principal on the goods.

3. Provisions relating to job worker can be summarized as under :

| | |
|--|---|
| (a) Sending inputs and capital goods to job worker without payment of GST | A registered person (Principal) can send inputs/capital goods <i>under intimation and subject to certain conditions*</i> without payment of tax to a job-worker and from there to another job-worker and after completion of job-work bring back such goods without payment of tax. The principal is not required to reverse the ITC availed on inputs or capital goods dispatched to job-worker. * Before supply of goods to the job-worker, the principal would be required to intimate the Jurisdictional Officer containing the details of the description of inputs and the nature of processing to be carried out by the job-worker. [Section 143(1) read with Section 19(1)] |
| (b) Sending input/ capital goods directly to the job worker premise | The principal can send inputs or capital goods directly to the job-worker’s premise without first bringing them to his premises and can still avail the credit of tax paid on such inputs or capital goods. [Section 19(2)] |
| (c) Receiving the input/ capital goods back | Inputs and/or capital goods (other than moulds and dies, jigs and fixtures, or tools) sent to a job worker are required to be returned to the principal within 1 year and 3 years, respectively, from the date of sending such goods to the job-worker. [Section 143(1)(a)] |
| (d) Clearing the processed goods from job workers premise | After processing of goods, the job-worker may clear the goods to : (i) Another job-worker for further processing (ii) Dispatch the goods to any of the place of business of the principal without payment of tax (iii) Supply such goods ♦ <i>on payment of tax</i> within INDIA, or ♦ <i>with or without payment of tax</i> for export OUTSIDE INDIA provided that the principal declares the place of business of the job-worker as his additional place of business. However, if job worker is registered under section 25, then such declaration is not required. [Section 143(1)(b)] |
| (e) If input/capital goods are not brought | Where the input/capital goods (other than moulds and dies, jigs and fixtures, or tools) sent for job work are not received back as per clause (a) or are not supplied as per clause (b) of section 143(1) within a period of 1/3 years of their being sent out, it shall be deemed that |

| | |
|--|--|
| back, they will be deemed as 'supplies' | such input/capital goods had been supplied by the principal to the job-worker on the day when the said capital goods were sent out. [Section 143(3)/(4) read with Section 19(3)/(6)] |
| (f) Responsibility for keeping proper accounts | The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal. [Section 143(2)] |

MULTIPLE CHOICE QUESTIONS (MCQs) (on Valuation and ITC)

Q 1 : The value of a supply of goods or services or both shall be _____.

- (a) the transaction value
- (b) the transaction value, where the supplier and the recipient of the supply are not related
- (c) Agreed price for such supply and the amount actually paid by the recipient, whichever is lower.
- (d) the transaction value, where the supplier and the recipient of the supply are not related and the price is the sole consideration.

Q 2 : The value of supply shall NOT include -

- (a) Discounts
- (b) Financial charges
- (c) Special Charges
- (d) Taxes and duties

Q 3 : While calculating 'value' of supply discounts -

- (a) Which are given before or at the time of supply are excluded if they are recorded on invoice;
- (b) Which are given after the supply are excluded if they are given as per the terms of the agreements and recipient has reversed the proportionate ITC on such supply;
- (c) Always excluded;
- (d) Both (a) and (b) are excluded.

Q 4 : Value of supply in case of Air Travel Agent will be

- (a) 5% of basic fare for both domestic and international bookings;
- (b) 5% of basic fare for domestic bookings and 10% of basic fare for international bookings;
- (c) 10% of basic fare for domestic bookings and 5% of basic fare for international bookings;

(d) 9% of basic fare for domestic bookings and 18% of basic fare for international bookings.

Q 5 : Value of supply in case of Insurance Agent (for single premium policy) will be

- (a) 10% of the premium amount;
- (b) 5% of the premium amount;
- (c) 12.5% of the premium amount;
- (d) 18% of the premium amount.

Q 6 : Value of supply in case of Insurance Agent (for policies other than single premium policies) will be

- (a) First year premium : 12.5% of the premium and Subsequent year's premium : 5% of the premium
- (b) First year premium : 5% of the premium and Subsequent year's premium : 10% of the premium;
- (c) First year premium : 5% of the premium and Subsequent year's premium : 12.5% of the premium;
- (d) First year premium : 9% of the premium and Subsequent year's premium : 18% of the premium.

Q 7 : Who is eligible to take credit ?

- (a) Every registered person subject to Section 49
- (b) Every person subject to Section 49
- (c) Every registered person
- (d) Every person

Q 8 : Which of the following is NOT a case of Block Credit?

- (a) Supply of Motor Credit and other conveyance with few exceptions
- (b) Supply of Capital Goods
- (c) Supply of food beverages for personal consumption of employees
- (d) Supply of membership of a club, health and fitness centre

Q 9 : For the purpose of Job Work, a registered person can _____.

- (a) Send the input and capital goods without GST provided that the Jurisdictional Officer is intimated about the same
- (b) Send inputs or capital goods directly to the job-worker's premise without first bringing them to his premises and can still avail the credit of tax paid on such inputs or capital goods.
- (c) None of the above
- (d) Both of the above

Q 10 : Under Job Work, Inputs and/or capital goods sent to a job worker, are required to be returned to the principal within 1 year and 3 years, except _____.

- (a) Moulds and dies
- (b) Jigs and fixtures
- (c) Tools
- (d) All of the above

Q 11 : After processing of goods, an unregistered job-worker may supply such goods on payment of tax WITHIN INDIA and with or without payment of tax for export OUTSIDE INDIA provided that _____.

- (a) The principal declares the place of business of the job-worker as his additional place of business
- (b) The principal undertakes to discharge the GST liability on said supply
- (c) Both the above
- (d) None of the above

Q 12 : Which of the following case does not fall in 'blocked credit'?

- (a) Goods/services/both on which tax has been paid under section 10

- (b) Goods/services/both, used for personal consumption.
- (c) Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples
- (d) All of the above

Q 13 : Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income Tax Act, 1961, the input tax credit _____.

- (a) Shall be allowed over the life of the said capital goods
- (b) Shall be allowed 50% in the first year of put to use and 50% in the next year
- (c) Shall never be allowed
- (d) Shall be allowed if Jurisdictional Officer permits

Q 14 : A registered person is entitled to take input tax credit on invoice/debit notes but only up to the following dates

- (a) Due date of furnishing of the return under section 39 for the month of September of the next year
- (b) Date of furnishing of the relevant annual return
- (c) Later of (a) and (b)
- (d) Earlier of (a) and (b)

Q 15 : ITC can be claimed if _____

- (a) The supplier has uploaded his return in Form GSTR-1
- (b) The claimant of ITC has furnished return under section 39 in Form-GSTR 2
- (c) Both (a) and (b)
- (d) Either (a) or (b)

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | D | 2 | A | 3 | D | 4 | B | 5 | A |
| 6 | C | 7 | A | 8 | B | 9 | D | 10 | D |
| 11 | A | 12 | D | 13 | C | 14 | D | 15 | C |

ACCOUNTS AND RECORDS, TAX INVOICE, DEBIT NOTE & CREDIT NOTE



Assessment in GST is mainly focused on self-assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for each tax period i.e. the period for which return is required to be filed. The compliance verification is done by the department through scrutiny of returns, audit and/or investigation. Thus the compliance verification is to be done through documentary checks rather than physical controls. This requires certain obligations to be cast on the taxpayer for keeping and maintaining accounts and records.

9.1 ACCOUNTS AND RECORDS [SECTION 35 OF CGST]

1. Keeping and maintaining accounts and records by registered person [Section 35(1)] : This section provides as under :

Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- (a) Production or manufacture of goods;
- (b) Inward and outward supply of goods or services or both;
- (c) Stock of goods;
- (d) Input tax credit availed;
- (e) Output tax payable and paid; and
- (f) Such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed. [Author : Records “may” be kept and maintained in electronic form, which means keeping and maintaining books in “other form” is also permissible]

2. Keeping and maintaining accounts and records by other person : Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

Note : Every registered person whose turnover during a financial year exceeds the prescribed limit, shall get his accounts audited by a Chartered Accountant or a Cost Accountant and shall submit a copy of the audited annual accounts under section 44(2).

9.2 TIME DURATION OF RETAINING ACCOUNTS AND RECORDS [SECTION 36 OF CGST]

Normally : The time duration for retention of accounts and records under GST is until expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records. If the annual returns for the FY 2017-18 are filed on say 30.11.2018, even then, the books of account and other records are to be maintained till 31.12.2024.

Appeal cases : A registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence, shall retain the books of account and other records pertaining to the subject matter of such appeal etc. for a period of :

- (a) 1 year AFTER final disposal of such appeal etc. or
- (b) the period specified above,

whichever is later.

9.3 TAX INVOICE [SECTION 31 OF CGST]

1. What is an Invoice : Invoice is a bill that lists the goods sold or services provided, with a statement of the sum due for them. Thus, it is a document which records the terms of an underlying arrangement between parties. An invoice does not bring into existence an agreement but merely records the terms of a pre-existing agreement.

GST requires that an invoice – tax invoice or bill of supply – to be issued on the occurrence of certain event or within a prescribed time. Therefore, an invoice, among others is required to be issued for every other form of supply such as sale, transfer, barter, exchange, license, rental, lease or disposal. The section uses the phrase registered person as a person who is required to issue an invoice whereas a taxable person is one who alone is entitled to input tax credit.

2. Issuance of invoice by registered supplier of taxable GOODS [Section 31(1)] : As per this section, registered supplier of taxable goods is required to issue a tax invoice:

- (a) Before or at the time of removal of the goods where the supply involves movement of goods; or
- (b) Before or at the time of delivery of the goods to the recipient where the supply does not involve movement of goods.

So, in order to determine when the tax invoice is to be issued, the supply must be classified into one of these two cases, that is, whether it is case of supply that involves movement or one that does not involve movement of the goods.

3. Issuance of invoice by registered supplier of taxable SERVICES [Section 31(2)] : As per this section, registered supplier of taxable services is required to issue a tax invoice :

- (a) before provision of service, or
- (b) after provision of service but within a prescribed period (*i.e.* 30* days from the date of supply of service; 45 days in case supplier of services being an insurer/banking company/financial institution)

issue a tax invoice, showing the description, value, the tax charged thereon and such other particulars as may be prescribed.

* However, time limit for issuance of invoice in some specific cases will be as under :

| Situation | Time limit for issuance of invoice |
|--|---|
| (a) Continuous Supply of service where successive statements of accounts or successive payments are involved | before or at the time each such statement is issued or, as the case may be, each such payment is received |
| (b) Continuous supply having ascertainable due date | on or before the "due date" of payment |
| (c) Continuous supply having unascertainable due date | before or at the time when the supplier of service receives the payment |
| (d) Continuous Supply where the payment is linked to the completion of an event | on or before the date of completion of that event |
| (e) When contract ceases before completion of supply | at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation. |

9.4 CONTENTS OF TAX INVOICE

Tax invoice referred to in section 31 shall be issued by registered person containing the following particulars :

- (a) name, address and GSTIN 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 GSTIN, if registered, of the recipient;
- (e) 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 and where the value of taxable supply is Rs.50,000 or more;
- (f) HSN code of goods or Accounting Code of services (*see* Notification No 12/2017 Central Tax);
- (g) description of goods or services;
- (h) quantity in case of goods and unit or Unique Quantity Code thereof;
- (i) total value of supply of goods or services or both;
- (j) taxable value of supply of goods or services or both taking into account discount or abatement, if any;
- (k) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (l) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) address of delivery where the same is different from the place of supply;

- (o) whether the tax is payable on reverse charge basis; and
- (p) signature or digital signature of the supplier or his authorized representative:

Provided that the Commissioner may, on the recommendations of the Council, by notification, specify –

- (i) the number of digits of HSN code for goods or the Accounting Code for services, that a class of registered persons shall be required to mention, for such period as may be specified in the said notification, and
- (ii) the class of registered persons that would not be required to mention the HSN code for goods or the Accounting Code for services, for such period as may be specified in the said notification.

Provided that in case of 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 may be, 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:

Notification No 12/2017 Central Tax : This Notification specifies when to use HSN Code on invoice and how many digits thereof are to be used :

| Annual turnover in preceding FY | Number of digits of HSN Code to be used on invoice |
|---|--|
| Up to Rs. 1.5 Crore | Nil (<i>i.e.</i> a person is not required to use HSN code on invoice) |
| Exceeding Rs. 1.5 Crore but up to Rs. 5 Crore | 2 (<i>i.e.</i> first two) |
| Exceeding Rs. 5 Crore | 4 (<i>i.e.</i> first four) |

9.5 MANNER OF ISSUING A TAX INVOICE

(1) In case of supply of GOODS : The invoice shall be prepared in **triplicate**, 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 TRIPPLICATE FOR SUPPLIER.

(2) In case of supply of SERVICES : The invoice shall be prepared in **duplicate**, 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.

9.6 ISSUING A BILL OF SUPPLY INSTEAD OF TAX INVOICE [SECTION 31(3)(c)]

A registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply (in the manner specified in *para* 4.5 above) containing the following particulars :

- (a) Name, address and GSTIN of the supplier;
- (b) A consecutive serial number not exceeding 16 characters, in one or more 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 GSTIN if registered, of the recipient;
- (e) HSN Code of goods or Accounting Code for 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 authorized representative.

9.7 EXEMPTION FROM ISSUANCE OF TAX INVOICE [SEC. 31(3)(b) read with 4th proviso of rule 46]

A registered person (other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens) may not issue a tax invoice if the value of the goods or services or both supplied is less than Rs. 200 subject to the following conditions and (in the manner specified in *para* 4.5 above) :

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such invoice, and
- (c) shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

W.e.f. 1.9.2019, a new sub-rule (4A) has been inserted in rule 54. Accordingly, a registered person who is supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an **electronic ticket**. The said electronic ticket is deemed to be a tax invoice, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46.

[Inserted by NN 33/2019-CT]

9.8 SUPPLY RECEIVED FROM ‘UNREGISTERED PERSON’ - ISSUANCE OF TAX INVOICE (SELF INVOICING) [SECTION 31(3)(f)]

This section provides as under :

- ◆ A registered person who is liable to pay tax under section 9(3)/(4) [supplies received by him in respect of which he is liable to pay GST under RCM]
- ◆ shall issue an invoice in respect of goods or services or both received by him, and
- ◆ issue a payment voucher at the time of making payment to the supplier, and
- ◆ the invoice so issued shall bear the signature or digital signature of the recipient or his authorized representative.

9.9 WHAT ARE THE DEBIT NOTES AND CREDIT NOTES

Debit note and credit notes are issued by the supplier in many cases. The debit note is issued by the supplier when he finds that he should be paid more by the recipient. On other hand, credit note is issued by the supplier when he finds that he needs to pay back some money to the recipient. Following table summarizes situations under which a registered person is required to issue debit note or credit note :

| Issuances of | Situation requiring issuance of Debit/Credit note |
|--|---|
| (a) Issuance of debit note (i.e. THEY OWE) | <p>Debit Note : If taxable value or tax charged in a tax invoice is found to be LESS than the taxable value or tax payable in respect of such supply (i.e. value/tax originally charged < actual value/tax).</p> <p>Time Limit for issuance of Debit Note : Any registered person who issues a debit note shall declare the details of such debit note in the return for the month during which such debit note has been issued.</p> |
| (b) Issuance of credit note (i.e. I OWE) | <p>Credit Note :</p> <ul style="list-style-type: none"> ◆ If taxable value or tax charged in a tax invoice is found to be MORE than the taxable value or tax payable in respect of such supply (i.e. value/tax originally charged > actual value/tax); ◆ If supply is returned by the recipient; ◆ If goods or services or both supplied are found to be deficient (<i>less in quantity</i>). <p>Time Limit for issuance of Credit Note : Any registered person who issues a credit note shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than :</p> <ul style="list-style-type: none"> → September following the end of the F.Y. in which such supply was made, or → the date of furnishing of the relevant annual return <p>Whichever is earlier</p> |

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1 : Tax invoice must be issued by _____

- (a) Every supplier
- (b) Every taxable person
- (c) Registered persons not paying tax under composition scheme
- (d) All the above

Q 2 : Law permits collection of tax on supplies effected prior to registration, but after applying for registration :

- (a) Yes, but only on intra-State supplies, if the revised invoice is raised within one month
- (b) Yes, but only on intra-State supplies effected to unregistered persons, if the revised invoice is raised within one month
- (c) Yes, on all supplies, if the revised invoice is raised within one month

- (d) No, tax can be collected only on supplies effected after registration is granted.

Q 3 : A bill of supply can be issued in case of inter-State and intra-State:

- (a) Exempted supplies
- (b) Supplies to unregistered persons
- (c) Both of above
- (d) None of the above.

Q 4 : An invoice must be issued:

- (a) At the time of removal of goods
- (b) On transfer of risks and rewards of the goods to the recipient
- (c) On receipt of payment for the supply
- (d) Earliest of the above dates.

Q 5 : An acknowledgement must be given on receipt of advance payment in respect of supply of goods or services:

- (a) Yes, in the form of a proforma invoice
- (b) Yes, as a receipt voucher
- (c) Yes, the invoice must be raised to that extent
- (d) None of the above

Q 6 : A continuous supply of goods requires one of the following as a must:

- (a) The goods must be notified by the Commissioner in this behalf
- (b) The contract for supply lasts for a minimum period of 3 months
- (c) The supply is made by means of a wire, cable, pipeline or other conduit
- (d) Supplier invoices the recipient on a regular or periodic basis

Q 7 : The recipient must issue an invoice in the following cases:

- (a) The supplier fails to issue an invoice
- (b) The supplier is unregistered
- (c) The goods or services received are notified for tax on reverse charge basis
- (d) All of the above.

Q 8 : A payment voucher need not be raised if the supplier is an unregistered person.

- (a) True, as the recipient is required to issue an invoice in that case
- (b) True, if the unregistered person does not require it
- (c) False, a payment voucher is the only document to evidence the supply
- (d) False, payment voucher should be issued in addition to raising an invoice for the inward supply

Q 9 : The time limit for issue of tax invoice in case of continuous supply of goods:

- (a) At the time of issue of statement of account where successive accounts are involved
- (b) At the time of receipt of payment, if payments are received prior to issue of accounts
- (c) On a monthly basis
- (d) As and when demanded by the recipient.

Q 10 : In case of goods sent on sale on approval basis, invoice has to be issued:

- (a) while sending the goods; another Invoice has to be issued by the recipient while rejecting the goods
- (b) while sending the goods but the recipient can take credit only when the goods are accepted by him
- (c) when the recipient accepts the goods or six months from the date of removal whichever is earlier
- (d) when the recipient accepts the goods or three months from the date of supply whichever is earlier

Q 11 : If Supply of Services has ceased under a contract before the completion of supply:

- (a) Invoice has to be issued within 30 days on the basis of 'Quantum Meruit' from the date of cessation
- (b) Invoice has to be issued at the time of cessation to the extent of the supply effected
- (c) Invoice has to be issued for the full value of the contract after deducting a percentage thereof as prescribed
- (d) Invoice cannot be issued as the matter will be sub-judice.

Q 12 : The tax invoice should be issued _____ the date of supply of service:

- (a) Within 30 days from
- (b) Within 1 month from
- (c) Within 15 days from
- (d) On

Q 13 : A person who has applied for registration can:

- (a) Provisionally collect tax till his registration is approved, on applying for registration, if he has applied for registration within prescribed time
- (b) Neither collect tax nor claim input tax credit
- (c) Issue 'revised invoice' and collect tax within 1 month of date of issuance of certificate of registration, subject to conditions
- (d) All of the above.

Q 14 : The name of the State of recipient along with State code is required on the invoice where:

- (a) Supplies are made to unregistered persons
- (b) Supplies are made to unregistered persons where the value of supply is Rs.50,000 or more
- (c) Inter-state supplies are made to unregistered persons where the value of supply is Rs.50,000 or more
- (d) Supplies are made to registered persons

Q 15 : A credit note is issued by _____ and it is a document accepted for GST purposes:

- (a) Supplier, for reducing the tax/ taxable value
- (b) Recipient, for reducing the tax/ taxable value
- (c) Supplier, for increasing the tax/ taxable value
- (d) Recipient, for increasing the tax/ taxable value

Q 16 : For an increase in the tax/ taxable value, a debit note for GST purposes:

- (a) Should be issued by the supplier
- (b) Should be issued by the recipient
- (c) May be issued by the supplier
- (d) May be issued by the recipient

Q 17 : The last date for declaring the details of a Credit Note issued on 25-Jun-2018 for a supply made on 19-Sep-2017 is:

- (a) 31-Dec-2018 – Last date for filing annual return
- (b) 20-Jul-2018 – Actual date for filing annual return
- (c) 20-Jan-2018 – Due Date of Filing of December Return
- (d) 20-Oct-2018 – Due Date of Filing of September Return

Q 18 : The receipt voucher must contain:

- (a) Details of goods or services
- (b) Invoice reference
- (c) Full value of supply
- (d) None of the above

ANSWERS TO MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | C | 2 | C | 3 | A | 4 | A | 5 | B |
| 6 | D | 7 | B | 8 | D | 9 | A | 10 | C |
| 11 | B | 12 | A | 13 | C | 14 | B | 15 | A |
| 16 | A | 17 | D | 18 | A | | | | |

REGISTRATION AND FILING OF RETURNS AND PAYMENT OF TAX



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.

10.1 PERSON LIABLE TO REGISTRATION [SECTION 22 OF CGST]

This section provides as under :

| Place from where supply is made | When to get registration |
|---|--|
| (a) If supplier makes supply from any state other than Special category States (i.e. rest of India) | <ul style="list-style-type: none"> ✓ 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 : <ul style="list-style-type: none"> → Rs.40 lakh In case of suppliers of “goods only” → Rs.20 lakh In case of suppliers of “services only” or “both” → Rs.20 lakh In case of suppliers of “goods only” or “services only” or “both” making supplies from PUTSAM (Puducherry, Uttarakhand, Telangana, Sikkim, Arunachal Pradesh, Meghalaya) |
| (b) If supplier makes supply from Special Category States | <ul style="list-style-type: none"> ✓ If 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 : <ul style="list-style-type: none"> → Rs.10 lakh In case of suppliers of “goods only” or “services only” or “both” making supplies from MMTN (Manipur, Mizoram, Tripura, Nagaland) |

“Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from

Rs.10 lakh to such amount, not exceeding Rs.20 lakh and subject to such conditions and limitations, as may be so notified.

Explanation.—For the purposes of this section,—

- (i) the expression “aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- (ii) 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 section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;
- (iii) the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution **except** the State of Jammu and Kashmir **and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.**

[Inserted by GST Amendment Act, 2018]

Time limit for making application : The application for registration shall be made within 30 days from the date when he becomes liable for registration.

10.2 PERSON NOT LIABLE TO REGISTRATION [SECTION 23 OF CGST]

(1) The following persons shall not be liable to registration :

- (a) any person engaged *exclusively* in the business of supplying goods/services/both that are not liable to tax or wholly exempt from GST,
- (b) an *agriculturist*, to the extent of supply of produce out of cultivation of land.

(2) As per sub-section (2), the Government may on the recommendation of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

1. Person making supplies on which reverse charge applies, exempt from obtaining registration : *Vide Notification No. 5/2017-CT (dated 19.6.2017)*, the Central Government, on the recommendations of the Council, specifies the persons

- ✓ who are only engaged in making supplies of taxable goods or services or both,
- ✓ the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) of the said Act

as the category of persons exempted from obtaining registration under the aforesaid Act

2. Person making TCS, exempt from obtaining registration : *Vide Notification No. 65/2017-CT (dated 15.11.2017)*, the Central Government, on the recommendations of the Council, specifies the persons making supplies of services (other than supplies specified under section 9(5) of CGST Act made through an ECO) who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding Rs. 20 lakh (Rs.10 lakh in case of special category States other than J&K) in a financial year, as the category of persons exempted from obtaining registration under the said Act.

3. Person supplying handicraft goods, exempt from obtaining registration : *Vide Notification No. 32/2017-CT (dated 15.9.2017)*, the Central Government, on the recommendations of the Council, specifies the persons supplying handicraft goods having an aggregate turnover, to be computed on all India basis, not exceeding Rs. 20 lakh (Rs.10 lakh in case of special category States other than J&K) in a financial year, as the category of persons exempted from obtaining registration under the said Act.

Conditions : Exemption from registration to such 'casual taxable' will be available if he satisfies the following conditions :

- (a) He shall obtain a PAN and generate an e-way bill in accordance with the provisions of rule 138 of the CGST Rules, 2017.
- (b) He makes inter-State taxable supplies of handicraft goods and avails the benefit of Notification No. 8/2017 Integrated Tax (*i.e.* Exemption of GST in the case supplies of handicraft goods)

10.3 COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24 OF CGST]

Following list contains the categories of persons who are required (specifically) to take registration even if they are not covered under section 22 of the Act :

- (a) Inter-state suppliers
- (b) A person receiving supplies on which tax is payable by recipient on reverse charge basis
- (c) Casual taxable person who is not having fixed place of business in the State or Union Territory from where he wants to make supply
- (d) Non-resident taxable persons who are not having fixed place of business in India
- (e) A person who supplies on behalf of some other taxable person (*i.e.* an Agent of some Principal)
- (f) E-commerce operators (who provide platform to the suppliers to supply through it) who is required to collect tax at source under section 52
- (g) Suppliers who supply through an e-commerce operator except those which are notified under section 9(5).
- (h) Those ecommerce operators who are notified as liable for GST payment under Section 9(5)
- (i) TDS Deductor
- (j) Those supplying online information and data base access or retrieval services from outside India to a non-registered person in India

10.4 PROCEDURE FOR REGISTRATION [SECTION 25 OF CGST]

(1) Where, when and how to apply for registration : Every person who is liable to be registered under section 22 or section 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.

As per Rule 8 of CGST Rules, 2017

- ✓ Every such person shall, before applying for registration, declare his PAN, mobile number, e-mail address, State or Union territory in **Part A of FORM GST REG-01** on the common portal.
- ✓ On successful verification of the PAN, mobile number and email 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, 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.

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least **5 days** prior to the commencement of business.

Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone 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

[Inserted by GST Amendment Act, 2018]

Explanation.—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.

(2) Single or multiple registrations : A person seeking registration under this Act shall be granted a single registration in a State or Union territory.

Provided that a person having multiple ~~business-verticals~~ **place of business** in a State or Union territory may be granted a separate registration for each ~~business-verticals~~ **place of business**, subject to such conditions as may be prescribed.

As per Rule 11 of CGST Rules, 2017

Separate registration in respect of each of the ~~business-verticals~~ **place of business** may be granted subject to the following conditions :

- (a) Such person has more than one ~~business-verticals~~ **place of business**,
- (b) The ~~business-verticals~~ **place of business** of a taxable person shall not be granted registration to pay tax under section 10, if any one of the other ~~business-verticals~~ **place of business** of the same person is paying tax under section 9 (*i.e.* paying tax normally),
- (c) All separately registered ~~business-verticals~~ **place of business** of such person shall pay tax under the Act on supply of goods or services or both made to another registered ~~business-verticals~~ **place of business** of such person and issue a tax invoice for such supply.

Explanation.- For the purposes of clause (b), it is hereby clarified that where any ~~business-verticals~~ **place of business** of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other ~~business-verticals~~ **place of business** of the said person shall become ineligible to pay tax under the said section.

(3) Voluntary registration : 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 person, shall apply to such person.

(4) Single person with multiple registrations, is treated as distinct person : A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Single person owning multiple registered establishments in different States/UTs, all such establishments to be treated as owned by different persons : 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.

(6) To be eligible for registration under this act, a person must have PAN or TAN : Every person shall have a Permanent Account Number issued under the Income tax Act, 1961 in order to be eligible for grant of registration.

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for

grant of registration.

(7) Registration of Non-Residents : Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.

As per Rule 13 of CGST Rules, 2017

- ◆ 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 five days prior to the commencement of business at the common portal.
Provided that 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** of that country.
- ◆ The application for registration made by a non-resident taxable person shall be duly signed by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.

(8) Suo-moto Registration : Where a person who is liable to be registered under this 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 such manner as may be prescribed.

As per Rule 16 of CGST Rules, 2017

- Sub rule (1) :** Where the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, he may register the said person on a temporary basis and issue an order in FORM GST REG- 12.
- Sub rule (2) :** This registration shall be effective from the date of such order.
- Sub rule (3) :** Every such temporary registered person 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.

(9) Issuing Unique Identification Numbers (UINs) : Notwithstanding anything contained in sub-section (1), the following persons shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed—

- Any specialised agency of the 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
- Any other person or class of persons, as may be notified by the Commissioner.

(10) Issuing Unique Identification : 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.

As per Rule 9 and 10 of CGST Rules, 2017

Rule 9 : Verification of the application and approval

- (1) *Examination of the application and issuing registration in 3 working days from the date of application :* 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 **3 working days** from the date of submission of the application.
- (2) *If application is deficient, submission of clarification in 7 working days from the date of notice :* Where the application is found to be deficient or where the proper officer requires any clarification with regard to any information provided in the application, he may issue a notice to the applicant electronically in FORM GST REG-03 within a period of 3 working days from the date of

submission of the application and the applicant shall furnish such clarification in FORM GST REG-04, within a period of **7 working days** from the date of the receipt of such notice.

(3) *If submission is satisfactory, grant of registration in 7 working days from the date of submission of clarification* : Where the proper officer is satisfied with the clarification, 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.

(4) *Rejection of application of registration* : Where no reply is furnished or where the proper officer is not satisfied with the clarification, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG-05.

(5) *Deemed approval of application of registration* : If the proper officer fails to take any action, -

(a) within a period of **3 working days** from the date of submission of the application; or

(b) within a period of **7 working days** from the date of the receipt of the clarification,

the application for grant of registration shall be deemed to have been approved.

Rule 10 : Issue of registration certificate

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 (GSTIN) shall be assigned subject to the following characters, namely :

- (a) 2 characters for the State code;
- (b) 10 characters for the PAN or TAN
- (c) 2 characters for the entity code; and
- (d) 1 checksum character.

Note : Effective date of GST Registration : Where the application for registration has been submitted within 30 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 30 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.

Display of Registration Certificate and GSTIN on name board : As per Rule 18 of CGST Rules, 2017

Sub rule (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.

Sub rule (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.

10.5 SPECIAL PROVISIONS RELATING TO CASUAL TAXABLE PERSON AND NON-RESIDENT TAXABLE PERSON [SECTION 27 OF CGST]

(1) Casual/non-resident taxable person to supply only after registration : 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*

Provided that 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.

Further, such person shall make taxable supplies only after the issuance of the certificate of registration.

(2) Advance deposit of estimated tax liability by casual/non-resident taxable person : A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, 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.

(3) Advance deposit shall be credited to E-Cash Ledger : The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

10.6 AMENDMENT OF REGISTRATION [SECTION 28 OF CGST]

(1) 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 (**i.e. Form GST REG-14**) and manner and within such period as may be prescribed (**i.e. within 15 days from the date of such change**).

(2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner (**see Rule 19**) and within such period as may be prescribed (**i.e. within 15 working days from the date of receipt of application for amendment**).

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

10.7 CANCELLATION OF REGISTRATION [SECTION 29 OF CGST]

(1) Cancellation of registration – when : As per this sub-section :

- The proper officer may,
 - ✓ either on his own motion or
 - ✓ on an application filed by the registered person or by his legal heirs,
- 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 under section 22 or section 24 *except* a case where he has obtained a voluntary registration under section 25(3).

Note : During the pendency of the proceeding relating to the cancellation of registration filed by the registered person, the registration may be suspended for such manner as may be prescribed. **[Effective w.e.f. 1.2.2019 vide GST amendment Act, 2018]**

(2) *Suo motu* cancellation of registration by proper officer : 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; or

- (b) a person has not furnished returns for a continuous period of 6 months (3 months for person paying tax under section 10); or
- (c) any person who has taken voluntary registration under section 25(3) has not commenced business within 6 months from the date of registration; or
- (d) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

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

Note : During the pendency of the proceeding relating to the cancellation of registration filed by the registered person, the registration may be suspended for such manner as may be prescribed. **[Effective w.e.f. 1.2.2019 vide GST amendment Act, 2018]**

Suspension of registration : Rule 21A of CGST Rules, 2017 [New rule, inserted by NN 3/2019 w.e.f. 1.2.2019]

(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.

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

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. **[Notification No. 49/2019 CT dated 9.10.2019]**

(4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.

(5) where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [i.e. revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply. **[Notification No. 49/2019 CT dated 9.10.2019]**

(3) Liabilities towards tax and other dues will continue even after cancellation of registration : The cancellation of registration under this section 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) Deemed cancellation of registration under this act : The cancellation of registration under the SGST Act or UTGST Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Payment of ITC or output GST, whichever is higher : Every registered person whose registration is cancelled shall pay an amount, by way of debit in the E-Credit Ledger (i.e. reversal) or E-Cash Ledger (i.e. payment in case), equivalent to

- (a) the ITC in respect of inputs (held in stock or in semi-finished or finished goods) or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or
- (b) the *output tax* payable on such goods,

whichever is *higher*, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount being *higher* of the following :

- (a) ITC on their remaining life. As per rule 44, ITC on remaining useful life in months is computed on pro-rata basis, taking their useful life as 5 years, or
- (b) the tax on the transaction value thereof under section 15,

Problem

A capital asset was purchased at Rs.12,00,000 by paying GST@5%. After using it for 4 years, 6 month and 15 days, it is being sold at a transaction value of Rs.80,000. The rate of GST is 5%. Determine the ITC to be reversed/paid for it.

Solution

The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken (*i.e.* availed) on such capital goods = Rs.60,000 (12,00,000 × 5%)

ITC attributable to remaining useful life = Rs.60,000 × 5/60 = Rs.5,000

GST on transaction value = 80,000 × 5% = Rs.4,000

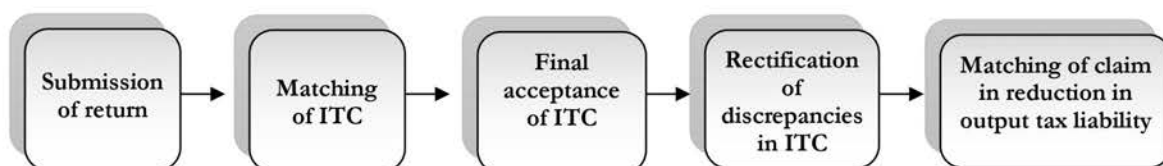
Reversal/payment of ITC thereon = Rs.5,000 being higher of the above.

10.8 FILING OF RETURNS IN GST

Return Form is a blank document or a template supplied by the government for use in reporting tax information to the government. Entities fill up the form and file it to the government as a Return. This process is known as Return Filing.

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 etc. It is important to note that a taxpayer is NOT required to file all types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake. Under GST, everything will be online and will be updated regularly.

The entire procedure of filing returns can be divided into 5 parts as follows



Following returns have been specified in GST Law :

| Form No | Periodicity/Due date | Who is required to file | Description |
|---|--|---|--|
| GSTR-1 [Sec. 37(1) and rule 59] | <ul style="list-style-type: none"> Temporarily, it is quarterly in case of registered persons having aggregate turnover of up to Rs.1.5 crore in the preceding financial year or in the current financial year (NN 32/2018-CT). Due date : Last day of the month following the end of the quarter [NN 33/2018-CT] In any other case, Monthly by 10th of next month | Every Registered Person (including casual registered person) except the following: <ul style="list-style-type: none"> ✓ Input Service Distributor (ISD) ✓ Non-Resident Taxable Person (NRTP) ✓ Composition Levy Supplier (CLS) ✓ Person deducting tax at source (TDS) ✓ E-Commerce Operator (ECO) ✓ Supplier of Online Information and Data Retrieval (OIDAR) Service | Monthly/Quarterly Statement of Outward supplies of Goods or Services. If no outward supplies 'nil' return is required to be filed. |
| GSTR-2 [Sec. 38(1) and rule 60] | Monthly by 15 th of next month | Every Registered Person (including casual registered person) except the following: <ul style="list-style-type: none"> ✓ ISD ✓ NRTP ✓ CLS ✓ TDS ✓ ECO ✓ Supplier of OIDAR services | Monthly Statement of Inward supplies of Goods or Services. If no inward supplies 'nil' return is required to be filed. |
| GSTR-3 [Sec. 39(1) and rule 61] | Monthly by 20 th of next month | Every Registered Person (including casual registered person) except the following: <ul style="list-style-type: none"> ✓ Input Service Distributor (ISD) | Monthly Return for a normal taxpayer. It is a consolidated return |

| | | | |
|--|---|--|---|
| | | <ul style="list-style-type: none"> ✓ Non-Resident Taxable Payer (NRTP) ✓ Composition Levy Supplier (CLS) ✓ Person deducting tax at source (TDS) ✓ E-Commerce Operator (ECO) ✓ Supplier of Online Information and Data Retrieval Service (OIDAR) | wherein tax payer gives information of outward supplies, inward supplies, ITC availed, ITC utilized and tax paid in cash. [If a person has furnished a return in Form GSTR-3B, then he shall not be required to furnish return in Form GSTR-3] (Inserted by NN 49/2019 m.r.e.f. 1.7.2017) |
| Statement : GSTCMP-08 [Sec. 39(2) and rule 62] | Quarterly by 18 th of the month following the relevant quarter | Taxable Person opting for Composition Levy (CLS) and Person availing the benefit of NN 2/2019 (i.e. Concessional scheme) | Quarterly Return |
| Return : GSTR-4 [Sec. 39(2) and rule 62] | Annual by 30 th April of the next year. | Taxable Person opting for Composition Levy (CLS) and Person availing the benefit of NN 2/2019 (i.e. Concessional scheme) | Annual Return |
| GSTR-5 [Sec. 39(5) and rule 63] | Monthly by 20 th of next month | Non-resident Taxpayer (NRTP) | Monthly Return for a non-resident taxpayer |
| GSTR-6 [Sec. 39(4) and rule 65] | Monthly by 13 th of next month | Input Service Distributor (ISD) | Monthly Return for an Input Service Distributor (ISD) |
| GSTR-7 [Sec. 39(3) and rule 66] | Monthly by 10 th of next month | Tax Deductor at Source (TDS) | Monthly Return for authorities deducting tax at source (i.e. TDS) |
| GSTR-8 [Sec. 52(4) and rule 67] | Monthly by 10 th of next month | E-Commerce Operator (ECO) | Monthly Statement for E-Commerce Operator depicting supplies effecting through it |
| GSTR-9 [Sec. 44(1)] | Annual by 31 st Dec of the next year | Registered Person other than an ISD, TDS/TCS Taxpayer, Casual Taxable Person and Non-resident Taxpayer | Annual Return [Note : This return is compulsory if turnover of the tax payers is Rs.2 crore or more; Other tax payers however, can file it voluntarily] |
| GSTR-10 [Sec. 45(1)] | Within 3 months of the date of cancellation or the date of order of cancellation, whichever is later. | Taxable Person whose registration has been surrendered or cancelled | Final Return |

Revision of Returns : The mechanism of filing revised returns for any correction of errors/omissions has been done away with. The rectification of errors/omissions is allowed in the subsequent returns. However, no rectification is allowed :

- ♦ after furnishing the return for the month of September of the next financial year, or
 - ♦ furnishing of the relevant annual return,
- whichever is earlier.

'Nil' Returns : Every registered person covered by section 39(1) and 39(2) shall file a return for every tax period whether or not any supply of goods and/or services have been effected during such tax period.

Late fees [Section 47] : If GST return is not filed within the due date, the person shall be liable to pay the following late fees :

| Type of return | Late fees |
|---|---|
| (a) Return filed under section 37, 38, 39 (except GSTR 3B and GSTR 4) and 45. | Rs.100 per day but maximum of Rs.5,000. |
| (b) Return filed in Form GSTR 3B | <ul style="list-style-type: none"> ♦ If Central Tax Payable in Return is 'Nil' : Rs.10 per day ♦ In any other case : Rs.25 per day <p>[Vide N.N. 64/2017 dt. 15th Nov, 2017]</p> |
| (c) Return filed in Form GSTR 4 | <ul style="list-style-type: none"> ♦ If Central Tax Payable in Return is 'Nil' : Nil ♦ In any other case : Rs.25 per day <p>[Vide N.N. 73/2017 dt. 29th Dec, 2017]</p> |
| (d) Return filed under section 44 | Rs.100 per day but maximum of 0.25% of the turnover in the State/UT. |

10.9 PAYMENT OF GST

As India is moving towards digitisation, GST has provided an easy and simple way of payment of taxes. Under GST regime, all the taxpayers will get three electronic ledgers namely

- ♦ E-Cash Ledger [Form GST PMT-05]
- ♦ E-Credit Ledger [Form GST PMT-02] and
- ♦ E-Liability Ledger [Form GST PMT-01]

Summarized provisions for these ledgers are as under :

| Ledger | Statutory provisions | Credit entries | Debit entries |
|--|--|--|--|
| Electronic Cash Ledger [Form GST PMT-05] | <p>Section 49(1) : Every deposit made towards tax, interest, penalty, fee or any other amount by a person by net banking or by using credit or debit cards or NEFT or RTGS etc. shall be credited to it.</p> <p>Note : These payments can be made by generating an online Challan Form GST PMT-06.</p> | <p>This ledger is credited with the amount deposited to it towards :</p> <p>(a) Tax</p> <p>(b) Interest, penalty, fee or</p> <p>(c) Any other amount</p> <p>BY</p> <p>(i) Net-banking,</p> <p>(ii) Debit/Credit Card,</p> <p>(iii) NEFT, RTGS etc.</p> | <p>The amount available in this ledger may be used for making any payment towards :</p> <p>(a) tax,</p> <p>(b) interest, penalty, fees or</p> <p>(c) any other amount payable under this Act or rules</p> <p>Refund : The balance in the E-Cash/Credit Ledger after payment of tax, interest, penalty etc. may be refunded as per section 54.</p> |
| Electronic Credit Ledger [Form GST PMT-02] | <p>Section 49(2) : The ITC as self-assessed in the return of a registered person shall be credited to his E-credit ledger, in accordance with section 41.</p> | <p>The ITC as self-assessed in the return of a registered person shall be credited to this ledger.</p> <p>Note : If after availing ITC on goods or services or both, recipient</p> | <p>The amount available in this ledger may be used for making any payment towards :</p> <p>(a) output tax under this Act (i.e. CGST), or</p> |

| | | | |
|--|--|---|---|
| | As per section 41, the ITC can be credited to the E-Credit Ledger of every registered person IF it is based on proper Tax Invoices issued by the supplier. | fails to pay the value and tax to the supplier within a period of 180 days from the date of invoice thereof, the ITC so availed by the recipient shall be added to his output tax liability, along with interest thereon. | (b) output tax under IGST Act (i.e. IGST) |
| Electronic Liability Ledger [Form GST PMT-01] | Section 49(7) : All liabilities of a taxable person under this Act shall be recorded and maintained in an Electronic Liability Ledger in such manner as may be prescribed | This ledger shall be credited by the following amounts (liability is discharged by crediting) : (a) TDS deducted u/s 51 (b) TCS collected u/s 52 (c) Reverse Charge u/s 9(3) (d) Reverse Charge u/s 9(4) (e) Compounding levy u/s 10 | This ledger shall be debited by the following amounts (liability is created by debiting) : (a) tax, interest, late fee etc. payable as per the return or as determined by a Proper Officer; or (b) tax and interest payable as a result of mismatch under section 42/43/50; or (c) interest that may accrue from time to time. |

10.10 UTILISATION OF ITC [SECTION 49(5)]

The new indirect tax regime will follow a dual model of GST with the Centre and States simultaneously levying tax on a common base. On every transaction within state (Intra State)/ Union Territory, both Central GST and State GST/IGST will be levied, whereas on transactions between different states or a state and a union territory or between different union territories, Integrated GST will be levied. The input tax credit allowed can be utilised in the following manner :

| TOTAL ITC | | | | |
|--|--|--|--|--|
| INTRA-STATE ITC | | | INTER-STATE ITC | |
| CGST | SGST | Cess ¹ | IGST | Cess ¹ |
| It can be utilized in the following sequence : | It can be utilized in the following sequence : | It can be utilized in the following sequence : | It can be utilized in the following sequence : | It can be utilized in the following sequence : |
| 1. Paying CGST 2. Paying IGST | 1. Paying SGST 2. Paying IGST | 1. Paying Cess | 1. Paying IGST 2. Paying CGST 3. Paying SGST | 1. Paying Cess |

Note :

1. Cross utilisation of CGST and SGST is not available.

2. ITC of IGST to be fully utilised first [New section 49A] : The CGST (Amendment) Act, 2018 has inserted a new section 49A "Utilisation of input tax credit subject to certain conditions" in the CGST Act, 2017.

Section 49A provides that ITC of CGST, SGST/UTGST should be utilised towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilised fully towards such payment. Section 49A starts with a non obstante clause, "Notwithstanding anything contained in section 49...." Thus, the provisions of section 49A would prevail over the provisions of section 49.

3. New mechanism prescribed for utilisation of ITC [New rule 88A]

The amendment of section 49 and insertion of new section 49A vide the CGST (Amendment) Act, 2018 – which

prescribe utilization of ITC of IGST in a particular order - resulted in accumulation of ITC for one kind of tax in electronic credit ledger and discharge of liability for the other kind of tax through electronic cash ledger in certain scenarios.

The newly inserted section 49A of the CGST Act, 2017 provides that the ITC of IGST has to be utilized completely before ITC of CGST/SGST can be utilized for discharge of any tax liability. Further, as per the provisions of section 49 of the CGST Act, 2017, ITC of IGST has to be utilized first for payment of IGST, then CGST and then SGST in that order mandatorily. This led to a situation, in certain cases, where a taxpayer has to discharge his tax liability on account of one type of tax (say SGST) through electronic cash ledger, while the ITC on account of other type of tax (say CGST) remains un-utilized in electronic credit ledger.

The newly inserted rule 88A allows utilization of ITC of IGST towards the payment of CGST and SGST/UTGST in any order subject to the condition that the entire ITC of IGST is completely exhausted first before the ITC of CGST or SGST/UTGST can be utilized. The new rule provides as under:

- ♦ ITC of IGST should first be utilized towards payment of IGST.
- ♦ Remaining ITC of IGST, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order, i.e. ITC of IGST can be first utilized either against CGST or SGST.
- ♦ ITC of CGST, SGST/UTGST can be utilized towards payment of IGST, CGST, SGST/UTGST only after the ITC of IGST has first been utilized fully.

[Notification No. 16/2019 CT dated 29.03.2019 read with Circular No. 98/17/2019]

CBIC Clarification in respect of utilization of ITC under GST

CBIC has clarified that after the insertion of new rule 88A in the CGST Rules, 2017, the order of utilization of ITC will be as per the order (of numerals) given below:

| ITC of | Output IGST liability | Output CGST liability | Output SGST/ UTGST liability |
|---|-----------------------|--|------------------------------|
| IGST | Step (I) | Step (II) – In any order and in any proportion | |
| Step (III) : ITC of IGST to be completely exhausted mandatorily | | | |
| CGST | Step (V) | Step (IV) | Not permitted |
| SGST/UTGST | Step (VII) | Not permitted | Step (VI) |

The following illustration would further amplify the impact of newly inserted rule 88A:

Illustration:

Amount of ITC available and output tax liability under different tax heads

| Head | Output tax liability | ITC |
|-------------|----------------------|---------|
| IGST | Rs.1000 | Rs.1300 |
| CGST | Rs.300 | Rs.200 |
| SGST/UTGST | Rs.300 | Rs.200 |
| Total | Rs.1600 | Rs.1700 |

Option 1:

| ITC of | Discharge of output IGST liability | Discharge of output CGST liability | Discharge of output SGST/UTGST liability | Balance of ITC |
|---|---------------------------------------|--|--|-------------------|
| IGST | Rs.1000 | Rs.200 | Rs.100 | Rs.0 |
| ITC of IGST has been completely exhausted | | | | |
| CGST | Rs.0 | Rs.100 | - | Rs.100 |
| SGST/UTGST | Rs.0 | - | Rs.200 | Rs.0 |
| Total | Rs.1000 | Rs.300 | Rs.300 | Rs.100 |

Option 2:

| ITC of | Discharge of output IGST liability | Discharge of output CGST liability | Discharge of output SGST/UTGST liability | Balance of ITC |
|---|---------------------------------------|---------------------------------------|--|-------------------|
| IGST | Rs.1000 | Rs.100 | Rs.200 | Rs.0 |
| ITC of IGST has been completely exhausted | | | | |
| CGST | Rs.0 | Rs.200 | - | Rs.0 |
| SGST/UTGST | Rs.0 | - | Rs.100 | Rs.100 |
| Total | Rs.1000 | Rs.300 | Rs.300 | Rs.100 |

[Circular No. 98/17/2019 GST dated 23.04.2019]

4. Transfer of credit on obtaining separate registrations for multiple places of business within a State/Union territory [New rule 41A inserted in the CGST Rules, 2017]

Consequent to the introduction of enabling provisions for obtaining separate registrations for multiple places of business in a State/ Union territory, a new rule 41A has been inserted in the CGST Rules, 2017 to prescribe provisions for transfer of ITC in such situations. The rule has become effective from 01.02.2019.

The new rule lays down that a registered person (transferor) who has obtained separate registration for multiple places of business and who intends to transfer, either wholly or partly, the unutilised ITC lying in his electronic credit ledger to any or all of the newly registered place of business, should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations. Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC would get credited to his electronic credit ledger.

The ITC is transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration. Here, the 'value of assets' means the value of the entire assets of the business whether or not ITC has been availed thereon.

[Notification No. 03/2019 CT dated 29.01.2019]

10.11 INTEREST RATES IN GST - SUMMARY

| Sr. No. | Particulars | Relevant Section | Interest Rate (p.a.) |
|---------|-------------------------------|------------------|----------------------|
| 1. | Payment of Tax After Due Date | 50(1) of GST Act | 18% |

| | | | |
|----|--|---------------------------------|-----|
| 2. | Contravention output tax liability of the recipient in the return (Input Tax Credit has been claimed in excess or where it was not eligible to be claimed) | 50(3) read with Section 42(10) | 24% |
| 3. | Contravention output tax liability of the supplier in the return | 50(3) read with Section 43(10) | 24% |
| 4. | Interest on Delay In Payment of Refund | 56 read with Section 54(5) | 6% |
| 5. | Interest on Delay in Payment of Refund (In Respect of Appeal) | 54(12) read with Section 54(11) | 6% |
| 6. | Interest on Delay in Payment of Refund (Order Passed by Appellate Authority or Appellate Tribunal or Court) | Proviso of Section 56 | 9% |

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1 : The books and other records under section 35 are to be maintained at

- (a) Place where the books and accounts are maintained
- (b) Place of address of the Proprietor/ Partner/Director/Principal Officer
- (c) Principal place of business mentioned in the Certificate of Registration
- (d) Any of the above

Q 2 : In case, more than one place of business situated within a state specified in the Registration Certificate, the books and Accounts shall be maintained at

- (a) Each place of business pertaining to such place
- (b) Place where the books of accounts are maintained for all places situated within a state
- (c) At principal place of business covered mentioned in the Registration Certificate for all places of business in each state
- (d) Any of the above

Q 3 : Accounts are required to be maintained in

- (a) Manual form
- (b) Electronic form
- (c) Manual and electronic form
- (d) Manual or electronic form

Q 4 : Who among the following, even if not registered, is required to maintain records

- (a) Owner of warehouse

- (b) Owner of godown
- (c) Owner of any other place used for storage of goods
- (d) All the above

Q 5 : If a turnover during a financial year exceeds the prescribed limit, then accounts get audited by

- (a) Chartered Accountant
- (b) Cost Accountant
- (c) Either (a) or (b)
- (d) Both (a) and (b)

Q 6 : What accounts and records are required to be maintained by every registered taxable person at his principal place of business

- (a) account of production or manufacture of goods
- (b) inward or outward supply of goods and/or services
- (c) stock of goods
- (d) input tax credit availed
- (e) output tax payable and paid
- (f) All of the above

Q 7 : Can all the records be maintained in an electronic form?

- (a) Yes
- (b) No

- (c) Some records
- (d) Yes, if authenticated by digital signature

Q 8 : The time period prescribed for maintenance of accounts and records, if the taxable person is a party to an appeal or revision shall be-

- (a) 2 year after final disposal of such appeal or revision or proceeding, or until the expiry of 72 months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later
- (b) 2 year after final disposal of such appeal or revision or proceeding, or until the expiry of 36 from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later
- (c) 1 year after final disposal of such appeal or revision or proceeding, or until the expiry of 72 months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later
- (d) 1 year after final disposal of such appeal or revision or proceeding, or until the expiry of 40 months from the last date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later

Q 9 : Taxable person has to maintain his records for a period of

- (a) expiry of 72 months from the due date of filing of Annual Return for the year
- (b) expiry of 40 months from the due date of filing of Annual Return for the year
- (c) expiry of 30 months from the due date of filing of Annual Return for the year
- (d) expiry of 90 months from the due date of filing of Annual Return for the year

Q 10 : The details of outward supplies of goods or services shall be submitted by

- (a) 10th of the succeeding month
- (b) 18th of the succeeding month
- (c) 15th of the succeeding month
- (d) 20th of the succeeding month

Q 11 : Details of Outward supplies shall include

- (a) Invoice
- (b) Credit and Debit notes
- (c) Revised invoice issued in relation to outward supplies

- (d) All the above

Q 12 : The details of inward supplies of goods or services in Form GSTR 2 shall be submitted by

- (a) 10th of the succeeding month
- (b) 18th of the succeeding month
- (c) 15th of the succeeding month
- (d) 20th of the succeeding month

Q 13 : Every tax payer paying tax under section 10 (Composition levy) shall file the return in

- (a) Form GSTR 3 by 18th of the month succeeding the quarter
- (b) Form GSTR 4 by 18th of the month succeeding the quarter
- (c) Form GSTR 4 by 18th of the succeeding month
- (d) Form GSTR 4 by 20th of the month succeeding the quarter

Q 14 : Which of the following is correct?

- (a) Non-Resident taxable person shall file the return by 20th of succeeding month in Form GSTR 5
- (b) Input Service Distributor shall furnish the return by 13th of the succeeding month in Form GSTR 6
- (c) The person deducting tax at source (*i.e.* TDS) shall furnish the return by 10th of the succeeding month in Form GSTR 7
- (d) All the above

Q 15 : The e-commerce operator collecting tax under section 52 shall file its monthly return in

- (a) Form GSTR 8 by 18th of the succeeding month
- (b) Form GSTR 7 by 20th of the month succeeding the quarter
- (c) Form GSTR 8 by 17th of the succeeding month
- (d) Form GSTR 8 by 10th of the succeeding month

Q 16 : State which is a true statement:

- (a) The last date for payment of taxes to the appropriate government is the last date on which the registered taxable person is required to furnish the return
- (b) Every person who is required to furnish return under 39(1) and 39(2) shall furnish return for every tax period whether or not supplies have been effected during such period.
- (c) Both (a) and (b)
- (d) None of the above

Q 17 : Return filed can be rectified on the grounds of

- (a) Any omission or incorrect particulars
- (b) Omission or incorrect particulars found during Audit
- (c) Omission or incorrect particulars found during Scrutiny
- (d) Omission or incorrect particulars found during Inspection

Q 18 : What is the time limit for rectification of GST Return?

- (a) Return can be rectified within 6 months from the date of filing the return
- (b) Return can be rectified within 90 days from the date of filing the return
- (c) Return have to be rectified before the due date for filling the subsequent periods return
- (d) Return can be rectified before the due date for filing the returns for month of September or second quarter, as the case may be, following the end of the financial year.

Q 19 : The First return shall be filed by every registered taxable person for the period from

- (a) The date on which he became liable for registration till the date of grant of registration
- (b) The date of registration to the last day of that month
- (c) The date on which he became liable for registration till the last day of that month
- (d) All of the above

Q 20 : The details of inward supply furnished by the registered taxable person shall be matched with the

- (a) Corresponding details of outward supply furnished by the corresponding taxable person
- (b) Additional duty of customs paid under section 3(5) of the Customs Tariff Act, 1975
- (c) For duplication of claims of input tax credit
- (d) All of the above

Q 21 : Every registered taxable person shall be entitled to take credit of input tax in his return and such input tax credit shall be credited to

- (a) Personal Ledger Account
- (b) Refund account
- (c) Electronic Cash Ledger
- (d) Electronic Credit Ledger

Q 22 : The due date for furnishing the annual return for every financial year by every registered taxable person other than ISD, non-resident tax payer, a person paying tax under section 10, 51 or 52 and a casual taxable person is

- (a) 30th of September following the end of the financial year
- (b) 20th of October following the end of the financial year
- (c) 31st of December following the end of the financial year
- (d) 31st of May following the end of the financial year

Q 23 : Every registered taxable person who is required to get his accounts audited under section 35(5) shall furnish electronically

- (a) Annual return
- (b) Audited copy of annual accounts
- (c) Reconciliation statement reconciling the value of supplies declared in the return and the financial statement
- (d) All of the above

Q 24 : The annual return shall be filed by the registered taxable person (other than dealers paying tax under section 10) in form

- (a) GSTR 7
- (b) GSTR 9
- (c) GSTR 9A
- (d) GSTR 10

Q 25 : The final return shall be filed by the registered taxable person within

- (a) 3 months of the date of cancellation
- (b) Date of order of cancellation
- (c) Later of the (a) or (b)
- (d) Earlier of the (a) or (b)

Q 26 : Any registered taxable person who fails to furnish the details and file the return (other than Annual Return) within the due date prescribed shall be liable to

- (a) Interest at the rate of 1% per month
- (b) Late fee of Rs. 100 for every day subject to maximum of Rs. 5,000
- (c) Both (a) and (b)
- (d) None of the above

Q 27 : Which of the following is correct?

- (a) Failure to file annual return within due date attracts a late fee of Rs. 100 per day up to 0.25% of his turnover
- (b) Failure to file annual return within due date attracts late fee of 1% of his turnover till the failure continues
- (c) Failure to file annual returns within due date attracts a late fee of Rs. 100 per day up to 1% of his turnover.
- (d) On failure to file annual return within due date the proper officer shall issue a notice of non-filing on such person

Q 28 : How the aggregate turnover of Rs. 20 Lakh is calculated?

- (a) Aggregate value of all taxable supplies, exempt supplies, export of goods/services and interstate supplies of a person having same PAN computed on all India basis.
- (b) Aggregate value of all taxable supplies, exempt supplies, export of goods/services and interstate supplies of a person computed for each state separately.
- (c) Aggregate value of all taxable intrastate supplies, export of goods/services and exempt supplies of a person having same PAN computed for each state separately.
- (d) Aggregate value of all taxable supplies, exempt supplies, export of goods/services and interstate supplies of a person having same PAN computed on all India basis and excluding taxes if any charged under CGST Act, SGST Act and IGST Act.

Q 29 : Whether all persons are mandatorily required to obtain registration?

- (a) Yes
- (b) Not required if he is an agriculturist or person exclusively engaged in supplying exempt goods or services and for others if specified threshold limit exceeds in a financial year.
- (c) Not required if he is an agriculturist or person exclusively engaged in supplying exempt goods or services.
- (d) No, only if specified threshold exceeds in a financial year then only need to obtain.

Q 30 : Which one of the following is true?

- (a) A person can't collect tax unless he is registered.
- (b) Registered person not liable to collect tax till his aggregate turnover exceeds Rs.20 lakhs/ Rs.10 Lakhs as the case may be.
- (c) TDS deductor can deduct GST even if he is not registered.

- (d) Both (a) and (b) are correct.

Q 31 : Which of the following forms are used for registration?

- (a) Form GSTR-1
- (b) Form GSTR-2
- (c) Form GST REG-01
- (d) Form GST REG

Q 32 : Within how many days a person should apply for registration?

- (a) Within 60 days from the date he becomes liable for registration.
- (b) Within 30 days from the date he becomes liable for registration.
- (c) No Time Limit
- (d) Within 90 days from the date he becomes liable for registration.

Q 33 : A person having ____ business verticals in a State ____ obtain a separate registration for each business vertical.

- (a) Single, shall
- (b) Multiple, shall
- (c) Multiple, may
- (d) Single, May

Q 34 : Which one of following statements are correct?

- (a) Voluntary registration is not possible under GST.
- (b) Voluntarily registered person not liable to comply with all the provisions of the GST.
- (c) A person may get himself registered voluntarily and shall comply with all the provisions of GST.
- (d) None of the above.

Q 35 : PAN issued under the Income Tax Act is mandatory for grant of registration.

- (a) Yes in case of every applicant.
- (b) Yes, but non-resident taxable person may be granted registration on the basis of any other document.
- (c) No, Aadhaar Card can be used as a substitute.
- (d) Both (b) and (c)

Q 36 : What is the validity of the registration certificate?

- (a) One year
- (b) No validity
- (c) Valid till it is cancelled.
- (d) Five years.

Q 37 : A person not required to obtain registration if he is required to pay tax under reverse charge and there are no taxable supplies made by him.

- (a) Incorrect, if person who are required to pay tax under reverse charge, irrespective of threshold shall obtain registration.
- (b) Incorrect, if person who are required to pay tax under reverse charge obtain registration only if such value of supplies under reverse charge exceeds rupee 20/10 lakh.
- (c) Above statement is correct.
- (d) A person is required to obtain registration if he is required to pay tax under reverse charge and also he is making taxable supplies irrespective of the threshold limit.

Q 38 : What is the validity of the registration certificate issued to casual taxable person and non-resident taxable person?

- (a) 90 days from the effective date of registration
- (b) Period specified in the application for registration
- (c) Earliest of (a) or (b) above
- (d) 180 days from the effective date of registration.

Q 39 : Which of the following requires amendment in the registration certificate?

- (a) Change of name of the registered person
- (b) Change in constitution of the registered person
- (c) Switching over form composition scheme to normal scheme or vice versa.
- (d) All of the above

Q 40 : When can a voluntarily registered person's registration be cancelled?

- (a) If the person does not start business within six months from the date of registration.
- (b) Business has been discontinued or transferred for any reason.
- (c) Non-filing of returns for a continuous period of 6 months or for 3 consecutive tax period in case of composite dealer.
- (d) All of the above

Q 41 : Does cancellation of registration under CGST affect the liability under SGST/IGST for period prior to cancellation of registration?

- (a) Cancellation does not affect the liability of taxable person to pay tax and other dues under CGST/SGST/IGST Act.
- (b) Cancellation of registration will immune his liability under CGST only.
- (c) Cancellation of registration will immune his liability under IGST only.
- (d) Cancellation of registration will immune his liability under SGST and CGST but not under IGST.

Q 42 : Can a person apply for registration to pay tax u/s 10 for any of his business verticals at his choice?

- (a) Yes, irrespective of the registration status of other business verticals.
- (b) No all of his other business verticals also should have obtained registration for paying tax under section 10.
- (c) Yes, provided majority of the business verticals are paying under section 10.
- (d) Yes, if all the business vertical in a state are obtained registration to pay tax under section 10.

Q 43 : An Unique Identity Number can be allotted to :

- (a) All the taxable persons can apply.
- (b) Only unregistered persons can apply.
- (c) Specialized agency of the UNO or any multilateral financial institution or consulate or embassy of foreign countries.
- (d) No such concept under CGST/SGST Act.

Q 44 : Every registered taxable person shall display his certificate of registration in a prominent location at his principal and at every other place of business also GSTIN shall be displayed on the name board at the entry of such places.

- (a) No, certificate of registration to be displayed only at a registered place of business and GSTIN need not be displayed on the name board.
- (b) Yes above statement is correct.
- (c) No, GSTIN to be displayed only on the invoices.
- (d) Above statement is correct subject to certificate of registration to be displayed only at registered place of business.

Q 45 : State which of the following statement is correct in respect of obtaining a separate registration for Business verticals:

- (a) Person can obtain centralized registration.
- (b) Person shall obtain a separate registration for each of his verticals.
- (c) He can have only two registration in a state.
- (d) Either (a) or (b).

Q 46 : Business which has centralized registration under existing act.

- (a) Shall obtain a centralized registration under GST Law.
- (b) Shall obtain separate registration in each state from where it is making taxable supplies
- (c) Shall obtain registration on temporary basis.
- (d) No need to apply for registration under GST.

Q 47 : Registration certificate is issued in _____.

- (a) Form GST REG-06.
- (b) Form GST REG-07.
- (c) Form GST REG-08.
- (d) Form GST REG-09.

- (a) Can be cancelled any time after obtaining it.
- (b) Can be cancelled within 30 days of its obtaining date.
- (c) Cannot be cancelled within 1 year from the date of its obtaining.
- (d) Cannot be cancelled within 6 months from the date of its obtaining.

Q 48 : Registration certificate consists of _____ digits of which first _____ for state code, next _____ for PAN, next _____ for entity code and last _____ checksum character.

- (a) 16, 2, 10, 2 and 2
- (b) 15, 1, 10, 2 and 2
- (c) 15, 3, 10, 1 and 1
- (d) 15, 2, 10, 2 and 1.

Q 50 : Every person whose registration is cancelled shall pay (by cash or by reversal of credit),

- (a) ITC on input, capital goods and plant & machinery
- (b) Output tax on such goods
- (c) Higher of (a) and (b)
- (d) Lower of (a) and (b)

Q 49 : Voluntary registration

ANSWERS to MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | C | 2 | A | 3 | D | 4 | D | 5 | C |
| 6 | F | 7 | D | 8 | C | 9 | A | 10 | A |
| 11 | D | 12 | C | 13 | B | 14 | D | 15 | D |
| 16 | B | 17 | A | 18 | D | 19 | A | 20 | D |
| 21 | D | 22 | C | 23 | D | 24 | B | 25 | C |
| 26 | B | 27 | A | 28 | D | 29 | B | 30 | A |
| 31 | C | 32 | B | 33 | C | 34 | C | 35 | B |
| 36 | C | 37 | A | 38 | C | 39 | D | 40 | D |
| 41 | A | 42 | B | 43 | C | 44 | B | 45 | B |
| 46 | B | 47 | A | 48 | D | 49 | C | 50 | C |

REFUNDS, ASSESSMENT AUDIT AND ARREST



REFUNDS : Timely refund mechanism is essential in tax administration, as it facilitates trade through the release of blocked funds for working capital, expansion and modernisation of existing business.

ASSESSMENTS : Assessment means determination of tax liability and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment.

AUDIT : GST is a trust based taxation regime wherein the assessee is required to self-assess his returns and determine tax liability without any intervention by the tax official. Therefore a tax regime that relies on self-assessment has to put in place a robust audit mechanism to measure and ensure compliance of the provisions of law by the taxable person.

SEARCH & SEIZURE : In any tax administration the provisions for Inspection, Search, Seizure and Arrest are provided to protect the interest of genuine tax payers (as the Tax evaders, by evading the tax, get an unfair advantage over the genuine tax payers) and as a deterrent for tax evasion.

6.1 REFUNDS [SECTION 54 OF CGST]

1. Refunds

Refund refers to an amount that is due to the tax payer from the tax department. According to section 54 of the CGST Act, 2017, any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application **before the expiry of two years from the relevant date**. If after payment of tax, interest, penalty, fee etc. there is any balance in the E-Cash Ledger or E-Credit Ledger of a registered person, he may claim refund of such amount in his return furnished under section 39.

This section deals with the legal and procedural aspects of claiming refund by any person in respect of –

- (a) Any tax (which was excess paid);
- (b) Interest paid on such tax; or
- (c) Any other amount paid (which is not required to have been paid);
- (d) Input tax relating to goods and/or services that are exported out of India;
- (e) Tax on inputs or input services “used” in the goods and/or services which are exported out of India including zero rated supply;
- (f) tax on the supply of goods regarded as deemed exports;
- (g) unutilized input tax credit at the end of tax period in cases of :
 - (i) Exports, other than when
 - ✓ goods are subjected to export duty

- ✓ the supplier avails drawback of central tax or claims refund of integrated tax paid on such supplies.
- (ii) Input tax rate being higher than output tax rate, other than NIL rated or fully exempted. **[Other than railway or tramway goods like coaches, locomotive and its parts etc. specified in NN 5/2017-CT (Rates). However, w.e.f. 26.7.2018 vide NN 20/2018-CT(Rates), woven fabrics are omitted from principal NN 20/2018)]**

This Section provides for conditions and procedures for claiming refund without specifying all the circumstances in which the refund will be eligible to an applicant. Thus, it can be inferred that refund is possible only when tax, interest or any other amounts are physically paid in cash and in respect of exports/deemed exports in the form of input tax.

2. Relevant date for filing a refund claim

The relevant date is crucial to determine the time within which the refund claim has to be filed. If the refund claim is made after the relevant date, the refund claim would be rejected at the threshold and there is no provision in the Act to condone the delay in filing refund claim and accept delayed refund claims.

Depending upon the situations, the 'relevant date' is as under :

| Situation of Refund | 'Relevant Date' within 2 years of which refund claim can be filed |
|--|--|
| 1. Refund of tax paid on goods exported itself or tax paid on inputs/input service : <ul style="list-style-type: none"> ◆ If exported by sea or air ◆ If exported by land ◆ If exported by post | Date when the ship or the aircraft leaves India Date when such goods pass the Customs frontier; or Date of dispatch of goods by concerned Post Office to a place outside India |
| 2. Deemed exports supply of goods | The date on which the return relating to such deemed exports is furnished. |
| 3. Refund of tax paid on such services exported itself or tax paid on inputs/input Service <ul style="list-style-type: none"> ◆ If supply of service is completed prior to the receipt of payment ◆ If payment for the service received in advance prior to the date of issue of invoice | Date of receipt of payment in convertible foreign exchange Date of issue invoice. |
| 4. Refund of tax as a consequence of judgment, decree, order or direction of Appellate authority, Tribunal or any Court | The date of communication of such judgement or decree or order etc. |
| 5. Refund of unutilized input tax credit accumulated due to exports including zero rated supplies | The end of the financial year in which such claim for refund arises; |
| 6. Provisionally paid tax | The date of adjustment of tax after the final assessment |
| 7. In the case of a person, other than the supplier, | The date of receipt of goods or services or both by such person; and |
| 8. In any other case | The date of payment of tax |

3. Documents to be furnished for claiming refund

The refund application shall be accompanied by:

- (i) *Documentary evidence* to establish that a refund is due to the applicant
- (ii) *Declaration – incidence of tax not passed on i.e.* Evidence to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person

However, where the amount claimed as refund is less than Rs.2,00,000 then it shall NOT be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

4. Refund order

Provisions relating to refund order are as under :

- ◆ **REFUND ORDER** : After receipt of the application or declaration as the case may be, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order within **sixty days** from the date of receipt of application and the amount so determined shall be credited to the Consumer Welfare Fund.
- ◆ **PROVISIONAL REFUND** : In case of refund claim by persons other than notified registered person where refund is on account of export of goods and/or services, the proper officer may refund 90% of the total amount claimed (excluding input tax credit not yet finalized). This refund of 90% will be on a provisional basis, and will be subject to conditions, limitations and safeguards. Remaining 10% may be refunded after due verification of documents furnished by the applicant.
- ◆ **NO REFUND** : Refund shall NOT be granted or paid to an applicant, if the amount is less than Rs.1,000.

6.2 CONSUMER WELFARE FUND

Refund is normally credited to the Consumer Welfare Fund constituted by the Government *except* if amount is relatable to :

- (a) Refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- (b) Refund of unutilised input tax credit under sub-section (3) [Sub-section (3) covers two cases : (i) Zero rated supplies made without payment of tax; (ii) Credit accumulated on account of rate of tax on inputs higher than the rate of tax on outputs];
- (c) Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) Refund of tax in pursuance of section 77 (*i.e.* wrongly collected and paid GST *e.g.* CGST and SGST collected and deposited to the Govt. in place of IGST);
- (e) The tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) The tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify [Section 54(8)]

Section 57 of the CGST Act, 2017 states that the following amounts will be credited in the Consumer Welfare Fund :

- (i) the amount referred to in sub-section (5) of section 54;
- (ii) any income from investment of the amount credited to the Fund; and
- (iii) such other monies received by it

All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed. The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

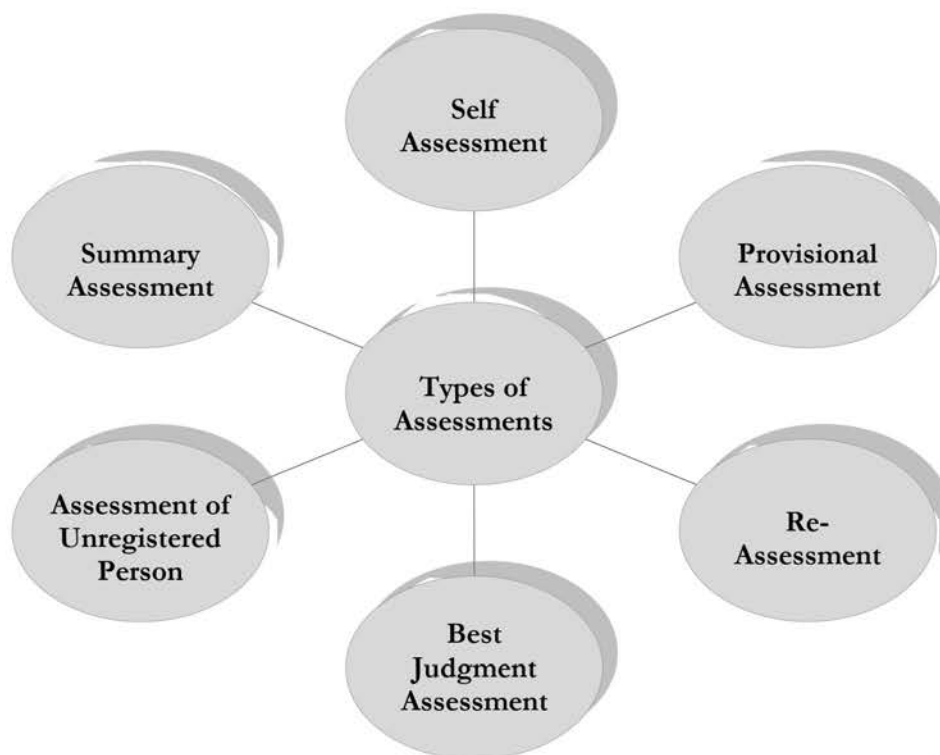
Interest on delayed refunds

Section 56 of the CGST Act, 2017 states that if any tax ordered to be refunded under section 54 is not refunded within 60 days from the date of receipt of application interest shall be payable to the applicant as under :

- ◆ *Rate* : At such rate not exceeding 6% p.a. six per cent. as may be specified in the notification.
- ◆ *Period* : From the date immediately after the expiry of said 60 days till the date of payment of such refund.

6.2 ASSESSMENTS IN GST

Assessment means determining the tax liability. Under CGST Act, 2017 assessment can be of following types :



Assessments under GST :

| | |
|---|---|
| Self-Assessment [Section 59] | Section 59 of the CGST Act, states that every registered person is required to self-assess the taxes payable under this Act and furnish a return for each tax period. |
| Provisional Assessment [Section 60] | <p>1. PROVISIONAL ASSESSMENT WHEN : A provisional assessment is made when the taxable person is unable to determine –</p> <ul style="list-style-type: none"> (a) the value of goods/services (E.g. transaction value, inclusion/exclusion in it), or (b) the rate of tax applicable to such supply (E.g. classification of goods/services, eligibility of exemptions notifications etc.) <p>Except for the above instances <i>i.e.</i> the value or rate of tax applicable thereto the facility of provisional assessment is not available in any other instance. For example, there may be uncertainty about the kind of tax (IGST or CGST-SGST) applicable, time of supply, supplies to be treated as “supply of goods” or “supply of services”, etc. In these cases, no recourse is available to the taxable person to seek provisional assessment of tax.</p> <p>2. REQUEST TO PROPER OFFICER : Taxable person can then request the proper officer in writing giving reasons for payment of tax on a provisional basis.</p> <p>3. ORDER OF PROVISIONAL ASSESSMENT : After such request, the Proper Officer shall pass an order, within a period not later than 90 days from the date of receipt of such request, and thereby allowing the taxable person to pay tax on provisional basis at such rate or on such value as may be specified by him.</p> |

| | |
|--|--|
| | <p>4. FINAL ASSESSMENT : After passing of provisional assessment order, the Proper Officer is required to pass final assessment order within 6 months from the date of the communication of order. The period of said 6 months may be extended as under :</p> <ul style="list-style-type: none"> ✓ <i>by JC or AC :</i> any further period not exceeding 6 months, ✓ <i>by Commissioner :</i> any further period not exceeding 4 years. |
| Scrutiny Assessment [Section 61] | <p>This section provides as under :</p> <p>(1) The proper officer MAY scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.</p> <p>(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.</p> <p>(3) In case no satisfactory explanation is furnished within a period of 30 days of being informed under sub-section (1) above, the proper officer may initiate appropriate action including those -</p> <ul style="list-style-type: none"> ✓ under section 65 (<i>i.e.</i> Audit by Tax Authorities), or ✓ under section 66 (<i>i.e.</i> Special audit by Chartered Accountant or Cost Accountant nominated by Commissioner), or ✓ under section 67 (<i>i.e.</i> Inspecting any places of business of the taxable person), or <p>proceed to determine the tax and other dues under section 73 or section 74 (<i>i.e.</i> to determine tax not paid or short paid etc. in non-fraud cases or as the case may be in fraud cases)</p> |
| Assessment of non-filers of return [Section 62] | <p>Non-filers mean those taxable persons who were required to file their return but they didn't file those returns.</p> <p>1. APPLICABILITY OF THIS SECTION : Section 62 of the Act can be invoked only in case of registered taxable persons who have failed to file returns, as required, under Section 39 or final return on cancellation of registration under Section 45. Under this section, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered.</p> <p>2. TIME LIMIT FOR ORDER – 5 YEARS : The order under this section should be passed within a period of 5 years from the 'due date' of filing of annual return for the year under assessment (<i>i.e.</i> 31st December of the year succeeding to the year under assessment).</p> <p>3. ISSUANCE OF NOTICE IS NECESSARY : It should be noted that before commencing assessment under this section, the proper officer is required to issue a notice under Section 46 for requiring the taxable person to furnish his return within a period of 15 days of this notice. Non-issuance of notice under Section 46 closes the door on invoking Section 62 although other provisions are available to recover the tax dues.</p> <p>4. WITHDRAWAL OF ASSESSMENT, IF VALID RETURN FILED : If a registered person furnishes a 'valid return' within 30 days of the service of assessment order, the said assessment order shall be deemed to be withdrawn. 'Valid return' is defined in per Section 2(117) to mean a return filed under Section 39(1) of the Act on which self-assessed tax has been paid in full. In order to avail the facility of withdrawal of the assessment order passed, filing of a valid return is required, including payment of taxes declared therein.</p> |
| Assessment of unregistered person [Section 63] | <p>Provisions of this section are as under :</p> <p>1. APPLICABILITY OF THIS SECTION : Assessment under section is made :</p> <ul style="list-style-type: none"> (i) where a taxable person fails to obtain registration even though liable to do so; or (ii) where registration of a taxable person has been cancelled under section 29(2) (<i>i.e.</i> cancellation for non-compliance of provisions of this law) but he was liable to pay taxes. |

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| | <p>2. ASSESSMENT ORDER : In the above cases, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement for the relevant tax periods and issue an assessment order.</p> <p>3. TIME LIMIT : The order under section should be passed within a period of 5 years from the 'due date' of filing of annual return for the year under assessment (<i>i.e.</i> 31st December of the year succeeding to the year under assessment).</p> <p>4. OPPORTUNITY OF BEING HEARD : Assessment under this section shall NOT be passed without giving the person an opportunity of being heard.</p> |
| Summary Assessment [Section 64] | <p>The word "summary assessment" is generally used in a tax legislation to denote 'fast track assessment' based on return filed by the assessee to make <i>prima facie</i> adjustments.</p> <p>In the GST Act, it is used to denote those assessments which are completed <i>ex-parte</i> and on priority basis when there is reason to believe that there will be loss of tax revenue, if such assessment is delayed.</p> <p>This section provides as under :</p> <p>The proper officer may, on any evidence showing a tax liability of a person (with the previous permission of AC or JC) proceed to assess this case to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue</p> <p>Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section</p> |

6.3 AUDIT

Audit under GST can be of following two types :

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| General Audit (i.e. Audit by Department) [Section 65] | <p>This section provides that the Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. As per the draft Assessment and Audit Rules, the period of audit under this section shall be a financial year or multiples thereof. The frequency and manner for conducting such audit are yet to be prescribed.</p> <p>A prior notice of not less than 15 working days will be sent to the registered person before the audit is conducted. The audit needs to be completed within a period of 3 months from the date of commencement thereof, but a further extension for a period of 6 months may be provided by the Commissioner for the reasons recorded in writing. On conclusion of audit, the proper officer shall, within 30 days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.</p> <p>During the course of audit, the Authorised Officer may require the registered person,—</p> <ol style="list-style-type: none"> to afford him the necessary facility to verify the books of account or other documents; to furnish such information as he may require and render assistance for timely completion of the audit. |
| Special Audit (i.e. Audit by CAs) [Section 66] | <p>1. Special audit when : This section provides as under :</p> <ul style="list-style-type: none"> – If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, – any officer not below the rank of Assistant Commissioner, – having regard to the nature and complexity of the case and the interest of revenue, |

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| | <ul style="list-style-type: none"> – is of the opinion that : <ul style="list-style-type: none"> ✓ the value has not been correctly declared, or ✓ the credit availed is not within the normal limits, – he may, with the prior approval of the Commissioner, – direct such registered person by a communication in writing to get his records and books of account examined and audited – by a Chartered Accountant or Cost Accountant, nominated by the Commissioner. <p>2. Time limit for submitting the Audit Report : A report of audit signed and certified by the appointed Chartered Accountant or Cost Accountant is required to be submitted within 90 days although this period can be further extended to 90 days. The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit which is proposed to be used in any proceedings against him.</p> <p>3. Cost of such audit to be born by the department : The expenses of the examination and audit of records under this section, including the remuneration of such Chartered Accountant or Cost Accountant, shall be determined and paid by the Commissioner and such determination shall be final.</p> |
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6.4 INSPECTION, SEIZURE AND RELATED PROVISIONS

1. Inspection : “Inspection” means, careful examination or scrutiny. Under Goods and Services Tax (GST), there is a provision of inspection which acts as deterrent* (**intended to discourage someone*) for tax evasion. These provisions help restricting tax evaders gain unfair advantage over authentic tax payers. Chapter XIV of the Central Goods and Services Tax Act, 2017 deals with the provisions of Inspection, Search, Seizure and Arrest. Section 67 read with Rules relating thereto states that where the proper officer, not below the rank of Joint Commissioner, *has reasons to believe that :*

- (a) a taxable person
 - ✓ has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand
 - ✓ has claimed input tax credit in excess of his entitlement
 - ✓ has indulged in contravention of this Act or Rules made thereunder to evade tax
- (b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

the officer may authorise in writing any other officer of Central tax or State tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

2. Seizure : Seizure is defined as taking of something by force. Section 67 of Central Goods and Services Tax Act, 2017, read with respective rules states provisions relating to seizure. The salient points of seizure are as follows:

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| ♦ Order of Seizure | a proper officer not below the rank of Joint Commissioner or an officer authorised by such proper officer can make an order of seizure in form GST INS-02. |
| ♦ Order of Prohibition | Where Goods cannot be seized the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST INS-03 that he shall not |

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| | remove, part with, or otherwise deal with the goods except with the previous permission of such officer |
| ♦ Preparation of Inventory | When goods are seized the officer is required to prepare an inventory of such goods or books or documents seized containing, inter alia, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized. |

3. Bond for release of seized goods

Goods seized by a proper officer or an authorised officer can be released on a provisional basis upon execution of a bond for the value of goods and furnishing of a security. The bond so executed will be in Form GST INS-04 and the security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable. In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.

4. Procedure in respect of seized goods

If the goods so seized are of perishable or hazardous nature, such goods can be released by an order under Form GST INS-05 only after the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower and produce the proof of payment. If the taxable person doesn't pay the amount, the Commissioner has the power to dispose of such goods or things and the amount realized thereby will be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.

5. Arrest

Section 69 of the CGST Act, 2017 grants power to a Commissioner to authorise any officer of Central Tax to arrest such person who has committed following offence :

- supplies any goods or services or both without issue of any invoice, with the intention to evade tax
- issues any invoice or bill without supply of goods or services or both leading to wrongful availment or utilisation of input tax credit or refund of tax
- avails input tax credit using such invoice or bill without supply of goods or services or both
- collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due

When a person commits any of the offences stated above, the punishment will be as follows **[Section 132(1)]** :

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| If such tax or credit etc. > Rs.5 crore | Imprisonment for a term which may extend to 5 years and with fine |
| If such tax or credit etc. > Rs.2 crore but ≤ Rs.5 crore | Imprisonment for a term which may extend to 3 years and with fine |
| If such tax or credit etc. > Rs.1 crore | Imprisonment for a term which may extend to 1 year and with fine |

Note : A Person can be arrested only if the evasion of tax/credit exceeds Rs. 2 crore.

[Section 132 (2)]

Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

6. Safeguards for a person who is placed under arrest

There are certain safeguards provided under section 69 for a person who is placed under arrest. These are:

- ◆ **PRODUCTION BEFORE MAGISTRATE WITHIN 24 HOURS** : If a person is arrested for a cognizable offence, he must be informed in writing of the grounds of arrest and he must be produced before a magistrate within 24 hours of his arrest;
- ◆ **BAILABLE OFFENCES - RELEASE ON BAIL** : If a person is arrested for a non- cognizable and bailable offence, the Deputy/ Assistant Commissioner can release him on bail and he will be subject to the same provisions as an officer in-charge of a police station under section 436 of the Code of Criminal Procedure, 1973;
- ◆ **ARREST AS PER CPC, 1973** : All arrest must be in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrest.

Section 132 of the Act also prescribes which types of offences are cognizable and non-bailable and which types of offences are non-cognizable and bailable.

Meaning of cognizable offence. Generally, cognizable offence means serious category of offences in respect of which a police officer has the authority to make an ARREST WITHOUT A WARRANT and to start an investigation with or without the permission of a court.

Meaning of non-cognizable offence. Non-cognizable offence means relatively less serious offences in respect of which a police officer does not have the authority to make an arrest without a warrant and an investigation cannot be initiated without a court order.

7. Cognizable and non-cognizable offences under CGST

In section 132 of CGST Act, it is provided that the offences relating to taxable goods and /or services where the amount of tax evaded or the amount of input tax credit wrongly availed or the amount of refund wrongly taken exceeds Rs. 5 crore, it shall be cognizable and non- bailable and in such cases the bail can be considered by a Judicial Magistrate only. Other offences under the Act are non-cognizable and bailable and all arrested persons shall be released on bail by Deputy/ Assistant Commissioner.

8. Confiscation of goods [Section 130]

Goods become liable to confiscation when any person does the following:

- (i) supplies or receives any goods in contravention of any of the provisions of this Act or rules made thereunder leading to evasion of tax;
- (ii) does not account for any goods on which he is liable to pay tax under this Act;
- (iii) supplies any goods liable to tax under this Act without having applied for the registration;
- (iv) contravenes any of the provisions of the CGST Act or rules made thereunder with intent to evade payment of tax.

The person from whom documents and books of accounts are thus seized, shall have the right to take copies of such documents and books of accounts, subject to the approval of the Proper Officer.

MULTIPLE CHOICE QUESTIONS (MCQs)

REFUNDS

Q 1 : If export is made by sea then refund can be claimed within 2 years from :

- (a) The date when ship or aircraft leaves India
- (b) The date when goods meant for export enter the custom frontiers
- (c) The date of payment of GST
- (d) The date as may be specified in the order for clearance of goods meant for export

Q 2 : If services are exported and they're completed prior to receipt of payment, the refund claim can be filed within 2 years from :

- (a) The date of completion of service
- (b) The date of receipt of payment in convertible foreign currency
- (c) Earlier of (a) and (b)
- (d) Later of (a) and (b)

Q 3 : Refund in case of unutilised input tax credit can be claimed within 2 years from :

- (a) The date of furnishing of annual return
- (b) The date of completion of relevant quarter
- (c) The date of furnishing of GSTR1 for the September month of succeeding financial year
- (d) The end of the financial year in which such claim for refund arises

Q 4 : Refund shall not be granted or paid to the applicant if the amount is :

- (a) More than rupee one crore
- (b) Less than rupee 100
- (c) Less than rupee 1000
- (d) More than 10% of the annual turnover of applicant

Q 5 : If after passing the refund order refund is not granted within a period of _____, then applicant shall also be granted interest @ _____.

- (a) 60 days; 6% per annum
- (b) 30 days; 8% per annum
- (c) 90 days; 5% per annum
- (d) 1 month; 12% per annum

Q 6 : A registered person claiming refund of balance in electronic cash ledger may make such a claim in :

- (a) Application for refund
- (b) Annual Return

- (c) Returns filed at the end of tax periods
- (d) None of the above

Q 7 : Sometimes refunds are allowed on a provisional basis; what is the percentage of these provisional refunds?

- (a) 70%
- (b) 65%
- (c) 80%
- (d) 90%

Q 8 : The applicant is not required to furnish documentary evidence (but only a declaration) if the amount of refund claimed is less than:

- (a) Rs 6 lacs
- (b) Rs 2 lac
- (c) Rs 10 lac
- (d) Rs 20 lac

Q 9 : The time limit to proper officer to pass final order after accepting the refund application is -

- (a) Within sixty days from the date of receipt of application.
- (b) Within eighty days from the date of receipt of application.
- (c) Within ninety days from the date of receipt of application.
- (d) Within thirty days from the date of receipt of application.

Q 10 : The refund application shall be accompanied by an evidence to establish that _____.

- (a) The application is filed within 2 years from the 'relevant date'.
- (b) The amount of refund is not less than Rs. 1,000.
- (c) The incidence of tax had not been passed on to any other person.
- (d) All of the above.

ASSESSMENTS

Q 11 : A taxable person may apply for provisional assessment:

- (a) when the taxable person is not able to determine the value of goods and/or services
- (b) when the taxable person is not able to determine the rate of tax.
- (c) (a) or (b)
- (d) (a) and (b)

Q 12 : After passing of provisional assessment order, the Proper Officer is required to pass final assessment order within _____ from the date of the communication of order.

- (a) 2 years
- (b) 1 year
- (c) 9 months
- (d) 6 months

Q 13 : The period referred to in above question can be extended _____.

- (a) by the Joint/Additional Commissioner for a further period of six months and by the Commissioner for such further period not exceeding four years.
- (b) by the Commissioner for a further period of six months.
- (c) by the Joint/Additional Commissioner for a further period of one year.
- (d) by the Joint/Additional Commissioner for a further period of one year and by the Commissioner for a further period of six months.

Q 14 : In case no satisfactory explanation is furnished for the discrepancies within a period of thirty days of being informed by the proper officer or such further period as may be permitted proper officer may initiate appropriate action:

- (a) under Section 65 (Audit)
- (b) Section 66 (Special Audit)
- (c) Section 67, (Inspection, Search Seizure)
- (d) Any of the above.

Q 15 : If the explanation (sought during scrutiny assessment) is found acceptable, the registered person shall be informed accordingly and

- (a) the assessment will be made within 30 days from the date of receipt of such explanation
- (b) the assessment will be made within 180 days from the date of receipt of such explanation
- (c) the assessment will be made within 2 years from the date of receipt of such explanation
- (d) No further action shall be taken in this regard.

Q 16 : Is there any time limit specified to furnish the return after serving of notice?

- (a) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 15 days from service the notice.
- (b) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the notice.

- (c) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 45 days from service the notice.
- (d) No time limit has been specified.

Q 17 : If the registered person furnishes a valid return within _____ of the service of the assessment order under section 62 (1), the said assessment order shall be deemed to have been withdrawn.

- (a) 30 days
- (b) 60 days
- (c) 1 month
- (d) 2 months.

Q 18 : What is the consequence, where a taxable person fails to obtain registration even though liable to do so?

- (a) proper officer may assess the tax liability to the best of his judgement.
- (b) Issue a show cause notice and pass assessment order after providing opportunity of being heard.
- (c) (a) or (b)
- (d) (a) and (b)

Q 19 : What are the pre requisites for proper officer to pass assessment order under Section 63?

- (a) Period selected for assessment has to be within 5 years from the end of due date for filing annual return of relevant period.
- (b) Show cause notice has to be issued before passing assessment order.
- (c) Opportunity of being heard has to be given before passing assessment order.
- (d) All of the above.

Q 20 : Whether proper officer can proceed *Suo-moto* in assessing the tax liability of a taxable person on possession of relevant evidence?

- (a) No, the proper officer has to obtain prior permission of [Additional/Joint Commissioner] to proceed to assess the tax liability.
- (b) No, the proper officer has to obtain prior permission of Chief Commissioner to proceed to assess the tax liability.
- (c) No, the proper officer has to obtain prior permission of Principle Chief Commissioner to proceed to assess the tax liability.
- (d) Yes, the proper officer can proceed *Suo-moto* in assessing the tax liability of a taxable person on possession of relevant evidence.

Q 21 : Whether summary assessment can only be initiated on previously filed return (u/s 39 and u/s 45)?

- (a) Summary assessment can be initiated on a person who has previously filed the return.

- (b) Summary assessment can be initiated on a person who has previously not filed the return.
- (c) (a) or (b). Submission of return u/s 39 and u/s 45 is not prerequisite.
- (d) Only (b).

AUDIT

Q 22 : Who is authorised to undertake the audit of a registered person?

- (a) The Commissioner of CGST/Commissioner of SGST
- (b) any officer authorised by Commissioner of CGST/Commissioner of SGST by way of a general or a specific order.
- (c) Only (a)
- (d) (a) or (b)

Q 23 : Whether any reason to believe or evidence is required for initiation of audit u/s 65?

- (a) Reason to believe is a prerequisite for initiation of audit u/s 65.
- (b) Proper evidence is a prerequisite for initiation of audit u/s 65.
- (c) (a) & (b)
- (d) No, Sec 63 does not specify any such requirements.

Q 24 : The tax authorities may conduct audit u/s 65 at:

- (a) the place of business of the registered person
- (b) the place of residence of the registered person.
- (c) the office of the tax authorities.
- (d) (a) or (c)

Q 25 : Prior to the conduct of audit u/s 65 the registered person shall be informed, by way of a notice, sufficiently in advance:

- (a) not less than fifteen working days.
- (b) not less than thirty working days.
- (c) not less than ten working days.
- (d) No prior intimation required.

Q 26 : The time limit for completion of the audit u/s 65(1) is:

- (a) six months from the date of commencement of audit.
- (b) three months from the date of commencement of audit.
- (c) One year from the date of commencement of audit.
- (d) None of the above.

Q 27 : Where the Commissioner is satisfied that audit in respect of such taxable person cannot be completed

within three months from the date of commencement of audit the time limit can be extended:

- (a) by a further period not exceeding six months.
- (b) by a further period not exceeding six months.
- (c) by a further period not exceeding six months.
- (d) No extension of time limit is permissible.

Q 28 : During the course of audit, the authorised officer may require the registered person:

- (a) to afford him the necessary facility to verify the books of account or other documents as he may require.
- (b) to furnish such information as he may require and render assistance for timely completion of the audit.
- (c) (a) and/or (b)
- (d) Only a)

Q 29 : Special audit u/s 66 can be directed at any stage of scrutiny, enquiry, investigation or any other proceedings having regard to nature and complexity of the case if, any officer not below the rank of Assistant Commissioner:

- (a) is of the opinion that the value has not been correctly declared
- (b) the credit availed is not within the normal limits.
- (c) assessee does no co-operate
- (d) (a) or (b)

Q 30 : Who can direct the registered person to get his records audited u/s 66?

- (a) An officer not below the rank of Assistant Commissioner, with the prior approval of the Commissioner
- (b) An officer not below the rank of Joint/Additional, with the prior approval of the Chief Commissioner
- (c) An officer not below the rank of Chief Commissioner, with the prior approval of the Principle Chief Commissioner
- (d) None of the above.

Q 31 : Who is authorised to conduct the audit including books of account u/s 66?

- (a) Chartered Accountant as may be nominated by the Commissioner.
- (b) Cost Accountant as may be nominated by the Commissioner.
- (c) (a) or (b)
- (d) Any officer as may be nominated by the Additional Director.

Q 32 : The time limit to submit a report of the audit u/s 66 is:

- (a) within the period of ninety days without any extension of time.
- (b) within the period of sixty days without any extension of time.
- (c) within the period of ninety days. The proper officer may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days.
- (d) None of the above.

Q 33 : The expenses of audit u/s 66 is determined and paid by:

- (a) the Commissioner.
- (b) the Deputy/ Assistant Commissioner with prior approval of the Commissioner.
- (c) the registered person.
- (d) Any of the above.

Q 34 : Action under section 67 can be initiated by a Proper Officer not below the rank of _____.

- (a) Superintendent
- (b) Inspector
- (c) Joint Commissioner
- (d) Commissioner

Q 35 : Which are the places of business/premises which can be inspected by the proper officer under this section?

- (a) Any places of business of a taxable person
- (b) Any places of business of a taxable person engaged in the business of transporting goods
- (c) Any places of business of an owner or an operator of a warehouse or godown

- (d) Any other place
- (e) All of the above

SEARCH AND SEIZURE

Q 36 : Is it mandatory that 'reasons to believe' must exist before issuing authorization for Inspection or Search and Seizure by the proper officer?

- (a) Yes
- (b) No

Q 37 : Can the seized goods be released on provisional basis upon execution of a bond and furnishing of security or on payment of applicable tax, interest and penalty?

- (a) Yes
- (b) No

Q 38 : Where a person commits any of the offences mentioned under section 69, the punishment will be _____.

- (a) Imprisonment for a term which may extend to 5 years and with fine, if the amount of tax etc exceeds Rs.500 lakhs
- (b) Imprisonment for a term which may extend to 3 years and with fine, if the amount of tax etc is between Rs.200 lakhs to Rs.500 lakhs.
- (c) Both (a) and (b) are correct
- (d) Minimum 3 years, maximum 5 years at the discretion of the proper officer

ANSWERS to MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | A | 2 | B | 3 | D | 4 | C | 5 | A |
| 6 | C | 7 | D | 8 | B | 9 | A | 10 | C |
| 11 | C | 12 | D | 13 | A | 14 | D | 15 | D |
| 16 | A | 17 | A | 18 | D | 19 | D | 20 | A |
| 21 | C | 22 | D | 23 | D | 24 | D | 25 | A |
| 26 | B | 27 | A | 28 | C | 29 | D | 30 | A |
| 31 | C | 32 | C | 33 | A | 34 | C | 35 | E |
| 36 | A | 37 | A | 38 | C | | | | |

INTEGRATED GOODS AND SERVICE TAX (IGST)



IGST is a mechanism to monitor the inter-State trade of goods and services and ensure that the SGST component accrues to the consumer State. It would maintain the integrity of ITC chain in inter-State supplies. The IGST rate would broadly be equal to CGST rate plus SGST rate. IGST would be levied by the Central Government on all inter-State transactions of taxable goods or services.

7.1 SHORT TITLE, EXTENT AND COMMENCEMENT OF IGST [SECTION 1 OF IGST ACT, 2017]

1. Short Title : This Act may be called the Integrated Goods and Services Tax Act, 2017.

2. Extent : It extends to the whole of India except the State of Jammu and Kashmir.

However, on July 8, 2017, the President of India has promulgated two ordinances, namely, the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 extending the domain of Central GST Act and the Integrated GST Act to the State of Jammu and Kashmir, with effect from July 8, 2017. With this, the State of Jammu and Kashmir has become part of the GST regime, making GST truly a “one nation, one tax” regime.

3. Commencement : It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Provided that different dates may be appointed for applicability of different provisions of this Act.

Dates appointed for applicability of different provisions of this Act, are as under :

| Notification No | Sections which came into force | Effective Date |
|---|---|----------------|
| <i>Notification No 1/2017- Integrated Tax</i> | Section 1, 2, 3, 14, 20 and 22 | June 22, 2017 |
| <i>Notification No 3/2017- Integrated Tax</i> | Section 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 21, 23 and 25 | July 1, 2017 |

7.2 DEFINITIONS [SECTION 2 OF IGST ACT, 2017]

Important definitions under section 2 of IGST are as under :

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| 1. Central Tax [Section 2(2)] | “Central Tax” means the tax levied and collected under the CGST Act. |
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| | <p>It refers to the tax charged under the CGST Act on intra-State supply of goods or services or both (other than supply of alcoholic liquor for human consumption).</p> <p>The term 'central tax' under the IGST Act is defined to include tax <i>levied</i> and <i>collected</i> under the CGST Act whereas the term 'central tax' under the CGST Act is defined to include tax <i>levied</i> only.</p> |
| 2. Continuous Journey [Section 2(3)] | <p>"Continuous journey" means :</p> <ul style="list-style-type: none"> ✓ a journey for which a single or more than one ticket or invoice is issued at the same time, ✓ either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and ✓ which involves NO stopover between any of the legs of the journey for which separate ticket(s) are issued. <p>Explanation.—For the purposes of this clause, the term "stopover" means</p> <ul style="list-style-type: none"> ▪ a place ▪ where a passenger can disembark ▪ either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time; <p>Notes :</p> <ol style="list-style-type: none"> 1. All stopovers will not cause a break in the journey. Only those stopovers for which one or more separate tickets are issued will be relevant. <i>A travel involving Bangalore-Dubai-New York-Dubai-Bangalore on a single ticket with a halt at Dubai (onward and return) will be covered by the definition of continuous journey. However, if the passenger disembarks at Dubai or breaks his journey for a certain period in order to resume it at a later point of time, it will not be considered a continuous journey.</i> 2. All the above conditions should be cumulatively satisfied to consider the journey as continuous journey. 3. A return journey will be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time. |
| 3. Customs Frontier of India [Section 2(4)] | <p>"Customs frontiers of India" means the limits of a customs area as defined in section 2 of the Customs Act, 1962.</p> <p>The customs frontiers of India (thus) include the following :</p> <ol style="list-style-type: none"> (a) Customs Port; (b) Customs Airport; (c) International Courier Terminal; (d) Foreign Post Office; (e) Land Customs Station; (f) Area in which imported goods or goods meant for export are ordinarily kept before clearance by Customs Authorities <p>Notes :</p> <ol style="list-style-type: none"> 1. Bonded Warehouses would now be covered under this definition 2. A person importing goods into the territory of India from an overseas exporter would be liable to pay IGST on such supply of goods. 3. Where a transfer of documents of title takes place during import, the question of payment of tax by the importer would not arise since the documents of title would be transferred before the goods cross the customs frontier of India. |

| | |
|---|---|
| | <p>4. Supplies made by an importer after the goods have crossed the customs frontier of India would be liable to CGST, SGST or IGST, depending on the facts of each case.</p> |
| <p>4. Export of Goods [Section 2(5)]</p> | <p>“Export of goods” means taking goods out of India to a place outside India.</p> <p>Export of goods will be treated as ‘zero-rated supplies’. Accordingly, while no tax would be payable on such supplies, the exporter will be eligible to claim the corresponding input tax credits. It is relevant to note that the input tax credits would be available to an exporter even if the supplies were exempt supplies so long as the eligibility of the input taxes is established.</p> <p>Notes :</p> <ol style="list-style-type: none"> 1. Export of services requires fulfilment of certain conditions for a supply to qualify as ‘export of services’ like the nature of currency in which payment is required to be made, location of the exporter etc. No such conditions are required for export of goods. 2. What is relevant is ‘the movement of goods’ and not the location of the exporter/importer. 3. The exporter may utilise such credits for discharge of other output taxes or alternatively, the exporter may claim a refund of such taxes. 4. The exporter will be eligible to claim refund under the following situations : <ol style="list-style-type: none"> (a) He may export the goods under a Letter of Undertaking, without payment of IGST and claim refund of unutilized input tax credit; or (b) He may export the goods upon payment of IGST and claim refund of such tax paid. |
| <p>5. Export of Service [Section 2(6)]</p> | <p>“Export of services” means the supply of any service when,—</p> <ol style="list-style-type: none"> (i) the supplier of service is located in India; (ii) the recipient of service is located outside India; (iii) the place of supply of service is outside India; (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and (v) supplier of service and the recipient of service <i>are NOT merely</i> establishments of a distinct person in accordance with Explanation 1 in section 8; <p>[<i>Author :</i> It means, if two establishments of a same person are treated as establishment of distinct persons as per Explanation 1 of section 8, then (just because of this assumption) the service between these two establishments will NOT be treated as ‘export of service’. As truly there is no involvement of distinct persons but a same person is exporting and importing services]</p> <p>The concept of export of services is broadly borrowed from the provisions of the current Service Tax law.</p> <p>Under the GST regime, Export of service are treated as ‘zero-rated supplies’ [vide Section 16 of IGST]. If an export of service doesn’t qualify to be an export of service (e.g. such export was made to an establishment of a distinct person), it will NOT be treated as ‘zero rated supply’ and accordingly IGST will be payable as per section 5 of IGST.</p> <p>But if an export qualifies to be ‘export of service’, no tax would be payable on such supplies, the exporter will be eligible to claim the corresponding input tax credits. It is relevant to note that the input tax credits would be available to an exporter even if supplies were exempt supplies as long as the eligibility of the input taxes as input tax credits is established.</p> <p>The exporter may utilise such credits for discharge of other output taxes or alternatively, the exporter may claim a refund of such taxes.</p> <p>REFUND OF ITC : The exporter will be eligible to claim refund under the following situations :</p> |

- (a) He may export the services under a Letter of Undertaking (LUT), without payment of IGST and claim refund of unutilized input tax credit; or
- (b) He may export the services upon payment of IGST and claim refund of such tax paid.

Notes :

1. The requirement under the Service Tax law was that the supplier should be located in the taxable territory *i.e.* India, excluding Jammu and Kashmir. Under the GST law, the requirement is that the supplier is located in India (which includes Jammu and Kashmir). Considering this, an exporter from Jammu and Kashmir would be able to claim input tax credit on such exports.
2. Although overseas establishment of a person in India is treated as a distinct person for purposes of levy of integrated tax, as regards export of services, this overseas establishment must demonstrate substance in its activities to qualify as recipient of the export of the services from India and establish itself as more than just a mere establishment of the person.
3. As per *Explanation 1 of Section 8*, establishments will be treated as establishment of distinct persons under the following situations :

| Situation | Location of one establishment of a person | Location of other establishment of that person |
|-----------|---|--|
| (i) | India | Outside India |
| (ii) | State or UT | Outside that State or UT |
| (iii) | State or UT | Business vertical registered in that State or UT |

Therefore, where both the establishments are located in a same State/UT, the establishments will NOT be considered as distinct persons.

“Business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

6. Fixed Establishment
[Section 2(7)]

“Fixed establishment” means :

- ✓ a place (other than the registered place of business)
- ✓ which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources
- ✓ to supply services or to receive and use services for its own needs

Thus, Fixed Establishment refers to a place:

- (i) Having a sufficient degree of *permanence*
- (ii) Having a *structure* of human and technical resources
- (iii) Other than the registered place of business

Notes :

1. Not every temporary or interim location of a project site or transit-warehouse will (*ipso facto*) become a fixed establishment of the taxable person.
2. The person should undertake supply of services or should receive and use services for own needs.
3. Temporary presence of staff in a place by way of a short visit to a place or so does not make that place a fixed establishment.

7. Import of Goods
[Section 2(10)]

“Import of goods” means bringing goods into India from a place outside India.

| | <p>Thus, import of goods into India would be treated as supply of goods in the course of inter-State trade/commerce and would be liable to integrated tax under this Act.</p> <p>Notes :</p> <ol style="list-style-type: none"> 1. The place of supply of goods in case of imports would be the location of the importer. <i>E.g. If goods are imported at Mumbai port but the importer is at Delhi, the place of supply shall be Delhi;</i> 2. The integrated tax would be levied on the value of goods as determined under the Customs law in addition to the custom duties levied on such imports. With the introduction of GST, CVD and SAD are discontinued. 3. The time at which the customs duties are levied on import of goods would also be the time when integrated tax is levied; 4. The importer will be liable to pay integrated tax on a reverse charge basis and the same will have to be discharged by cash only and credit cannot be utilized for discharging such a liability; | | | | | | |
|--|---|-----------|---------------------------------------|---|--|--|--|
| 8. Import of service [Section 2(11)] | <p>“Import of services” means the supply of any service, where—</p> <ol style="list-style-type: none"> (i) the supplier of service is located outside India; (ii) the recipient of service is located in India; and (iii) the place of supply of service is in India. <p>Notes :</p> <ol style="list-style-type: none"> 1. Supplies, where the supplier and recipient are mere establishments of a person, would also qualify as “import of service”. 2. The importer will be liable to pay integrated tax on a reverse charge basis and the same will have to be discharged by cash only and credit cannot be utilized for discharging such a liability; 3. Import of service made for a consideration alone would be taxable, whether or not in the course of business. Therefore, import of service for personal consumption for a consideration would qualify as ‘supply’ and would be liable to integrated tax. However, the recipient will not be required to obtain a registration for that purpose; 4. The threshold limits for registration would not apply and the importer would be required to obtain registration irrespective of his turnover 5. Import of services from related persons or establishments located outside India without consideration also would be liable to integrated tax. | | | | | | |
| 9. Integrated Tax [Section 2(12)] | <p>“Integrated tax” means the integrated goods and services tax levied under this Act;</p> <p>Thus, it refers to the tax charged under this Act on inter-State supply of goods or services or both (other than supply of alcoholic liquor for human consumption). The rate of tax is capped at 40% and will be notified by the Central Government based on the recommendation of the Council.</p> | | | | | | |
| 10. location of the recipient of services [Section 2(14)] | <p>“Location of the recipient of services” means,—</p> <table border="1"> <thead> <tr> <th>Situation</th><th>Location of the recipient of services</th></tr> </thead> <tbody> <tr> <td>(a) If a supply is received at a place of business for which the registration has been obtained</td><td>- the location of such place of business</td></tr> <tr> <td>(b) If a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)</td><td>- the location of such fixed establishment</td></tr> </tbody> </table> | Situation | Location of the recipient of services | (a) If a supply is received at a place of business for which the registration has been obtained | - the location of such place of business | (b) If a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere) | - the location of such fixed establishment |
| Situation | Location of the recipient of services | | | | | | |
| (a) If a supply is received at a place of business for which the registration has been obtained | - the location of such place of business | | | | | | |
| (b) If a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere) | - the location of such fixed establishment | | | | | | |

| | <p>(c) If a supply is received at more than one establishment, whether the place of business or fixed establishment,</p> <p>(d) In absence of such places</p> <p>- the location of the establishment most directly concerned with the receipt of the supply</p> <p>- the location of the usual place of residence of the recipient</p> | | | | | | | | | | |
|--|--|-----------|--------------------------------------|---|--|--|--|--|--|-------------------------------|--|
| 11. location of the supplier of services [Section 2(15)] | <p>“Location of the supplier of services” means,—</p> <table border="1"> <thead> <tr> <th>Situation</th><th>Location of the supplier of services</th></tr> </thead> <tbody> <tr> <td>(a) If a supply is made from a place of business for which the registration has been obtained</td><td>- the location of such place of business</td></tr> <tr> <td>(b) If a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)</td><td>- the location of such fixed establishment</td></tr> <tr> <td>(c) If a supply is made from more than one establishment, whether the place of business or fixed establishment</td><td>- the location of the establishment most directly concerned with the provision of the supply</td></tr> <tr> <td>(d) In absence of such places</td><td>- the location of the usual place of residence of the supplier</td></tr> </tbody> </table> | Situation | Location of the supplier of services | (a) If a supply is made from a place of business for which the registration has been obtained | - the location of such place of business | (b) If a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere) | - the location of such fixed establishment | (c) If a supply is made from more than one establishment, whether the place of business or fixed establishment | - the location of the establishment most directly concerned with the provision of the supply | (d) In absence of such places | - the location of the usual place of residence of the supplier |
| Situation | Location of the supplier of services | | | | | | | | | | |
| (a) If a supply is made from a place of business for which the registration has been obtained | - the location of such place of business | | | | | | | | | | |
| (b) If a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere) | - the location of such fixed establishment | | | | | | | | | | |
| (c) If a supply is made from more than one establishment, whether the place of business or fixed establishment | - the location of the establishment most directly concerned with the provision of the supply | | | | | | | | | | |
| (d) In absence of such places | - the location of the usual place of residence of the supplier | | | | | | | | | | |
| 12. Non-taxable online recipient [Section 2(16)] | <p>“Non-taxable online recipient” means :</p> <ul style="list-style-type: none"> ✓ 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. <p>Explanation.—For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body,—</p> <p>(i) set up by an Act of Parliament or a State Legislature; or</p> <p>(ii) established by any Government,</p> <p>with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.</p> <p>(Note : For the purpose of this explanation functions entrusted to a municipality includes preparation of plans for economic development, Urban planning, Fire Services, Water supply)</p> <p>Other notes :</p> <ol style="list-style-type: none"> In case of supply of Online Information and Database Access or Retrieval (OIDAR) services by a person located in a non-taxable territory (outside India) to a non-taxable online recipient, the supplier would be liable to obtain registration and pay integrated tax by providing the details of the state of consumption; Examples of such services are e-downloads of games, movies by an individual from a foreign entity. | | | | | | | | | | |
| 13. Online information and database access or retrieval services [Section 2(17)] | <p>“Online information and database access or retrieval services” means :</p> <ul style="list-style-type: none"> ✓ services ✓ whose delivery is mediated* (*bring about) by information technology over the internet or an electronic network and ✓ the nature of which renders their supply essentially automated and involving minimal human intervention and | | | | | | | | | | |

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| | <ul style="list-style-type: none"> ✓ impossible to ensure in the absence of information technology and ✓ includes electronic services such as, — <ul style="list-style-type: none"> (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and (vii) online gaming; |
| 14. Meaning of Supply [Section 2(21)] | “Supply” shall have the same meaning as is assigned to it in section 7 of CGST Act. |

7.3 LEVY AND COLLECTION OF IGST [CHARGING SECTION 5 OF IGST ACT, 2017]

(1) Levy of IGST on goods/services other than alcoholic liquor and petro products : This sub-section provides as under :

- Subject to the provisions of sub-section (2),
- there shall be levied a tax called the integrated goods and services tax (IGST)
- on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption,
- on the value determined under section 15 of the CGST Act and
- at such rates, not exceeding 40%, 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.

Provided that

- the IGST on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975
- on the value as determined under the said Act [**Author :** As per section 3 of Customs Act, the value for levy of IGST = Transaction value or Tariff Value + BCD + Any other duty of Customs Act except IGST and Compensation Cess]
- at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

(2) Levy of IGST on petro products : The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) Notified cases of reverse charge : 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.

(4) Reverse charge if recipient is NOT registered : The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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.

(5) E-Commerce Operator (ECO) liable to pay IGST : The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also 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

7.4 INTER-STATE SUPPLY [SECTION 7 OF IGST ACT, 2017]

GST is a destination based tax *i.e.*, consumption tax, which means tax will be levied where goods and services are consumed and will accrue to that state thus, it is of immense importance that the place of supply of any transaction is determined correctly. To determine the correct place of supply, it is important that the nature of supply be understood first. Following table list provisions as contained in IGST Act, 2017, to know whether a supply will be treated as Inter State or Intra State supply.

Section 7 defines the meaning of inter-state supply. As per this section, the following shall be treated as inter-state supply :

| | |
|---|---|
| 1. Supply of goods within India [Section 7(1)] | A supply of goods shall be treated as inter-state supply of goods IF the location of the supplier and the place of supply : (i) are in two different states (<i>E.g. Supplier is located in UP and place of supply is MP</i>) (ii) are in two different UTs (<i>E.g. Supplier is located in Dadar and Nagar Haveli and place of supply is Chandigarh</i>) (iii) is in a State and UT (<i>E.g. Supplier is located in Haryana and place of supply is Chandigarh</i>) |
| 2. Supply of service within India [Section 7(3)] | A supply of service shall be treated as inter-state supply of services IF the location of the supplier and the place of supply : (i) are in two different states (<i>E.g. Supplier is located in UP and place of supply is MP</i>) (ii) are in two different UTs (<i>E.g. Supplier is located in Dadar and Nagar Haveli and place of supply is Chandigarh</i>) (iii) is in a State and UT (<i>E.g. Supplier is located in Haryana and place of supply is Chandigarh</i>) |
| 3. Import of goods [Section 7(2)] | A supply of goods shall be treated as inter-state supply of goods IF ✓ the location of the supplier is outside India and ✓ the place of supply is in India ✓ but only till the date goods cross customs frontiers of India. |

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| | Thus, so long as the goods are in customs frontiers, the supply shall be treated as an inter-state supply. |
| 4. Import of services [Section 7(4)] | A supply of service shall be treated as inter-state supply of services IF <ul style="list-style-type: none"> ✓ the location of the supplier is outside India and ✓ the place of supply is in India. |

As per section 7(5), following supply of goods or services or both will be treated as inter-State trade or commerce :

- (a) Supplier located in India and the place of supply is outside India,
- (b) TO or BY a Special Economic Zone developer or a Special Economic Zone unit,
- (c) In the taxable territory, not being an intra-State supply and not covered elsewhere in this section

7.5 INTRA-STATE SUPPLY [SECTION 8 OF IGST ACT, 2017]

Following supplies shall be treated as intra-state supply :

| 1. Intra-state supply of Goods [Section 8(1)] | <p>Supply of goods shall be treated as intra-State supply IF :</p> <ul style="list-style-type: none">✓ the location of the supplier and✓ the place of supply of goods✓ are in the same State or same Union territory <p>Provided that the following supply of goods shall NOT be treated as intra-State supply :</p> <ul style="list-style-type: none">(i) supply of goods TO or BY a SEZ developer or a SEZ unit;(ii) goods imported into the territory of India till they cross the customs frontiers of India; or(iii) supplies made to a tourist referred to in section 15 | | | | | | | | | | | | |
|---|--|--|--|---|-----|----------------------------|-----------------------------------|------|---------------------------------|--|-------|---------------------------------|--|
| 2. Intra-state supply of Services [Section 8(2)] | <p>Supply of services shall be treated as intra-State supply IF :</p> <ul style="list-style-type: none">✓ the location of the supplier and✓ the place of supply of services✓ are in the same State or same Union territory: <p>Provided that the intra-State supply of services shall not include</p> <ul style="list-style-type: none">(i) supply of services TO or BY a Special Economic Zone developer or a Special Economic Zone unit | | | | | | | | | | | | |
| 3. Explanation 1 to this section | <p>In the following cases, if a SAME person have different establishments, they will be treated as establishments of TWO distinct persons :</p> <table><tr><th></th><th>Location of one establishment of a person</th><th>Location of other establishment of that person</th></tr><tr><td>(i)</td><td>One Establishment in India</td><td>Other Establishment outside India</td></tr><tr><td>(ii)</td><td>One Establishment in a State/UT</td><td>Other Establishment outside that State/ UT</td></tr><tr><td>(iii)</td><td>One Establishment in a State/UT</td><td>Other Establishment being a <i>Business vertical</i> registered in that State/UT</td></tr></table> <p>Therefore, where both the establishments are located in same State/UT, the establishments will NOT be considered as distinct persons provided that the other establishment is not a business vertical.</p> | | Location of one establishment of a person | Location of other establishment of that person | (i) | One Establishment in India | Other Establishment outside India | (ii) | One Establishment in a State/UT | Other Establishment outside that State/ UT | (iii) | One Establishment in a State/UT | Other Establishment being a <i>Business vertical</i> registered in that State/UT |
| | Location of one establishment of a person | Location of other establishment of that person | | | | | | | | | | | |
| (i) | One Establishment in India | Other Establishment outside India | | | | | | | | | | | |
| (ii) | One Establishment in a State/UT | Other Establishment outside that State/ UT | | | | | | | | | | | |
| (iii) | One Establishment in a State/UT | Other Establishment being a <i>Business vertical</i> registered in that State/UT | | | | | | | | | | | |

4. Explanation 2 to this section

A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

7.6 SUPPLY IN TERRITORIAL WATERS [SECTION 9 OF IGST ACT, 2017]

Notwithstanding anything contained in this Act,—

- (a) where the *location of the supplier* is in the territorial waters, the location of such supplier; or
- (b) where the *place of supply* is in the territorial waters, the place of supply,

shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

WHY IS THIS SECTION? : Section 10 and 12 (discussed later) deals with provisions relating to place of supply in case of goods and services respectively. If by applying the provisions of section 10 and 12, it is established that the 'place of supply' is in the territorial waters and not on the land mass, there can be ambiguity as to the applicability of the provisions of section 7 and 8 in these cases.

Similarly, if the location of the supplier is found to be in the territorial waters and not on the land mass, there can be a doubt, if not about the applicability of section 7 and 8, at least about the manner of their applicability. To address these situations, the statute lays down, by a deeming fiction, that such location (*i.e.* location of supplier or place of supply) will be the most proximate State or UT.

E.g. If repair services are provided by a company in Delhi on a ship moored off the coast of Kochi for a shipping company from United Kingdom, the place of supply being the location of the ship will create doubt about the applicability of GST. Now, by the provisions in section 9, it is clear that the place of supply of the repair services will not be the waters but Kochi.

7.7 PLACE OF SUPPLY OF GOODS [SECTION 10 OF IGST ACT, 2017]

Section 10 of the IGST Act, 2017, specifies place of supply of goods, other than supply of goods imported into, or exported from India. This section provides as under :

| Nature of supply | Place of its supply (PoS) |
|--|---|
| 1. Where the supply involves movement of goods, whether <ul style="list-style-type: none"> (i) by the supplier or (ii) by the recipient or (iii) by any other person. | LOCATION OF GOODS : PoS shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient Supply. |
| 2. Where on the direction of a third person, goods are delivered <ul style="list-style-type: none"> (i) by the supplier to a recipient or (ii) by the supplier to any other person either by way of transfer of documents of title to the goods or otherwise | LOCATION OF THIRD PERSON : In both cases, it shall be deemed that the third person has received such goods and the principal place of business of such person shall be the place of supply (Pos). Note : It is important to identify the two supplies involved – <i>first</i> by supplier to third party and <i>second</i> by third party to recipient/other person. This provision deals only with the <i>first</i> supply. Now, the place of supply will not be dependent on whether the movement of goods is from one State to another (if the supplier and recipient are in two different States) but as declared by the section to be dependent on the principal place of business of such third party. |

| | |
|---|---|
| 3. Where supply does not involve movement of goods | <i>LOCATION OF GOODS WHEN DELIVERED</i> : PoS shall be the location of such goods at the time of their delivery to the recipient. |
| 4. Where the goods are assembled or installed at site | <i>PLACE OF INSTALLATION</i> : PoS shall be the place of such installation or assembly. |
| 5. Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle. | <p><i>LOCATION WHERE GOODS ARE TAKEN</i> : PoS shall be the location at which such goods are taken on board.</p> <p>Note : Here too, are two supplies – supply of the goods ‘TO’ the operator of the conveyance and supply ‘BY’ the operator to the passenger during the journey ‘in’ the conveyance. The place of supply appointed under this sub-section is in respect of the second limb which is the supply BY the operator of the conveyance during its journey to the passenger.</p> <p>The place of supply in respect of first limb of supply will continue to be determined by other provisions of this section and only the second limb of supply ‘on-board the conveyance’ will be determined by this sub-section.</p> |

7.8 PLACE OF SUPPLY OF GOODS IMPORTED INTO OR EXPORTED FROM INDIA [SECTION 11 OF IGST ACT, 2017]

Section 11 of the IGST Act, 2017, specifies place of supply of goods imported into, or exported from India. This section provides as under :

| Nature of supply | Place of its supply (PoS) |
|------------------------------|--|
| 1. Goods imported into India | <i>LOCATION OF IMPORTER</i> : PoS shall be the location of the importer. |
| 2. Goods exported from India | <i>LOCATION OUTSIDE INDIA</i> : PoS shall be the location outside India. |

7.9 PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER AND RECIPIENT IS IN INDIA [SECTION 12 OF IGST ACT, 2017]

Section 12 of the IGST Act, 2017, specifies place of supply of services, other than supply of services imported into, or exported from India. This section provides as under :

| Nature of supply | Situation | Place of its supply (PoS) |
|---|---|---|
| 1. Supply of service normally (<i>i.e.</i> other than the cases given below) | If made to ‘registered person’ | PoS shall be the location of such registered person. |
| | If made to ‘unregistered person’ | ✓ If address of the recipient exists on records : PoS shall be the location of the recipient. |
| | | ✓ If address of the recipient does not exist on records : PoS shall be the location of the supplier. |
| 2. Supply of service relating to immovable property, boat or vessel | <i>For carrying out work</i> : Services provided by : <ul style="list-style-type: none"> ♦ architects, ♦ interior decorators, or ♦ any service provided by way of grant of | ✓ Normal case : PoS shall be the location of such immovable property or boat or vessel or the place where it intended to be located; |

| | | |
|--|--|--|
| | <p>rights to use immovable property or for carrying out construction work</p> <p><i>Lodging</i> : By way of lodging accommodation or a houseboat or vessel</p> <p><i>Renting for functions</i> : Accommodation for organising :</p> <ul style="list-style-type: none"> ◆ marriage or matters related thereto, ◆ official, ◆ social, ◆ cultural, ◆ religious or ◆ business function ◆ including services provided in relation to such function at such property; etc <p><i>Any ancillary services</i> : Any ancillary services to the above services</p> | <p>✓ If property is outside India : PoS shall be the <i>location of the recipient</i>;</p> <p>✓ If property is located in more than one state : PoS shall be the <i>proportionate allocation</i> amongst states</p> <ul style="list-style-type: none"> - as per the value of service, or - as per the contract, or - as may be prescribed. |
| 3. Specific service | Services like beauty parlour, fitness, restaurant and catering services etc. | PoS shall be the location where the services are actually performed. |
| 4. Training and performance appraisal | If made to 'registered person' | PoS shall be the location of such registered person. |
| | If made to 'unregistered person' | PoS shall be the location where the services are actually performed. |
| 5. Services by way of admission | <p>Services by way of admission to :</p> <ul style="list-style-type: none"> ◆ Cultural event, ◆ Artistic event, ◆ Sporting event, ◆ Scientific event, ◆ Educational event, ◆ entertainment event or ◆ amusement park or ◆ any other place and services ancillary thereto | <p>PoS shall be the location where</p> <ul style="list-style-type: none"> ✓ the event is actually held or ✓ the park or such other place is located. |
| 6. Services by way of organization of certain events | <p>Services by way of organization of :</p> <ul style="list-style-type: none"> ◆ Cultural event, ◆ Artistic event, ◆ Sporting event, ◆ Scientific event, ◆ Educational event, ◆ entertainment event or ◆ Including supply of services in relation to a conference, fair, exhibition, celebration or similar events. | <p>✓ <i>If recipient is a 'registered' person</i> : PoS shall be the location of such person.</p> <p>✓ <i>If recipient is NOT a registered person</i> :</p> <ul style="list-style-type: none"> (i) If event is held outside India, the PoS shall be the location of the recipient, (ii) If event is held in India in more than one state, the PoS shall be the <i>proportionate allocation</i> amongst states as per the value of service received, or as per the contract, or as may be prescribed. |
| 7. Transportation of goods, including by mail or courier | If made to 'registered person' | PoS shall be the location of such registered person. |
| | If made to 'unregistered person' | PoS shall be the location at which such goods are handed over for their transportation. |

| | | |
|---|---|--|
| 8. Transportation of passengers – other than 9 below | If made to ‘registered person’ | PoS shall be the location of such registered person. |
| | If made to ‘unregistered person’ | PoS shall be the place where the passenger embarks on the conveyance for a continuous journey. |
| 9. Transportation of passengers – Right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage | If made to ‘registered person’ | PoS shall be the location of such registered person. |
| | If made to ‘unregistered person’ | ✓ If address of the recipient exists on records : PoS shall be the location of the recipient. ✓ If address of the recipient does not exist on records : PoS shall be the location of the supplier. |
| Explanation. – The return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time | | |
| 10. On board a conveyance (i.e. services provided onboard/during journey like, movies, video, beauty treatment etc.) | This includes : <ul style="list-style-type: none"> ◆ a vessel, ◆ an aircraft, ◆ a train or ◆ a motor vehicle | PoS shall be the location of first scheduled point of departure of that conveyance for the journey |
| 11. Banking and other financial services | This includes service of stock broking | ✓ If address of the recipient exists on records : PoS shall be the location of the recipient. ✓ If address of the recipient does not exist on records : PoS shall be the location of the supplier. |
| 12. Insurance Service | If made to ‘registered person’ | PoS shall be the location of such registered person. |
| | If made to ‘unregistered person’ | ✓ If address of the recipient exists on records : PoS shall be the location of the recipient. ✓ If address of the recipient does not exist on records : PoS shall be the location of the supplier. |
| 13. Telecommunication Service [Example of such services are advertising on the internet; providing cloud services; provision of e-books, movie, music, software and other intangibles <i>via</i> telecommunication networks or internet; providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network; online supplies of digital content] | (i) Service provided by way of ‘Fixed Line’ or leased line | PoS shall be the location where such line is installed. |
| | (ii) Service provided by way of ‘Mobile Connection’ : <ul style="list-style-type: none"> ◆ Post-paid basis ◆ Pre-payment basis through vouchers : <ul style="list-style-type: none"> - through a selling agent or a re-seller or a distributor - by any person to the final subscriber | - PoS shall be the billing address of the recipient - PoS shall be the address of such selling agent or distributor. - PoS shall be the place where such prepayment is received or such voucher is sold. |

(movies, television shows, music, etc.); digital data storage; online gaming]

Notes :

1. In any other cases, the PoS shall be the address of the recipient as per the records of the supplier of services and where such address is not available, it shall be location of the supplier of services.
2. If pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

7.10 PLACE OF SUPPLY OF SERVICES WHERE LOCATION OF SUPPLIER OR LOCATION OF RECIPIENT IS OUTSIDE INDIA [SECTION 13 OF IGST ACT, 2017]

The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India. This section provides as under :

| Nature of supply | Situation | Place of its supply (PoS) |
|---|---|--|
| 1. Supply of service normally (<i>i.e.</i> other than the cases given below) | If location of recipient is available | PoS shall be the location of the recipient. |
| | If location of recipient is NOT available in the ordinary course of business | PoS shall be the location of the supplier. |
| 2. Specified services | (a) Services in respect of goods : services supplied in respect of goods which are required to be made physically available by the recipient to the supplier : <ul style="list-style-type: none"> ◆ If such services are provided from a remote location by way of electronic means ◆ In any other case Note : This clause shall NOT apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs. | <p>PoS shall be the location where the <i>goods are situated</i> at the time of supply of service.</p> <p>PoS shall be the location where the <i>services are actually performed</i></p> |
| | (b) Services in respect of persons : Services supplied to an individual (or to his representative), which require the physical presence of such individual (or to his representative). | PoS shall be the location where the <i>services are actually performed</i> |
| 3. Supply relating to immovable property | This clause includes services supplied directly in relation to an immovable property, including – <ul style="list-style-type: none"> ◆ services by experts and estate agents, ◆ supply of accommodation by a hotel, inn, guest house, club or campsite ◆ grant of rights to use immovable property, | PoS shall be the place where the <i>immovable property is located</i> or intended to be located |

| | | |
|--|---|--|
| | <ul style="list-style-type: none"> ♦ services for carrying out or coordination of construction work, including that of architects or interior decorators | |
| 4. Supply relating to events | <p>This clause includes services supplied by way of admission to, or organization of :</p> <ul style="list-style-type: none"> ♦ a cultural, artistic, sporting, scientific, educational or entertainment event, or ♦ a celebration, conference, fair, exhibition or similar events, and ♦ of services ancillary to such admission or organization. | PoS shall be the <i>place where the event is actually held</i> . |
| 5. Services supplied at more than one location including a location in taxable territory | If services mentioned in 2, 3 and 4 above are supplied at more than one location, INCLUDING a location in the taxable territory | PoS shall be the <i>location in the taxable territory</i> . |
| 6. Services supplied at more than one State or UT | <p>If services mentioned in 2, 3 and 4 above are supplied in more than one State or UT</p> <p>Note : The value of such supplies specific to each State or UT shall be in the proportion of terms of the contract.</p> | PoS shall be taken as <i>being in each of the respective States or UT</i> . |
| 7. Specific supplies (banking, intermediary, hiring of transportation) | <p>For the supplies of—</p> <ol style="list-style-type: none"> Services <i>by</i> a banking company, or a financial institution <i>to</i> account holders; Intermediary services; Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month. | PoS shall be the <i>location of the supplier</i> . |
| 8. Services of transportation of goods | Supply of services of transportation of goods, other than by way of mail or courier | PoS shall be the <i>place of the destination of these goods</i> . |
| 9. Service of passenger transportation | Supply of service in respect of passenger transportation | PoS shall be the place where the passenger embarks on the conveyance for a continuous journey. |
| 10. Services provided on board a conveyance | This includes services intended to be wholly or substantially consumed while on board | PoS shall be the location of first scheduled point of departure of that conveyance for the journey |
| 11. Online information and database access or retrieval services | <p>Explanation : A person receiving such service shall be deemed to be located in the taxable territory, if any TWO of the following conditions are satisfied :</p> <ol style="list-style-type: none"> <i>Address</i> : his address (shipping/billing) is in the taxable territory; <i>Card</i> : the credit card or debit card etc. used for making payment has been issued in the taxable territory; | PoS shall be the location of the recipient of such service. |

| | | |
|--|---|--|
| | <p>(c) <i>IP address</i> : the IP (internet protocol) address of the device used by him is in the taxable territory;</p> <p>(d) <i>Bank</i> : the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;</p> <p>(e) <i>SIM card</i> : the country code of the SIM (subscriber identity module) card used by the recipient of services is of taxable territory;</p> <p>(f) <i>Fixed line</i> : the location of the fixed land line through which the service is received by the recipient is in the taxable territory.</p> | |
|--|---|--|

7.11 ZERO RATED SUPPLY [SECTION 16 OF IGST ACT, 2017]

1. Meaning of Zero Rates Supply : “Zero Rated Supply” refers to supplies made TO SEZ units / developers or exports of goods or services. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will be taxed at “0” (Zero) Rate or will be exempt from IGST unconditionally.

2. Relevance of zero rated supplies : Given that the Exports and SEZ play a pivotal role in the economic growth in India, the registered person will have two options, namely;

- he can make Zero Rated Supplies without payment of IGST under Letter of Undertaking or Bond and claim refund of input tax credit *w.r.t* to such supplies; or
- he can make Zero Rated Supplies with payment of IGST (either by utilizing Input tax credit or by cash) and claim refund of such tax paid.

3. Difference between Zero Rated Supplies and Exempt Supplies : “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 of this Act, or under section 6 of the IGST Act (*i.e.* Government's power to grant exemption),
- ✓ and it includes NON-TAXABLE supply.

Zero rated supply on other hand is supply of taxable goods/services but the tax rate becomes ‘zero’ because of they being supplied to SEZ/Exported. Input tax credit attributable to exempt supplies will not be available for utilisation/setoff but in case of zero rated supplies it can be utilized/setoff.

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1. IGST Act extends to the whole of India

- including the state of Jammu and Kashmir
- excluding the state of Jammu and Kashmir
- excluding the state of Jammu and Kashmir and Union Territories

- excluding the state of Jammu and Kashmir, Union Territories and Territorial Waters of India
- Ans. (a)

Q 2. Central Tax in IGST Act means

- CGST
- IGST

- (c) All taxes levied by Central Government
- (d) Both (a) and (b)

Q 3. Non-taxable online recipient means

- (a) Any person located in taxable territory receiving online information and data base access or retrieval service (*i.e.* OIDARS)
- (b) Any person not registered located in taxable territory receiving OIDARS
- (c) Any person not registered located in taxable territory receiving OIDARS for any purpose other than business purpose
- (d) Any person not registered located in taxable territory receiving OIDARS for any purpose other than personal purpose

Q 4. Is there any ceiling limit prescribed on the rate under IGST?

- (a) 14%
- (b) 40%
- (c) 26%
- (d) 30%

Q 5. Which of the following is NOT considered as 'establishment of distinct persons' as per Explanation 1 of section 8 ?

- (a) One Establishment of a person is in India and other Establishment of that person is outside India
- (b) One Establishment of a person is in a State and other Establishment of that person is in other State
- (c) One Establishment of a person is in a State and other 'Business Vertical' of that person is registered in that State
- (d) One Establishment of a person is in a State and other 'Fixed Establishment' of that person is in that State

Q 6. What will be the location of the recipient of service, if a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)?

- (a) the location of such place of business
- (b) the location of such fixed establishment
- (c) the location of the establishment most directly concerned with the receipt of the supply
- (d) the location of the usual place of residence of the recipient

Q 7. Which of the following supply is treated as 'inter-state' ?

- (a) Supplier located in India and the place of supply is outside India,
- (b) TO or BY a Special Economic Zone developer or a Special Economic Zone unit
- (c) In the taxable territory, not being an intra-State supply and not covered elsewhere in this section
- (d) All of them.

Q 8. If 'location of supplier' or 'place of supply' is in territorial waters, then such 'location of the supplier' or 'place of supply' shall be deemed to be in _____.

- (a) Coastal State or UT where the nearest point of the appropriate baseline is located.
- (b) Coastal State where the nearest point of the appropriate baseline is located.
- (c) Coastal UT where the nearest point of the appropriate baseline is located.
- (d) Other territory.

Q 9. What if an e-commerce operator having no physical presence in the taxable territory, does not have a representative in the taxable territory?

- (e) He will have to discharge his tax liability in foreign currency
- (f) He will not be liable to tax
- (g) He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf
- (h) None of the above

Q 10. Unless and until notified, IGST shall not be levied on the inter-State supply of which of the following:

- (a) Industrial alcohol
- (b) Works contract
- (c) Petroleum
- (d) None of the above

Q 11. Which of the following is an inter-State supply?

- (a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods SEZ located in Chandigarh
- (d) All the above

Q 12. Which of the following is an intra-state supply?

- (a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur

- (c) Supplier of goods located in Chandigarh and place of supply of goods in Chandigarh
- (d) All the above

Q 13. Which of the following transaction is inter-state supply of goods involving movement of goods?

- (a) Location of supplier is in Bangalore and location of recipient is in Mumbai
- (b) Location of supplier is in Bangalore and place of supply is Mumbai
- (c) Location of supplier and place of supply is Bangalore
- (d) None of the above

Q 14. Supply of goods in the course of import of territory of India is

- (a) Intrastate supply
- (b) Inter-State supply
- (c) Export
- (d) Inter-state trade or commerce

Q 15. Place of supply in case of installation of elevator is

- (a) Where the movement of elevator commences from the supplier's place
- (b) Where the delivery of elevator is taken
- (c) Where the installation of elevator is made
- (d) Where address of the recipient is mentioned in the invoice

Q 16. Place of supply of food taken onboard at Delhi for an aircraft departing from Delhi to Bangalore via Hyderabad is

- (a) Address of the aircraft carrier mentioned on the invoice of the supplier
- (b) Delhi
- (c) Hyderabad

Q 17. In case of any ambiguity where place of supply of goods cannot be determined as provided in IGST Act, who will determine the place of supply?

- (a) Central Government on recommendation of the Council
- (b) State Government on recommendation of the Council
- (c) State and Central Government on recommendation of the Council
- (d) In a manner as may be prescribed

Q 18. What is location of supply in case of importation of goods?

- (a) Customs port where the goods are cleared
- (b) Location of the importer
- (c) Place where the goods are delivered after clearance from customs port

- (d) Owner of the goods

Q 19. Real estate agent in Delhi charges brokerage fee to Company 'A' located in Chandigarh for assistance in getting a commercial property in Kolkata. Which is the place of supply in this case?

- (a) Delhi
- (b) Chandigarh
- (c) Kolkata

Q 20. What is the place of supply of service where a restaurant provides catering service at the premise of the customer?

- (a) Address of the restaurant from where the food is supplied
- (b) Customer premise where catering service is provided

Q 21. Mr. X a resident from Pune conducts training for employees of P Ltd. (P Ltd. is registered under GST) based out in Chennai at a resort in Darjeeling. The place of supply in this case is

- (a) Chennai
- (b) Pune
- (c) Darjeeling

Q 22. Mr. X a resident from Pune conducts training for employees of P Ltd. (P Ltd. is NOT registered under GST) based out in Chennai at a resort in Darjeeling. The place of supply in this case is

- (a) Chennai
- (b) Pune
- (c) Darjeeling

Q 23. Place of supply of service for DTH by ABC Pvt. Ltd. located in Mumbai to customer in Patna is

- (a) Mumbai
- (b) Patna

Q 24. Mr. X of Hyderabad not having bank account takes a demand draft in Kolkata from ABC Bank for his visa purpose. The place of supply is

- (a) Hyderabad
- (b) Kolkata

Q 25. The provider of AMC service outside India has entered into an agreement for an aircraft company PQR located in India. The service provider provides repair service to the aircraft when it was in India. The place of service in this case is

- (a) Outside India
- (b) India

Q 26. If XYZ Ltd a company based out of Bangalore, awards online maintenance contract of its servers located in Mumbai office to Y INC, a company based out of USA, and as per the terms of the online maintenance X INC shall be required to perform regular maintenance from USA using Internet, then the place of supply is

- (a) Bangalore
- (b) Mumbai
- (c) USA

Q 27. Mr. Y residing in Ahmedabad appoints an architect in Delhi to provide Indian traditional home design for his proposed construction at Los Angeles, the place of supply of service is

- (a) Los Angeles
- (b) Ahmedabad
- (c) Delhi

Q 28. If NM shipping Co. located in Chennai charges ocean freight charges for transport of goods to California for a customer located in Bangalore, the place of supply of service will be

- (a) Chennai
- (b) California
- (c) Bangalore

Q 29. Zero rated supply includes

- (a) export of goods and services.

- (b) Supply of goods and services to a SEZ developer or SEZ Unit
- (c) Supply of goods and services by a SEZ developer or SEZ Unit
- (d) Both (a) and (b)

Q 30. Is the SEZ developer or SEZ unit receiving zero rated supply eligible to claim refund of IGST paid by the registered taxable person on such supply?

- (a) Yes
- (b) No
- (c) Partially yes

Q 31. A registered taxable person is eligible to claim refund in respect of export of goods and services in the following cases:

- (a) Under bond, without payment of IGST and claim refund of unutilized input tax credit.
- (b) On payment of IGST and claim refund of IGST paid on such goods and services.
- (c) None of the above
- (d) Both (a) and (b)

Q 32. The supply of goods to SEZ unit is treated as _____ in the hands of the supplier:

- (a) Exempt Supply – Reversal of credit
- (b) Deemed Taxable Supply – No reversal of credit
- (c) Export of Supplies
- (d) Non Taxable Supply – Outside the Scope of GST

ANSWERS to MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | A | 2 | C | 3 | B | 4 | B | 5 | D |
| 6 | B | 7 | D | 8 | A | 9 | C | 10 | C |
| 11 | D | 12 | C | 13 | B | 14 | D | 15 | C |
| 16 | B | 17 | D | 18 | B | 19 | C | 20 | B |
| 21 | A | 22 | C | 23 | B | 24 | B | 25 | B |
| 26 | B | 27 | A | 28 | B | 29 | D | 30 | B |
| 31 | D | 32 | B | | | | | | |

UNION TERRITORIES GOODS AND SERVICE TAX (UTGST)



UTGST Act contains the provisions for levy and collection of tax on intra-State supply of goods or services or both by the Union territories and for matters connected therewith or incidental thereto.

This Act may be called the Union Territory Goods and Services Tax Act, 2017. It would be applicable in the following union territories.

- (a) Andaman and Nicobar Islands,
- (b) Lakshadweep
- (c) Dadra and Nagar Haveli
- (d) Daman and Diu
- (e) Chandigarh and
- (f) Other territory

The Delhi and the Pondicherry are the other two union territories but this Act will not be applicable there as they have their own state legislature and government. State GST would be applicable in their case

8.1 SHORT TITLE, EXTENT AND COMMENCEMENT OF UTGST [SECTION 1 OF UTGST ACT, 2017]

- 1. Short Title :** This Act may be called the Union Territory Goods and Services Tax Act, 2017.
- 2. Extent :** It extends to the Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli, Daman and Diu, Chandigarh and other territory.
- 3. Commencement :** It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. Provided that different dates may be appointed for applicability of different provisions of this Act.

Dates appointed for applicability of different provisions of this Act, are as under :

| Notification No | Sections which came into force | Effective Date |
|---|--|----------------|
| Notification No 1/2017- Union Territory Tax | Section 1, 2, 3, 4, 5, 17, 21 and 22 | June 22, 2017 |
| Notification No 3/2017- Union Territory Tax | Section 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 23, 24, 25 and 26. | July 1, 2017 |

8.2 DEFINITIONS [SECTION 2 OF UTGST ACT, 2017]

Important definitions under section 2 of UTGST are as under :

| | |
|--|---|
| 1. Appointed Day [Section 2(1)] | “Appointed day” means the date on which the provisions of this Act shall come into force |
| 2. Commissioner [Section 2(2)] | “Commissioner” means the Commissioner of Union territory tax appointed under section 3 |
| 3. Designated authority [Section 2(3)] | “Designated authority” means such authority as may be notified by the Commissioner |
| 4. Exempt supply [Section 2(4)] | <p>“Exempt supply” means supply of any goods or services or both</p> <ul style="list-style-type: none"> ◆ which attracts NIL rate of tax or ◆ which may be EXEMPT from tax under section 8, or under section 6 of the Integrated Goods and Services Tax Act, ◆ and includes NON-TAXABLE supply; |
| 5. Existing law [Section 2(5)] | “Existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation |
| 6. Government [Section 2(6)] | “Government” means the Administrator or any Authority or officer authorised to act as Administrator by the Central Government |
| 7. Output tax [Section 2(7)] | <p>“Output tax” in relation to a taxable person, means</p> <ul style="list-style-type: none"> ◆ the Union territory tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent ◆ but excludes tax payable by him on reverse charge basis |
| 8. Union territory [Section 2(8)] | <p>“Union territory” means the territory of,—</p> <ol style="list-style-type: none"> (i) Andaman and Nicobar Islands; (ii) Lakshadweep; (iii) Dadra and Nagar Haveli; (iv) Daman and Diu; (v) Chandigarh; or (vi) Other territory. <p>Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (i) to (vi) shall be considered to be a separate Union territory</p> |
| 9. Union territory tax [Section 2(9)] | “Union territory tax” means the tax levied under this Act; |
| 10. For other definitions see other GST Acts [Section 2(10)] | Words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, the State Goods and Services Tax Act, and the Goods and Services Tax (Compensation to States) Act, shall have the same meaning as assigned to them in those Acts. |

8.3 ADMINISTRATION OF IGST [SECTION 3, 4, 5 and 6 OF UTGST ACT, 2017]

The Administrator may, by order, authorise any officer to appoint officers of Union territory tax below the rank

of Assistant Commissioner of Union territory tax for the administration of this Act. The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer subordinate to him.

Without prejudice to the provisions of this Act, the officers appointed under the Central Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

Subject to the conditions specified in the notification issued under sub-section (1),

- (a) where any proper officer issues an order under this Act, he shall also issue an order under the Central Goods and Services Tax Act, as authorised by the said Act under intimation to the jurisdictional officer of central tax;
- (b) where a proper officer under the Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act, shall not lie before an officer appointed under the Central Goods and Services Tax Act.

8.4 LEVY AND COLLECTION OF UTGST [SECTION 7 OF UTGST ACT, 2017]

1. Charging Section : This section provides as under :

- there shall be levied a tax called the Union territory tax
- 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 under section 15 of the Central Goods and Services Tax Act and
- at such rates, not exceeding 20%, as may be notified by the Central Government on the recommendations of the Council and
- collected in such manner as may be prescribed and shall be paid by the taxable person.

2. UTGST on petroleum products : The Union territory tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Central Government on the recommendations of the Council.

3. Highest UTGST Rate : The highest applicable approved rate of UTGST is 20%.

4. Notified cases of Reverse Charge : The Central 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.

5. Reverse charge if supplier is not registered : The Union territory tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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.

E.g. A registered taxable person receives agricultural produce say paddy from an agriculturist, then such registered taxable person would be liable for payment of tax at the applicable rate on paddy as an agriculturist is not liable for registration.

5. Electronic commerce operator to be liable to pay GST : The Central Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.

Provided further that 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.

8.5 POWER TO GRANT EXEMPTION [SECTION 8 OF UTGST ACT, 2017]

As per the provisions of this section, the Central Government on the recommendations of the GST Council, is empowered to exempt goods or services from the whole or any part of the tax leviable on them. Exemption can be of following two types—

(1) Notification of General Exemption : Sub-section (1) provides as under :

- Where the Central Government is satisfied that it is necessary in the public interest so to do,
- it may, on the recommendations of the Council,
- by notification,
- exempt generally (either absolutely or 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) Order of Special Exemption : Sub-section (2) provides as under :

- Where the Central Government is satisfied that it is necessary in the public interest so to do,
- it 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) Issuance of Explanation : Sub-section (3) provides as under :

- The Central Government may, if it considers necessary or expedient so to do
- for the purpose of clarifying the scope or applicability of any notification issued under subsection (1) or order issued under sub-section (2),
- insert an explanation in such notification or order, as the case may be, by notification
- at any time **within one year** of issue of the notification under sub-section (1) or order under sub-section (2), and
- every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation.—For the purposes of this section, 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.

8.6 PROVISIONS RELATING TO INPUT TAX CREDIT (ITC)

Various provisions relating to ITC are as under :

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| 1. ITC and its adjustment [Section 9] | <p>As per this section :</p> <p>(a) ITC of IGST shall first be utilised towards payment of IGST and the amount remaining, if any, may be utilised towards the payment of CGST and SGST or UTGST, in that order;</p> <p>(b) ITC of UTGST shall first be utilised towards payment of UTGST and the amount remaining, if any, may be utilised towards payment of IGST.</p> <p>Note : ITC of UTGST shall not be utilised towards payment of central tax.</p> |
| 2. Transitional provisions relating to ITC on Capital Goods [Section 18(2)] | <p>A registered person, other than a person opting to pay tax under section 10 of the CGST Act, shall be entitled to take, in his electronic credit ledger, credit of the unavailed input tax credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending on 30.6.2017 in such manner as may be prescribed.</p> <p>Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as input tax credit under the existing law and is also admissible as input tax credit under this Act.</p> |
| 3. Transitional provisions relating to ITC [Section 18(1) and (3)] | <p>ITC carried forward in the last return of existing law [Section 18(1)] : A registered person, other than a person opting to pay tax under section 10 of the CGST Act as composition levy, shall be entitled to take, in his electronic credit ledger, credit of the amount of VAT and Entry Tax, if any, carried forward in the return relating to the period ending on 30.6.2017, furnished by him under the existing law, not later than 90 days, in such manner as may be prescribed.</p> <p>NON AVAILABILITY OF OLD CREDIT : However, these credits will not be eligible if:</p> <ol style="list-style-type: none"> The returns under the existing law for the period ending 30.6.2017 are not filed with 90 days of the appointed day; The said credit are not eligible as input tax credit in the GST law; Taxable person has not furnished the returns under the existing law for a period of 6 months before appointed day; <p>Due to exemptions/non-registration, ITC not carried forward under existing law [Section 18(3)] : A registered person,</p> <ol style="list-style-type: none"> who was not liable to be registered under the existing law, or who was engaged in the sale of exempted goods or tax free goods but which are liable to tax under this Act <p>shall be entitled to take, in his electronic credit ledger, credit of the value added tax and entry tax, if any, in respect of</p> <ul style="list-style-type: none"> ✓ inputs held in stock and ✓ inputs contained in semi-finished or finished goods held in stock <p>on the appointed day subject to fulfillment of certain conditions (given below).</p> <p>CONDITIONS FOR AVAILABILITY OF ITC : ITC is available for utilisation if ALL the following conditions are satisfied :</p> <ol style="list-style-type: none"> Such inputs or goods are used or intended to be used for making taxable supplies under GST; Registered person is eligible for input tax credit on such inputs under GST; Registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of such inputs; and |

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| | (iv) Such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day. However, in case such taxable person is not in possession of invoice or tax paying document, such person can take credit at such rate as may be prescribed. However he would be required to pass the benefit of reduced taxes to his recipients. |
| 4. ITC – Taxable and exempted goods/services [Section 18(4)] | <p>A registered person, who was engaged in the sale of taxable goods as well as exempted goods or tax free goods under the existing law but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger:</p> <ul style="list-style-type: none"> (i) the amount of credit of the VAT and entry tax, if any, carried forward in a return furnished under the existing law [see section 18(1) (above)]; and (ii) the amount of credit of the VAT and entry tax, if any, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on 1.7.2017, relating to such exempted goods or tax free goods in accordance with the provisions of sub-section (3). |
| 5. ITC– Goods in transit [Section 18(5)] | <p>In case of goods which are in transit on 1.7.2017, a registered taxable person shall be entitled to take credit of VAT and entry tax on goods received on or after 1.7.2017, the tax on which has been paid before 1.7.2017. However, the eligibility of input tax credit is subject to following conditions :</p> <ul style="list-style-type: none"> (a) The invoice or any other tax paying document of the same was recorded in the books of account of such person within a period of 30 days from 1.7.2017. The competent authority has power to extend the said period by another 30 days on sufficient cause being shown to it. (b) Furnish such statement in respect of such credit in such manner as may be prescribed. |
| 6. Switch over from composition levy [Section 18(6)] | <p>A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of value added tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on 1.7.2017 subject to the following conditions, namely :</p> <ul style="list-style-type: none"> (a) Such inputs or goods are used or intended to be used for making taxable supplies under this Act; (b) The said registered person is not paying tax under section 10 of CGST Act; (c) The said registered person is eligible for input tax credit on such inputs under this Act; (d) The said registered person is in possession of invoice or other prescribed documents evidencing payment of tax under the existing law in respect of inputs; and (e) Such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the appointed day. |

8.7 TRANSITIONAL PROVISIONS RELATING TO JOB WORKER

Where any inputs or semi-finished goods received at a place of business had been despatched as such or despatched after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within 6 months from the appointed day.

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 2 months.

Provided further that if such inputs are not returned within a period of 6 months or the extended period from the appointed day, the input tax credit shall be liable to be recovered in accordance with the provisions of section 142(8)(a) of the CGST Act.

Provided also that the person despatching the goods may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within six months or the extended period, as the case may be, from the appointed day.

The tax under this sections shall not be payable only if the person despatching the goods and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the said person on the appointed day in such form and manner and within such time as may be prescribed.

8.8 OTHER TRANSITIONAL PROVISIONS

Various other transitional provisions are as under :

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| 1. Return of taxable goods | <p><i>Taxable goods sold within 6 months prior to 1.7.2017 and returned within 6 months after 1.7.2017 by a non-registered person – Refund will be allowed to the recipient of goods :</i> Where any goods on which tax, if any, had been paid under the existing law at the time of sale thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after 1.7.2017, the registered person shall be eligible for refund of the tax paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer.</p> <p><i>Taxable goods sold within 6 months prior to 1.7.2017 and returned within 6 months after 1.7.2017 by a registered person – the person returning, to pay GST :</i> However, if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply and GST would be payable on returns of such goods.</p> |
| 2. Revision of price of goods supplied before 1.7.2017. | <p><i>Contract entered before 1.7.2017 and the price is revised upward after 1.7.2017, the DEBIT NOTE, issued within 30 days, shall be deemed to have been issued under GST Law :</i> Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised upwards on or after the appointed day, the registered person who had sold such goods shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act, such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act.</p> <p><i>Contract entered before 1.7.2017 and the price is revised upward after 1.7.2017, the CREDIT NOTE, issued within 30 days, shall be deemed to have been issued under GST Law :</i> Where, in pursuance of a contract entered into prior to the appointed day, the price of any goods is revised downwards on or after the appointed day, the registered person who had sold such goods may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act. However, such supplier would be allowed to reduce his taxable outward supply liability only if the recipient of the invoice or credit note reduces the corresponding input tax credit</p> |
| 3. Refund Claims | <p><i>Refunds to be processed under the existing law, if claim thereof is filed before 1.7.2017 :</i> The claims of refund of input tax credit, tax or interest filed by a taxable person before or after the appointed day would be processed only under the law in which the claims are filed and UTGST law would not be applicable on such claims. Such claims would be allowed to be paid to taxable person only in cash even if there are contrary provisions in the existing law.</p> |

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| 4. Proceedings of output tax under the existing law | <p>Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, revision, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and amount so recovered shall not be admissible as input tax credit under this Act.</p> <p>Every proceeding of appeal, revision, review or reference relating to any output tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash in accordance with the provisions of the existing law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.</p> |
| 5. Proceeding of assessment or adjudication under the existing law | <p>Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.</p> <p>Where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.</p> |
| 6. Revision of return after 1.7.2017 | <p>Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of input tax credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.</p> <p>Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or input tax credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law and the amount rejected, if any, shall not be admissible as input tax credit under this Act.</p> |
| 7. Tax paid goods supplied after 1.7.2017 | <p><i>If VAT/CST/Excise already levied on goods, no GST thereon</i> : Notwithstanding anything contained in section 12 of the CGST Act, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the existing law.</p> <p><i>If Service Tax already levied on services, no GST thereon</i> : Notwithstanding anything contained in section 13 of the CGST Act, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994.</p> <p>Where tax was paid on any supply, both under any existing law relating to sale of goods and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.</p> |
| 8. Goods sent on approval basis | <p><i>Goods sent on approval basis within 6 months prior to 1.7.2017 and returned within 6 months after 1.7.2017 – No GST will be paid</i> : Where any goods sent on approval basis, not earlier than 6 months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within 6 months from the appointed day.</p> <p>Provided that the said period of 6 months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding 2 months.</p> |

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| | <p><i>Goods sent on approval basis within 6 months prior to 1.7.2017 and NOT returned within said 6 months (or extended period) – GST will be paid by both :</i> Tax shall be paid by the person returning the goods if such goods are liable to tax under this Act and are returned after the period of said 6 months (or extended).</p> <p>Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within the period of 6 months (or extended).</p> |
| 9. Inspection, Search, Seizure and Arrest | <p>As per section 11 of the Act, all officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, and officers of central tax and officers of the State tax shall assist the proper officers in the implementation of this Act.</p> <p>The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.</p> |
| 10. Demand and Recovery | <p>A registered person who has paid the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.</p> <p>Further, a registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of the central tax and the Union territory tax payable.</p> |
| 11. Advance Ruling [Section 14 & 15] | <p>Provisions relating advance ruling are as under :</p> <p>(a) Meaning of advance ruling : “advance ruling” means</p> <ul style="list-style-type: none"> - a decision - provided by the Authority or the Appellate Authority - to an applicant - on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100 of the Central Goods and Services Tax Act, - in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant; <p>(b) Applicant means : “applicant” means any person registered or desirous of obtaining registration under this Act.</p> <p>(c) Constitution of Authority for advance ruling :</p> <p>(i) The Central Government shall, by notification, constitute an Authority to be known as the (name of the Union territory) Authority for Advance Ruling.</p> <p>Provided that the Central Government may, on the recommendations of the Council, notify any Authority located in any State or any other Union territory to act as the Authority for the purposes of this Act.</p> <p>(ii) The Authority shall consist of—</p> <ol style="list-style-type: none"> (1) one member from amongst the officers of central tax; and (2) one member from amongst the officers of Union territory tax, to be appointed by the Central Government. <p>(iii) The qualifications, the method of appointment of the members and the terms and conditions of their service shall be such as may be prescribed.</p> |

**12. Constitution of
Appellate
Authority for
Advance Ruling
[Section 16]**

- (1) The Central Government shall, by notification, constitute an Appellate Authority to be known as the (name of the Union territory) Appellate Authority for Advance Ruling for Goods and Services Tax for hearing appeals against the advance ruling pronounced by the Advance Ruling Authority.
- (2) The Appellate Authority shall consist of:
- (i) the Chief Commissioner of central tax as designated by the Board; and
 - (ii) the Commissioner of Union territory tax having jurisdiction over the applicant.

GOODS AND SERVICE TAX (COMPENSATION TO STATES) ACT, 2017



The GST Council in its 10th meeting held on 18th February, 2017 approved the “GST compensation to states” bill that provides for the compensation of loss arising out of introduction of Goods and Service Tax in India. An Act to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax for the period of five years in pursuance of the provisions of the Constitution (One Hundred and First Amendment) Act, 2016. Other territory

9.1 SHORT TITLE, EXTENT AND COMMENCEMENT OF GST(COMPENSATION TO STATES) ACT, 2017 [SECTION 1]

- 1. Short Title :** This Act may be called the Goods and Services Tax (Compensation to States) Act, 2017.
- 2. Extent :** It extends to It extends to the whole of India
- 3. Commencement :** It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Dates appointed for applicability of this Act, are as under :

| Notification No | Sections which came into force | Effective Date |
|--|--------------------------------|----------------|
| Notification No 1/2017-Goods and Services Tax Compensation | All sections of this act. | July 1, 2017 |

9.2 DEFINITIONS [SECTION 2 OF GST (COMPENSATION TO STATES) ACT, 2017]

Important definitions under section 2(1) of this Act are as under :

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| 1. Central tax [Clause (a)] | “Central tax” means the central goods and services tax levied and collected under the Central Goods and Services Tax Act; |
| 2. Cess [Clause (c)] | “Cess” means the goods and services tax compensation cess levied under section 8; |
| 3. Compensation [Clause (d)] | “Compensation” means an amount, in the form of goods and services tax compensation, as determined under section 7 |
| 4. Fund [Clause (f)] | “Fund” means the Goods and Services Tax Compensation Fund referred to in section 10; |
| 5. Input tax | “Input tax” in relation to a taxable person, means, |

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| [Clause (g)] | (i) cess charged on any supply of goods or services or both made to him; (ii) cess charged on import of goods and includes the cess payable on reverse charge basis; |
| 6. Prescribed [Clause (j)] | “Prescribed” means prescribed by rules made, on the recommendations of the Council, under this Act; |
| 7. Projected growth rate [Clause (k)] | “Projected growth rate” means the rate of growth projected for the transition period as per section 3; |
| 8. Schedule [Clause (l)] | “Schedule” means the Schedule appended to this Act; |
| 9. State [Clause (m)] | “State” means, (i) for the purposes of sections 3, 4, 5, 6 and 7 the States as defined under the Central Goods and Services Tax Act; and (ii) for the purposes of sections 8, 9, 10, 11, 12, 13 and 14 the States as defined under the Central Goods and Services Tax Act and the Union territories as defined under the Union Territories Goods and Services Tax Act; |
| 10. Taxable supply [Clause (p)] | “Taxable supply” means a supply of goods or services or both which is chargeable to the cess under this Act; |
| 11. Transition date [Clause (q)] | “Transition date” shall mean, in respect of any State, the date on which the State Goods and Services Tax Act of the concerned State comes into force; |
| 12. Transition period [Clause (r)] | “Transition period” means a period of five years from the transition date; and |
| 13. For other definitions see IGST, CGST and SGST Acts | The words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act and the Integrated Goods and Services Tax Act shall have the meanings respectively assigned to them in those Acts. [Section 2(2)] |

9.3 SALIENT FEATURES OF THIS ACT

The Compensation Act provides for the manner of ascertaining the amount of compensation payable to States during the transition period of five years by the Centre on account of revenue loss attributable to levy of goods and services tax. It would inter-alia involve the followings :

- ◆ Ascertaining the base year
- ◆ Identifying the revenue of base year
- ◆ Projected revenue
- ◆ Computation of compensation
- ◆ Release of compensation

The compensation shall be met out from compensation cess for which the provisions in relation to collection, payment return, refund etc. have been provided for in the Compensation Act.

9.4 OBJECTIVES OF THIS ACT

The Act provides for the following :

1. **Compensation of loss :** It provides for the compensation of loss to the states arising out of introduction

of Goods and Service Tax in India;

2. **F.Y. 2015-16 to be the base year :** The financial year 2015-16 shall be taken as base year for the purpose of calculating compensation amount payable to the States;
3. **Revenue means all from of taxes that are levied by the States :** The revenue to be compensated consists of revenues from all the taxes that are levied by the States which are now to be subsumed under goods and services tax, as audited by the comptroller and auditor general of India;
4. **Projected growth rate = 14% :** The projected growth rate of revenue during transition period shall be 14%;
5. **Bi-monthly compensation :** The compensation shall be released bi-monthly (*i.e. once in every two months*) on provisional basis and final adjustment shall be made after getting audited accounts of the year from the Comptroller and Auditor General of India;
6. **Revenue foregone by 11 special category States shall also be counted while calculating revenue of base year :** In case of eleven special category states referred to in article 279A of the Constitution, the revenue forgone on account of exemption of taxes granted by states shall be counted towards the definition of Revenue for the base year 2015-16 for calculating compensation;
7. **Revenue directly collected by Mandi/Municipality shall also be counted while calculating revenue of base year :** The revenues of the states that were not credited to the consolidated funds of states government but were directly collected by “mandi” or “municipality” would also be included in the definition of revenue if these were subsumed in the goods and services tax;
8. **Cess to be levied for compensating the loss of States :** To generate revenue to compensate states for five year for loss suffered by the states on account of implementation of goods and service tax, by levy a cess on such goods as recommended by the GST Council over and above the GST rate on that item;
(**Notified goods on which cess is levied :** Pan Masala, Tobacco and tobacco products, Coal and Lignite, Aerated waters, Motor cars, Cigarettes, Cigar and Hookah)
9. **GST Compensation Fund for collecting the cess and paying the compensation :** The proceeds of the cess shall be credited to the fund called Goods and Service Tax compensation fund and all the compensation payable to the states as GST compensation shall be paid from the above mentioned fund. The balance if any left out in the GST compensation fund after five year shall be equally shared between the Centre and the States;

9.5 BASE YEAR AND BASE YEAR REVENUE

Base year

For the purpose of calculating the compensation amount payable in any financial year during the transition period, the financial year ending 31st March, 2016, shall be taken as the base year.

Base year revenue

The base year revenue for a State shall be the sum of the revenue collected by the State and the local bodies during the base year, on account of the taxes levied by the respective State or Union and net of refunds, with respect to the following taxes, imposed by the respective State or Union, which are subsumed into goods and services tax “GST” namely :

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| VAT and Works Contract Tax [levied by erstwhile Entry 54 of List-II of Seventh Schedule to the Constitution] | xxx |
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| Central Sales Tax (CST) [levied under Central Sales Tax Act, 1956] | xxx |
| Entry tax, Octroi, Local body taxes etc. [levied by erstwhile Entry 52 of List-II of Seventh Schedule to the Constitution] | xxx |
| Luxuries tax, Entertainments tax, Amusements, Betting and Gambling etc. [levied by erstwhile Entry 62 of List-II of Seventh Schedule to the Constitution] | xxx |
| Advertisement tax etc. [levied by erstwhile Entry 55 of List-II of Seventh Schedule to the Constitution] | xxx |
| Duties of excise on medicinal and toilet preparations levied by the Union but collected and retained by the concerned State Government [Erstwhile Article 268 of the Constitution] | xxx |
| Any Cess or fees [levied under entry 66 read with entries 52, 54, 55 and 62 of List-II of Seventh Schedule to the Constitution] | xxx |

Provided that the following sum shall not be included in the revenue collected during the base year in a State, net of refunds, in the calculation of the base year revenue for that State, such as:

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| <i>VAT on petro products and liquor i.e.</i> Taxes levied under the erstwhile entry 54 of List-I on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel and alcoholic liquor for human consumption; | xxx |
| <i>CST on petro products i.e.</i> Tax levied under the Central Sales Tax Act, 1956, on the sale or purchase of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas, aviation turbine fuel; | xxx |

Notes :

1. The base year revenue shall include the amount of tax collected on sale of services by the said State Government during the base year in respect of the State of Jammu and Kashmir.
2. In respect of the States mentioned in sub-clause (g) of clause (4) of article 279A of the Constitution, the amount of revenue foregone on account of exemptions or remission given by the said State Governments to promote industrial investment in the State, with respect to such specific taxes referred to in sub-section (1), shall be included in the total base year revenue of the State, subject to such conditions as may be prescribed.
3. The base year revenue shall be calculated as mentioned above and on the basis of the figures of revenue collected and net of refunds given in that year, as audited by the Comptroller and Auditor-General of India.
4. In respect of any State, if any part of revenues mentioned above are not credited in the Consolidated Fund of the respective State, the same shall be included in the total base year revenue of the State, subject to such conditions as may be prescribed.

9.6 PROJECTED GROWTH RATE

The projected nominal growth rate of revenue subsumed for a State during the transition period shall be fourteen per cent 14% per annum.

Eg. If the base year revenue for 2015-16 for a concerned State, calculated as per section 5 is Rs.100, then the projected revenue for financial year 2018-19 shall be as follows :

Projected Revenue for 2018-19 = $100 (1+14/100)^3$ i.e. Rs.148.15 or

| | | | |
|-------------------|------------------------------------|---|-----------|
| Base year 2015-16 | 100 | = | Rs.100 |
| F.Y. 2016-17 | $100 + 14\% \text{ of } 100$ | = | Rs.114 |
| F.Y. 2017-18 | $114 + 14\% \text{ of } 114$ | = | Rs.129.96 |
| F.Y. 2018-19 | $129.96 + 14\% \text{ of } 129.96$ | = | Rs.148.15 |

9.7 GST COMPENSATION

The compensation payable to a State shall be provisionally calculated and released at the end of every two months period, and shall be finally calculated for every financial year after the receipt of final revenue figures, as audited by the Comptroller and Auditor General of India. However, in case any excess amount has been released as compensation to a State in any financial year during the transition period, as per the audited figures of revenue collected, the excess amount so released shall be adjusted against the compensation amount payable to such State in the subsequent financial year.

The total compensation payable for any financial year during the transition period to any State shall be calculated in the following manner :

- (a) **Calculate projected revenue assuming GST is not introduced :** the projected revenue for any financial year during the transition period, which could have accrued to a State in the absence of the goods and services tax, shall be calculated as per section 6;
- (b) **Calculate actual revenue (net of refunds) collected by States under GST :** the actual revenue collected by a State in any financial year during the transition period shall be:
 - (i) the actual revenue from State tax collected by the State, net of refunds given by the said State under SGST Act;
 - (ii) the IGST apportioned to that State
 as certified by the Comptroller and Auditor-General of India;
- (c) **Compensation payable = (a) - (b) :** the total compensation payable in any financial year shall be the difference between the projected revenue for any financial year and the actual revenue collected by a State referred to in clause (b).

9.8 GST COMPENSATION CESS

There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section 9 of the Central Goods and Services Tax Act, and such inter- State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for 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, for a period of **5 years** or for such period as may be prescribed on the recommendations of the Council.

Provided that no such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section 10 of the Central Goods and Services Tax Act.

The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4) of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify.

Schedule specifies the following products liable to GST Cess :

| Sr. No. | Goods or services liable to GST Cess | Maximum Rate of Cess |
|---------|---|--|
| 1 | Pan Masala | 135% <i>ad valorem</i> |
| 2 | Tobacco and manufactured tobacco substitutes, including tobacco products. | Rs.4,175 per 1,000 sticks or 290% <i>ad valorem</i> or a combination thereof BUT NOT EXCEEDING Rs.4,175 + 290% <i>ad valorem</i> . |
| 3 | Coal, lignite etc. | Rs.400 per tonne |
| 4 | Aerated Water | 15% <i>ad valorem</i> . |
| 4A | Motor vehicles for the transport of not more than 13 persons including driver. | 25% <i>ad valorem</i> . |
| 5 | Motor Cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of 10 or more persons, including the driver), including station wagons and racing cars | 25% <i>ad valorem</i> . |
| 6 | Any other supply | 15% <i>ad valorem</i> . |

Provided that where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supplies of goods or services or both.

Provided further that the cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975, at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975.

Every taxable person, making a taxable supply of goods or services or both, shall :

- pay the amount of cess as payable under this Act in such manner;
- furnish such returns in such forms, along with the returns to be filed under the Central Goods and Services Tax Act; and
- apply for refunds of such cess paid in such form, as may be prescribed.

For all purposes of furnishing of returns and claiming refunds, except for the form to be filed, the provisions of the Central Goods and Services Tax Act "CGST Act" and the rules made thereunder, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under section 8 on all taxable supplies of goods or services or both, as they apply in relation to the levy and collection of central tax on such supplies under the said Act or the rules made thereunder.

The proceeds of the cess and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the

public account of India and shall be utilised for purposes specified in the said section. All amounts payable to the States under section 7 shall be paid out of the Fund. 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.

The accounts relating to Fund shall be audited by the Comptroller and Auditor-General of India or any person appointed by him at such intervals as may be specified by him and any expenditure in connection with such audit shall be payable by the Central Government to the Comptroller and Auditor-General of India.

The accounts of the Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

The provisions of the Central Goods and Services Tax Act “CGST Act” and Integrated Goods and Services Tax Act “IGST Act”, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, mutatis mutandis, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy and collection of central tax and integrated tax on such intra-State supplies under the said Act or the rules made thereunder.

Provided that the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.

The Central Government shall, on the recommendations of the Council, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

- (a) the conditions which were included in the total base year revenue of the States, referred to in sub-clause (g) of clause (4) of article 279A of the Constitution, under sub-section (3) of section 5;
- (b) the conditions subject to which any part of revenues not credited in the Consolidated Fund of the respective State shall be included in the total base year revenue of the State, under sub-section (6) of section 5;
- (c) the manner of refund of compensation by the States to the Central Government under sub-section (6) of section 7;
- (d) the manner of levy and collection of cess and the period of its imposition under sub-section (1) of section 8;
- (e) the manner and forms for payment of cess, furnishing of returns and refund of cess under sub-section (1) of section 9; and
- (f) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

MULTIPLE CHOICE QUESTIONS (MCQs)

Q 1. The Compensation Act provides for the manner of ascertaining the amount of compensation payable to States during the transition period of _____ by the Centre on account of revenue loss attributable to levy of goods and services tax.

- (a) 3 Years
- (b) 5 Years
- (c) 7 Years
- (d) 10 Years

Q 2. The Base Year referred in Compensation Act means _____.

- (a) F.Y. 2016-17
- (b) A.Y. 2016-17
- (c) F.Y. 2015-16
- (d) A.Y. 2015-16

Q 3. Projected Growth Rate referred in Compensation Act means _____.

- (a) 14%
- (b) 12%
- (c) 10%
- (d) 8%

Q 4. Revenue foregone by 11 special category States shall _____ be counted while calculating revenue of base year

- (a) Not
- (b) Also

Q 5. Revenue directly collected by Mandi/Municipality shall _____ be counted while calculating revenue of base year

- (a) Not
- (b) Also

Q 6. While calculating Base Year Revenue, which of the following revenue will be included?

- (a) VAT on all goods
- (b) VAT on petro products and liquor
- (c) VAT on all goods except on petro products and liquor
- (d) None of the them

Q 7. While calculating Base Year Revenue, which of the following revenue will be included?

- (a) Entry Tax
- (b) Advertisement Tax
- (c) Luxury Tax, Entertainment tax
- (d) All of the them

Q 8. Base Year Revenue should be _____.

- (a) Approved by President of India
- (b) Audited by Comptroller and Auditor-General of India
- (c) Both (a) and (b)
- (d) (b) and Approved by GST Council.

ANSWERS to MCQs

| Question | Answer | Question | Answer | Question | Answer | Question | Answer | Question | Answer |
|----------|--------|----------|--------|----------|--------|----------|--------|----------|--------|
| 1 | B | 2 | C | 3 | A | 4 | B | 5 | B |
| 6 | C | 7 | D | 8 | B | | | | |

TAX DEDUCTION AT SOURCE (TDS), TAX COLLECTION AT SOURCE (TCS), E-WAY BILL



New concepts and mechanism

GST

TDS refers to the tax which is deducted when the recipient of goods or services makes payments to supplier of these goods or services, while TCS refers to the tax which is collected by the Electronic Commerce Operator (ECO) when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the ECO.

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.

10.1 TAX DEDUCTION AT SOURCE (TDS) UNDER GST

TDS refers to the tax which is deducted when the recipient of goods or services makes the payments to the supplier of these goods or services. TDS is deposited by the recipient to the credit of the Government with the due dates (to be discussed later in this chapter). Also, the recipient is required to issue a certificate (to be called as “TDS Certificate”) to the supplier mentioning therein details about the payment, TDS and its rates.

10.2 APPLICABILITY OF TDS PROVISIONS [SECTION 51 w.e.f. 1.10.2018]

Section 51 provides as under :

Who is deductor, what is the rate of TDS, what is the threshold limit for TDS

[Sub-section (1)]

1. Deductors (*i.e.* the person responsible for TDS) :

Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

- (a) a department or establishment of the CG or SG, or
- (b) a local authority, or
- (c) a Governmental agencies, or
- (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council

to deduct tax from the payment made or credited to the supplier (*i.e.* “the deductee”) of taxable goods or services or both.

2. Rate of TDS : TDS rate prescribed by this section is 1% which is for CGST, therefore total rate of TDS will be 2% (*i.e.* 1% for CGST and 1% for SGST).

Explanation : For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the CGST, SGST, UTGST, IGST and Cess indicated in the invoice.

[E.g. A supplier raised a tax invoice showing the value of supply of Rs.10,00,000 plus IGST of Rs.1,80,000. In this case, recipient will deduct tax at source on Rs.10,00,000 which @2% will be = Rs.20,000. So the recipient will pay Rs.10,00,000 (i.e. value) – 20,000 (i.e. TDS) + 1,80,000 (i.e. IGST) = Rs.11,60,000 (i.e. TOTAL) to the supplier and Rs.20,000 (i.e. TDS) he will deposit to the credit of the Government.

On other hand, the supplier while discharging his IGST liability, will deduct the tax deducted by the recipient and pay the balance to the Government i.e. Rs.1,60,000 (1,80,000 – 20,000).

3. Threshold limit : TDS is required to be deducted where the total value of such supply, under a contract, EXCEEDS Rs.2,50,000. It means, if the value of supply doesn't exceed Rs.2,50,000, no TDS needs to be deducted.

4. No TDS : Proviso to sub-section (1) provides that no TDS shall be made if the location of the supplier and the place of supply is in a State/UT which is different from the State/UT of registration of the recipient. **E.g.**

| Case | Location of Supplier | Place of Supply | Registration of Recipient | TDS ? |
|------|----------------------|-----------------|---------------------------|-------------------------|
| 1. | Haryana | Haryana | Haryana | Yes (CGST 1% + SGST 1%) |
| 2. | Haryana | Delhi | Delhi | Yes (IGST 2%) |
| 3. | Haryana | Haryana | Delhi | No TDS |

Notes :

(1) As the TDS is required to be deducted on supply of 'taxable goods or services', therefore, if supply is made for the exempted goods or services, then there will no TDS.

(2) As this section is effective from 1.10.2018, therefore if any supply is made prior to this date, there will be no TDS (even if payment for the same is received after 1.10.2018).

(3) Vide **NN 50/2018-CT**, [for the purpose of clause (d) of sub-section (1)] the CG notifies the following persons to be the person responsible for TDS :

- (a) an authority or a board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function;
- (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860,
- (c) public sector undertakings.

Provided that nothing contained in NN 50/2018-CT shall apply to the supply of goods or services or both from a PSU to another PSU, whether or not a distinct person, with effect from 1.10.2018. [NN 61/2018-CT]

Provided also that nothing contained in NN 50/2018-CT shall apply to the supply of goods or services or both which takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of section 51 of the said Act. [NN 73/2018-CT]

Due date for deposit of TDS
[Sub-section (2)/(3) read with rule 66 of CGST Rules, 2017]

- ◆ *Due date for deposit of TDS* : The amount of TDS shall be paid to the Government by the deductor within 10 days after the end of the month in which such deduction is made.
- ◆ *Form for TDS Return* : FORM GSTR-7.
- ◆ *Mode of filing* : Return needs to be filed electronically through the common portal.
- ◆ *Form for TDS Certificate* : FORM GSTR-7A.

10.3 TAX COLLECTED AT SOURCE (TCS) UNDER GST

Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services makes some payments under a contract etc. while TCS refers to the tax which is collected by the **electronic commerce operator (ECO) when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator**. We will discuss the exact nature of TCS with an example. There are many ECOs, like Amazon, Flipkart, Jabong, etc. operating in India. These ECOs display on their portal products as well as services which are actually supplied by some other person to the consumer. The goods or services belonging to other suppliers are displayed on the portals of the ECO and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service to the consumer. The price/consideration for the product/service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO. The Government has placed the responsibility on the ECO to collect the 'tax' at a rate of 1% from the supplier. This shall be done by the ECO by paying the supplier, the price of the product/services, less the tax, calculated at the rate of 1%. The said amount will be calculated on the net value of the goods/services supplied through the portal of the ECO.

Suppose a certain product is sold at Rs. 1000 through an ECO by a seller. The ECO (in addition to his commission) would deduct tax @ 1% of the net value of Rs. 1000 i.e. Rs. 10.

10.4 APPLICABILITY OF TCS PROVISIONS [SECTION 52 w.e.f. 1.10.2018]

Section 52 provides as under :

Who is collector, what is the rate of TCS
[Sub-section (1)]

1. Collector (i.e. the person responsible for Collection of TCS) :

Notwithstanding anything to the contrary contained in this Act,

- every electronic commerce operator (i.e. "operator"),
- not being an agent,
- shall collect an amount calculated at such rate not exceeding 1%, as may be notified by the Government on the recommendations of the Council,
- of the net value of taxable supplies made through it by other suppliers
- where the consideration with respect to such supplies is to be collected by the operator

Explanation.— "net value of taxable supplies" shall mean

- ✓ the aggregate value of taxable supplies of goods or services or both,
- ✓ other than the services notified under section 9(5) [i.e. cases where ECO is liable to pay GST],
- ✓ made during any month by all registered persons through the operator

| | <p>✓ as reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.</p> <p>Note : Where goods or services supplies through ECO are exempt or Zero Rated, the question of TCS will not arise. If a supplier supplies his own goods or services through his website, then also question of TCS will not arise.</p> <p>2. Rate of TCS [vide NN 52/2018-CT & 2/2018-IT & 12/2018-UTT & 13/2018-UTT] : TCS rates are as under :</p> <table> <tr> <th>Nature of supply</th><th>Rate of TCS</th></tr> <tr> <td>Intra State or Intra UT</td><td>CGST@0.5% <i>plus</i> SGST/UTGST@0.5%</td></tr> <tr> <td>Inter State or Inter UT</td><td>IGST@1%</td></tr> </table> | Nature of supply | Rate of TCS | Intra State or Intra UT | CGST@0.5% <i>plus</i> SGST/UTGST@0.5% | Inter State or Inter UT | IGST@1% |
|---|---|------------------|-------------|-------------------------|---------------------------------------|-------------------------|---------|
| Nature of supply | Rate of TCS | | | | | | |
| Intra State or Intra UT | CGST@0.5% <i>plus</i> SGST/UTGST@0.5% | | | | | | |
| Inter State or Inter UT | IGST@1% | | | | | | |
| What is the due date for deposit of TCS [Sub-section (3)] | The amount collected under sub-section (1) shall be paid to the Government by the operator within 10 days after the end of the month in which such collection is made, in such manner as may be prescribed. | | | | | | |
| What is the due date for filing of Monthly TCS Statement [Sub-section (4)] | <p>Monthly TCS Statement and its due date : Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing</p> <ul style="list-style-type: none"> (a) the details of outward supplies of goods or services or both effected through it, (b) the supplies of goods or services or both returned through it, and (c) the amount collected under sub-section (1) during a month, <p>in such form (i.e. FORM GSTR-8) and manner as may be prescribed, within 10 days after the end of such month.</p> | | | | | | |
| What is the due date for filing of Annual TCS Statement [Sub-section (5)] | <p>Annual TCS Statement and its due date : Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing</p> <ul style="list-style-type: none"> (a) the details of outward supplies of goods or services or both effected through it, (b) the supplies of goods or services or both returned through it, and (c) the amount collected under the said sub-section during the financial year, <p>in such form (i.e. FORM GSTR-9B) and manner as may be prescribed, before 31st December following the end of such financial year.</p> | | | | | | |

10.5 E-WAY BILL – AN INTRODUCTION

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”.

E-Way Bill under GST E-way bill is an **electronic document** generated on the GST portal evidencing movement of goods. It has two Components - Part A comprising of details of GSTIN of recipient, place of delivery (PIN Code), invoice or challan number and date, value of goods, HSN code, transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and reasons for transportation; and Part B comprising of transporter details (Vehicle number). As per Rule 138 of the CGST Rules, 2017, every registered person who causes movement of goods (which may not necessarily be on account of supply) of consignment value more than Rs. 50,000 is required to furnish above mentioned information in part A of e-way bill. The part B containing transport details helps in generation of e-way bill.

10.6 PURPOSE OF E-WAY BILL

E-way bill is a mechanism to ensure that goods being transported comply with the GST Law and is an effective tool to track movement of goods and check tax evasion.

10.7 WHO SHOULD GENERATE E-WAY BILL

| | |
|---|--|
| If goods are transported by transporter – by transporter | But if the goods are handed over to a transporter for transportation by road, E-way bill is to be generated by the Transporter. |
| If goods are transported by own or by railways etc. – by ‘nor’ or ‘nee’ | E-way bill is to be generated by the ‘consignor’ or ‘consignee’ himself if – <ul style="list-style-type: none"> ◆ transportation is done in <i>own/hired conveyance</i> or ◆ transportation is done <i>by railways</i> or ◆ transportation is done <i>by air</i> or ◆ transportation is done <i>by Vessel</i>. |
| Ultimate responsibility is of the transporter | Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than Rs.50,000 it shall be the responsibility of the transporter to generate it. How to calculate the ‘value of supply’ [Explanation 2 to Rule 138(1)] - The consignment value of goods shall be <ul style="list-style-type: none"> ✓ the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment ✓ and also INCLUDES the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document ✓ and shall EXCLUDE the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods. E.g. : Taxable value as per Invoice is Rs. 45,000. IGST @ 18% is Rs. 8,100. Total Invoice value is Rs. 53,100. In this case, do you think whether E-Way is required? |

| | |
|--|---|
| | Yes, E-Way Bill is required to be issued as the value of invoice including taxes exceeds Rs. 50,000. |
| Mandatory E-way bill irrespective of value of the consignment | <p>In the following cases, e-way bill generation is mandatory (<i>i.e.</i> even if value of the consignment doesn't exceed Rs.50,000) :</p> <ul style="list-style-type: none"> ♦ Inter-state transportation by principal to job-worker : Where goods are sent by a principal located in one State to a job-worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment. [3rd proviso to Rule 138(1)] ♦ Inter-state transportation of handicraft goods : Where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall be generated by the said person irrespective of the value of the consignment. [4th proviso to Rule 138(1)] |
| Voluntary E-way bill | If the value of the consignment does not exceed Rs.50,000, then generation of E-way bill is although not compulsory, yet the registered person or, the transporter may (voluntarily) generate and carry the e-way bill. |

10.8 HOW TO GENERATE E-WAY BILL

Rule 138 provides as under :

| | |
|---|---|
| <p>Generation of PART A of E-Way bill by the person causing the movement of goods [Rule 138(1)]</p> | <p>Information to be furnished prior to commencement of movement of goods and generation of e-way bill : Sub-rule (2) provides as under :</p> <p>Every registered person who causes movement of goods of consignment value exceeding Rs.50,000—</p> <p>(i) in relation to a supply; or</p> <p>(ii) for reasons other than supply (<i>e.g.</i> branch transfer, goods sent on approval basis); or</p> <p>(iii) due to inward supply from an unregistered person,</p> <p>shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.</p> <p>Analysis :</p> <ul style="list-style-type: none"> ♦ Details in Part A of FORM GST EWB-01 : to be furnished by the person causing the movement of goods. ♦ Details in Part B of FORM GST EWB-01 : to be furnished by the transporter. |
| <p>If authorized by registered person, PART A can be generated by the TRANSPORTER [1st Proviso to Rule (1)]</p> | <p>The transporter, on an authorization received from the registered person, may furnish information in Part A of FORM GST EWB-01, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal.</p> <p>Analysis : Details in Part A & B of FORM GST EWB-01 : to be furnished by the transporter.</p> |
| <p>If authorized by the 'consignor', PART A may be generated by the ECO [2nd Proviso to Rule (1)]</p> | <p>Where the goods to be transported are supplied through an e-commerce operator or a courier agency, on an authorization received from the consignor, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal.</p> |

| | |
|--|---|
| Compulsory E-Way bill in case sending the goods to JOB WORKER [3 rd Proviso to Rule (1)] | Compulsory E-Way : Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment. |
| Compulsory E-Way bill if exempted HANDICRAFT GOODS are transported [4 th Proviso to Rule (1)] | Compulsory E-Way : Where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment. |
| Both PART A and PART B to be furnished by the 'nor' or 'nee' | In the following cases, both PART A and PART B will be furnished by the person causing the movement of goods (whether 'consignor' or 'consignee') : <ul style="list-style-type: none"> ♦ Where the goods are transported by a registered person (at his own) - whether as consignor or recipient [Rule 138(2)], ♦ Where transportation is done <i>by Railways or by Airways or by Vessel</i> [Rule 138(2A)]. Important note : Where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery. [Proviso to rule 138(2A)] |
| If registered person does not furnish details in both PART A and PART B [as required in sub-rule (2)], then he should furnish the details in PART A and the transporter will generate E-Way bill by entering details in PART B. [Rule 138(3)] | As per sub-rule (2), where registered persons transports the goods at his own, then he generates the e-way bill by furnishing the details in both PART A and PART B but if he doesn't generate the E-Way bill, then sub-rule (3) provides as under : <ul style="list-style-type: none"> - Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, - the registered person shall furnish the information relating to the transporter on the common portal - and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01. |
| Voluntary E-Way Bill [1 st Proviso to Rule 138(3)] | Generation of E-Way bill is compulsory if the value of consignment exceed Rs.50,000. But if the value of the consignment doesn't exceed Rs.50,000, the transporter may, at his option, generate and carry the e-way. |
| Movement caused by Unregistered Person - E-Way Bill to be generated by him, or by transporter [2 nd Proviso to Rule 138(3)] | Where the movement is caused by an unregistered person <ul style="list-style-type: none"> ♦ either in his own conveyance or ♦ a hired one or ♦ through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal in the manner specified in this rule. <p>If supplier unregistered and recipient registered, then recipient will be deemed to 'the person who caused the movement of goods' [Explanation 1] – For the purposes of sub-rule (3), where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.</p> |
| No need to furnish the details in PART B if goods are sent to the transporter. [3 rd Proviso to Rule 138(3)] | <ul style="list-style-type: none"> ♦ Where the goods are transported for a distance of upto 50 kilometers ♦ within the State or UT ♦ FROM the place of business of the consignor TO the place of business of the transporter for further transportation, ♦ the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01. |

10.9 UNIQUE E-WAY BILL NUMBER (EBN) AND ITS COMMUNICATION [RULE 138(4)/(11)/(12)]

1. After generation of E-Way Bill, EBN to be generated [Rule 138(4)] : 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.

2. Validity of E-Way Bill – 15 days [2nd Proviso to Rule 138(9)] : The unique number generated under sub-rule (1) shall be valid for a period of 15 days for updation of Part B of FORM GST EWB-01.

3. Details to be made available to ‘nor’, ‘nee’ and transporter [Rule 138(11)] : The details of the e-way bill generated under this rule shall be made available to the-

- (a) *supplier*, if registered, IF the information in Part A of FORM GST EWB01 has been furnished by the recipient or the transporter; or
- (b) *recipient*, if registered, IF the information in Part A of FORM GST EWB01 has been furnished by the supplier or the transporter, on the common portal,

and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

4. Acceptance or rejection within 72 hours [Rule 138(12)] : Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection

- (i) **within 72 hours** of the details being made available to him on the common portal, or
 - (ii) the time of **delivery** of goods
- whichever is earlier,

it shall be deemed that he has accepted the said details.

10.10 VALIDITY PERIOD OF E-WAY BILL [Rule 138(10)]

1. Validity Period - Normally : An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the “relevant date”, for the distance (within the country) the goods have to be transported, as mentioned in column (2) of the said Table :

| Sr. No. | Distance | Validity Period |
|---------|---|---|
| (1) | (2) | (3) |
| 1 | Upto 100 kms. | 1 day from the relevant date in case of Normal Cargo or multimodal shipment in which at least one leg involves transport by ship. |
| 2 | For every 100 kms (or part thereof) thereafter | 1 additional day in case of Normal Cargo or multimodal shipment in which at least one leg involves transport by ship. |
| 3 | Upto 20 kms. | 1 day from the relevant date in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship. |
| 4 | For every 20 kms (or part thereof) thereafter | 1 day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship. |

[Inserted by NN 31/2019 – CT]

2. Extension of Validity Period by Commissioner : The Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.

3. Extension of Validity Period by the transporter : Where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

4. Relevant Date means [Explanation 1] :

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

E.g. A cargo needs to be delivered at a distance of 118 kms. In the E-Way Bill relating to this cargo, the consignor furnishes the details in PART A thereof at 10:30 am on 10.2.2019. On 11.2.2019, the details in PART B are furnished by the transporter at 9:30 am.

In this case, the relevant date is 11.2.2019 and it will end at the mid night. Since the cargo needs to be delivered at a distance of 118 kms. So for 100 kms 1 day from the relevant date and for 18 kms i.e. a part of 100 kms, one additional day. So Validity of the E-Way = 11th + 2 = Mid night of 13th Feb 2019.

10.11 EXEMPTION FROM E-WAY BILL [Rule 138(14)]

Notwithstanding anything contained in this rule, no e-way bill is required to be generated –

1. where the goods being transported are **specified in Annexure**;
2. where the goods are being transported by a **non-motorised conveyance**;
3. 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;
4. 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 UT GST Rules in that particular State or Union territory;
5. where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to notification No. 2/2017- CT (Rate) as amended from time to time [*Note* : NN 2/2017 is **Mega Exemption - Goods**];
6. 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;
7. where the supply of goods being transported is treated as **no supply under Schedule III** of the Act;
8. where the goods are being transported –
 - i. under **customs bond from an inland container depot** or a container freight station **to a customs port, airport, air cargo complex and land customs station**, or from one customs station or customs port to another customs station or customs port, or
 - ii. under customs supervision or under customs seal;
9. where the goods being transported are **transit cargo from or to Nepal or Bhutan**;
10. where the goods being transported are exempt from tax under notification No. 7/2017-CT (Rate) as

amended from time to time and notification No. 26/2017-CT (Rate), as amended from time to time [Note : NN 7/2017 specifies 3 services in respect of which **ECO** will pay GST under RCM and NN 26/2017 specifies exemption to the supply of **heavy water and nuclear fuels**];

11. movement of goods caused by **defence** formation under Ministry of defence as a consignor or consignee;
12. where the consignor of goods is the **Government** or a local authority for transport of goods by rail;
13. where **empty cargo** containers are being transported; and
14. where the goods are being **transported upto a distance of 20 kms 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.
15. where **empty cylinders** for packing of LPG are being moved for reasons other than supply.

Explanation. - 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.

ANNEXURE [(See rule 138 (14))]

| S. No. | Description of Goods |
|--------|--|
| 1. | LPG for supply to household and non-domestic exempted category (NDEC) customers |
| 2. | Kerosene oil sold under Public Distribution System (PDS) |
| 3. | Postal baggage transported by Department of Posts |
| 4. | Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal |
| 5. | Jewellery, goldsmiths' and silversmiths' wares and other articles |
| 6. | Currency |
| 7. | Used personal and household effects |
| 8. | Coral, unworked (0508) and worked coral (9601) |

10.12 CONSEQUENCES OF NON-CONFORMANCE TO E-WAY BILL RULES

If E-Way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138, the same will be considered as contravention of rules. **As per Section 122** of the CGST Act, 2017, a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of

- ♦ Rs. 10,000 or
 - ♦ tax sought to be evaded (wherever applicable)
- whichever is greater.

As per Section 129 of CGST Act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder,

- ♦ all such *goods* and
- ♦ *conveyance* used as a means of transport for carrying the said goods and
- ♦ *documents* relating to such goods and conveyance

shall be liable to detention or seizure.

PART C :CUSTOMS

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BASICS OF CUSTOMS LAW



Custom duty is a duty levied on goods imported or exported from India. The word “Custom” The Custom duty derived its value from the word “custom” under which whenever a merchant entered a Kingdom with his merchandise, he had to give some gift to the king. Subsequently, this custom formalized into the levy of custom duty or tax on goods imported into and exported from the country was organized through various laws during the British period. After Independence, the Sea Customs Act 1878, the Land Customs Act, 1924 and other allied enactments were repealed by a consolidating and amending legislation entitled the Customs Act, 1962. Similarly the Indian Customs Act, 1934 was repealed by the Customs Tariff Act, 1975(CTA).

1.1 INTRODUCTION

Customs duty is a duty, which is levied on import of goods into, and export of goods from, India. This duty is although collected from the importer or exporter of goods, but its incidence is actually borne by the consumer of the goods.

The Customs Act 1962 is the basic Act for levy and collection of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandize as well as baggage of persons arriving in India. The main purpose of Customs Act, 1962 is the prevention of illegal imports and exports of goods. The Act extends to the whole of the India.

Customs duty in India is also one of the important resources of collecting revenue to the Government Department. The collections from custom duty have increased substantially. In the ‘Budget at a glance’ document of the Govt. of India placed before the Parliament on the 16th March, 2012 (for the year 2012-13) the position regarding collections from custom duties has been reported as under:

Indirect taxes – Revenue Collection

(Rs. crore)

| Year | 2016-2017 | 2017-2018 | 2017-2018 | 2018-2019 |
|-----------|-----------|--------------------|---------------------|--------------------|
| | [Actual] | [Budget Estimates] | [Revised Estimates] | [Budget Estimates] |
| Customs | 225,370 | 245,000 | 135,242 | 112,500 |
| CGST | - | - | 2,21,400 | 603,900 |
| IGST | - | - | 161,900 | 50,000 |
| COM. CESS | - | - | 61,331 | 90,000 |

The Customs Act 1962 has consolidated the provisions relating to the Sea Customs Act, Land Customs Act and Air Customs Act which existed separately. During 1965 and 1971 import tariff rates were rationalized. In 1975 the Customs Tariff Act, 1975 was passed replacing the Indian Tariff Act, 1934 which originally provided for the levy of import and export duties. The rates of which the customs duties shall be levied under this Act are specified in the First and Second Schedules. The changes in the Customs Tariff are announced at the time of Budget of the Country.

The main objective of the Customs Act is to safeguard the domestic trade, raise revenue resources for economic development of the country, checking smuggling activities and prevent any unauthorized dumping of foreign goods.

The main rules and regulations under the Customs Act are as follows:

1. The Customs Valuation Rules, 2007.
2. Duty Drawback Rules, 1995.
3. Re-export of imported goods Drawback of Custom Rules, 1995.
4. The Baggage Rules, 1998.
5. Project Import Regulations, 1986.
6. Provisional Assessment Regulations, 1963
7. Bill of Entry Form Regulations, 1976
8. Customs House Agents Regulations
9. Bill of Entry (Electronic Declaration) Regulations, 1995.
10. Customs Act, 1962 was passed by the Parliament on 13th December, 1962. The Act came into force on February 1, 1963. The Act extends to the whole of India.

1.2 CONSTITUTIONAL VALIDITY OF CUSTOM LAW

Constitutional validity of this act is as under—

| | |
|-------------------------------------|--|
| ♦ <i>Power to levy customs duty</i> | The power to levy custom duty is with Central Government. |
| ♦ <i>Source of power</i> | Such power is given under Entry 83 of List-I of Schedule VII of Constitution of India. |
| ♦ <i>Corresponding Laws</i> | There are two main governing laws <i>viz</i> Customs Act, 1962 and Customs Tariff Act, 1975. |

1.3 SCOPE AND COVERAGE OF CUSTOM LAW

There are two Acts which governs the provisions relating to customs in India, namely—

♦ **The Customs Act, 1962 :** The Customs Act 1962 is the basic Act for levy and collection of customs duty in India. It contains various provisions relating to imports and exports of goods and merchandize as well as baggage of persons arriving in India. This Act extends to the whole of the India.

As per section 12(1) of Customs Act the duties of customs shall be levied at such rates as may be specified under Customs Tariff Act, 1975 on goods imported into, or exported from, India.

Imports by Government – As per section 12(2) of Customs Act where goods are imported by the Government, the customs duty is payable by the Government also. Thus, there is no general exemption to goods imported by Government.

♦ **The Customs Tariff Act, 1975 :** The rates at which duties of customs shall be levied are specified in the First and Second Schedules of the Customs Tariff Act, 1975. Schedule 1 of this Act gives classification and rates of duties for imports, while schedule 2 gives classification and rates of duties for exports. Import duty is levied on almost all items, while export duty is levied only on a few products, where Indian goods are in commanding position.

1.4 OVERVIEW OF CUSTOM ACT

Raising revenue for Central Government is the main but not the only purpose of Customs Act. Customs Act is used to (a) regulate imports and exports (b) protect Indian industry from dumping (c) collect revenue of customs duty. In addition, provisions of Customs Act are used for other Acts like Foreign Trade (Development and Regulation) Act, Foreign Exchange Management Act (FEMA) etc.

1.5 RULES AND REGULATIONS

Rules and regulation means—

| | |
|----------------------|---|
| ♦ <i>Rules</i> | <i>Section 2(36)</i> : Rules are made by the Central Government under section 156. They are consistent with the provisions of the Act. They are published in Official Gazette. |
| ♦ <i>Regulations</i> | <i>Section 2(35)</i> : Regulations are made by Central Board of Indirect Taxes and Customs <i>i.e.</i> CBIC (formally known as Central Board of Excise and Customs <i>i.e.</i> CBEC) under section 157. They are consistent with the provisions of the Act <i>as well as</i> Rules thereof. They are published in Official Gazette. As per section 2(32), the word ' <i>prescribed</i> ' means prescribed by <i>regulations</i> made under this Act. |

1.6 FUNCTIONS OF CUSTOMS DEPARTMENT

Main functions of Customs department are summarised as under—

- ♦ Collection of Customs duties on imports and exports as per basic customs laws.
- ♦ Enforcement of various provisions of Customs Act governing imports and exports of cargo, baggage, postal articles and arrival and departure of vessel, aircrafts etc.
- ♦ Discharge of various agency functions and enforcing various prohibitions and restrictions on imports and exports under Customs Act and other allied enactments.
- ♦ Prevention of smuggling including interdiction of narcotics drug trafficking.
- ♦ International Passenger processing.

1.7 LEVIABILITY OF CUSTOMS DUTY

☑ **Constitutional validity** : Import and export duty is a Union subject and power to levy is derived from Constitution. Entry 83 of List I - (Union List) of Seventh Schedule of Constitution of India gives powers to Central Government to levy '*Duties of customs including export duties*'.

☑ **Charging section** : Section 12 of Customs Act, under its sub-section (1) provides as under :

- Duties of customs shall be levied
- at such rates as may be specified under the Customs Tariff Act, 1975, or any other law for the time being in force,
- on :
 - (a) goods imported into, or
 - (b) exported from, India.

1.8 TAXABLE EVENT FOR CUSTOM DUTIES

♦ Taxable event for Import duty

1. TAXABLE EVENT FOR NON-WAREHOUSED GOODS— As per section 12, goods become liable to import duty when they are '*imported into India*'.

As per section 2(23) of Customs Act, 'import' means bringing into India from a place outside India.

As per section 2(27) of Customs Act, 'India' includes territorial waters of India. Territorial water extends upto 12 Nautical Miles from the base line. Where 1 Nautical Mile = 1.853 Kilometers.

Import is completed as soon as goods enter into India (*i.e.* territorial waters of India) and export is

complete only when goods cross the territorial waters.

However, in *Kiran Spinning Mills v. CCE* (1999) 113 ELT 753 (SC), the Apex Court has held that import is completed only when goods cross the customs barrier. The taxable event is (thus) the day of crossing of customs barrier and not the day when goods entered territorial waters.

2. TAXABLE EVENT IN CASE OF WAREHOUSED GOODS— In case of warehoused goods the customs barrier would be crossed when they are taken out of the warehouse and brought to the mass of goods in the country. In case of warehoused goods, the goods continue to be in customs bond. Hence, 'import' takes place only when goods are cleared from the warehouse for home consumption.

♦ Taxable event in case of exports

As per section 2(18), 'export' means taking out of India to a place outside India.

In *UOI v. Rajindra Dyeing and Printing Mills* (2005) 180 ELT 433 (SC), it has been held that export is completed when goods cross territorial waters of India. If ship sinks within territorial waters, export is not completed and hence duty drawback is not payable.

It should be noted that even if export duty is collected before ship leaves the port, that does not mean that taxable event has occurred. Duty can be collected in advance also.

Clearance from DTA to SEZ, is not 'export' therefore, no export duty : Clearance from Domestic Tariff Area (DTA) to Special Economic Zones (SEZ) are deemed export only for allowing export incentives. Since SEZ is located in India, hence, taking goods from DTA (*i.e.* India) to SEZ (*i.e.* India) is not 'export' for the purpose of levy of duties of custom.—*Tirupati Udyog Ltd. v. UOI* [2011] 272 ELT 209 (AP)

1.9 APPLICABILITY OF CUSTOM ACT TO CSIs AND EEZs

The chargeability of Custom Act, 1962 and Customs Tariff Act, 1975 extends to—

- Designated area (like installations, structures etc.), of CSI/EEZIs, and
- Entire CSI/EEZ in relation to exploration of mineral oil/petroleum/natural gas etc.

Where :CSI = Continental Shelf of India

EEZ = Exclusive Economic Zones of India

Limit :CSI and EEZI area extend upto 200 nautical miles from the base line

Note:Beyond 200 nautical miles, the area is 'High Seas', where all countries have equal rights.

1.10 IMPORT/EXPORT — MEANING

☑ **Imported Goods** - Section 2(25) defines 'imported goods' as—

- ♦ any goods brought in India from a place outside India,
- ♦ but does not include goods which have been cleared for home consumption.

Thus, once goods are cleared by customs authorities from customs area, they are no longer 'imported goods'. [But generally, we use to call them 'imported goods']

Smuggled goods are not 'imported goods'. Hence, exemption that is available to imported goods is not available to smuggled goods – *CC v. M Ambalal & Co.* (2011) 260 ELT 487 (SC).

☑ **Export Goods**- As per section 2(19) of Customs Act, 'export goods' means any goods which are to be taken out of India to a place outside India. Goods brought near customs area for export purpose will be 'export goods'. Note that once goods leave Indian territory, Indian laws have no control over them and hence the term 'exported goods' has not been used or defined.

1.11 SOME IMPORTANT DEFINITIONS

Few important definitions are as under—

| Section | Term | Definition |
|---------|--|---|
| 2(9) | Conveyance | “Conveyance” includes— <ul style="list-style-type: none"> (a) vessels (in case import/export by sea), (b) an aircraft (in case import/export by air), and (c) a vehicle (in case import/export by land). |
| 2(11) | Customs Area | “Customs Area” means : Any customs station or a warehouse in which goods are kept prior to the clearance. |
| 2(13) | Customs Station | Customs Station means— <ul style="list-style-type: none"> (a) Any customs port, (b) customs airport (c) international courier terminal (d) foreign post office (e) land customs station. |
| 2(21) | Foreign going Vessel / Aircraft (FGVA) | FGVA means : Vessel or aircraft for carriage of goods/passengers between any port/airport in India and any port/airport outside India whether touching any intermediary location or not, and includes : <ul style="list-style-type: none"> (a) Any naval vessel of any foreign government taking part in any naval exercises; (b) Any vessel engaged in fishing or any other operations outside the territorial waters of India; (c) Any vessel or aircraft proceeding to a place outside India for any purpose whatsoever. |
| 2(23) | Import | “Import” means bringing in to India from a place outside India. |
| 2(25) | Imported Goods | “Imported Goods” means— <ul style="list-style-type: none"> ✓ any goods brought in to India from a place outside India ✓ but doesn't include Goods which have been cleared for home consumption. |
| 2(26) | Importer | “Importer” , <ul style="list-style-type: none"> ✓ 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. |
| 2(22) | Goods | “Goods” includes— <ul style="list-style-type: none"> (a) vessels, aircraft and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property; |
| 2(14) | Dutiable goods | “Dutiable goods” means any goods which are chargeable to duty and on which duty has not been paid. Analysis : Thus, goods continue to be ‘dutiable’ till they are not cleared from the port. However, once goods are assessed at ‘Nil’ rate of duty, they cease to be ‘dutiable goods’. If goods are not chargeable to duty [e.g. chargeable at ‘free’], they will not be ‘dutiable goods’. |

| | | |
|-------|-----------------------|--|
| 2(16) | Entry | <p>“Entry” in relation to goods means—</p> <ul style="list-style-type: none"> ✓ an entry ✓ made in a bill of entry, shipping bill or bill of export ✓ and includes the entry made under the regulations made under section 84. |
| 2(27) | India | <p>“India” includes the territorial waters of India. [Territorial waters extend upto 12 nautical miles from the base line and include any bay, gulf, harbour, creek or tidal river.] (Where 1 nautical mile = 1.1515 miles = 1.853 kms).</p> |
| 2(28) | Indian Customs waters | <p>“Indian customs waters” means—</p> <ol style="list-style-type: none"> (a) the waters extending into the sea up to the limit of Exclusive Economic Zone under section 7 the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (TW,CS,EEZ,MZ, Act, 1976) (b) and includes <ul style="list-style-type: none"> ◆ any bay (<i>i.e.</i> smaller and wide mouth <i>khaadee</i>), ◆ gulf (<i>i.e.</i> larger and narrow mouth <i>khaadee</i>), ◆ harbour, (<i>i.e.</i> <i>bandaragaah</i>) ◆ creek (<i>i.e.</i> <i>jharne se bani</i> river), or ◆ tidal river (<i>i.e.</i> <i>jawar</i> river). <p>Analysis: As per provisions of that Act, contiguous zone of India comes immediately after territorial waters. The outer limit of contiguous zone is 24 nautical miles from the nearest point of base line. Thus—</p> <p>☑ Limit of territorial waters of India = Base line + 12 Nautical miles.</p> <p>☑ Limit of Contiguous zones = Base line + 24 Nautical miles.</p> <p>The Central Government has powers to take measures in this area for security of India.</p> |
| 2(33) | Prohibited goods | <p>“Prohibited goods” means—</p> <ul style="list-style-type: none"> ◆ 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. <p>But does not include—</p> <ul style="list-style-type: none"> ◆ Any goods in respect of which the conditions (subject to which the goods are permitted to be imported or exported) have been complied with; |
| 2(43) | Warehouse | <p>“Warehouse” means—</p> <ol style="list-style-type: none"> (a) Public warehouse appointed under section 57 OR (b) Private Warehouse licensed under section 58. <p>A warehouse therefore is a designated area where goods are allowed to be stored after landing, without the payment of duty.</p> |

BASIS OF CHARGE UNDER CUSTOMS LAW

Customs Duty is an indirect tax, imposed under the Customs Act formulated in 1962. The Customs Act, 1962 is the basic statute which governs entry or exit of different categories of vessels, aircrafts, goods, passengers etc., into or outside the country. The Act extends to whole of India.



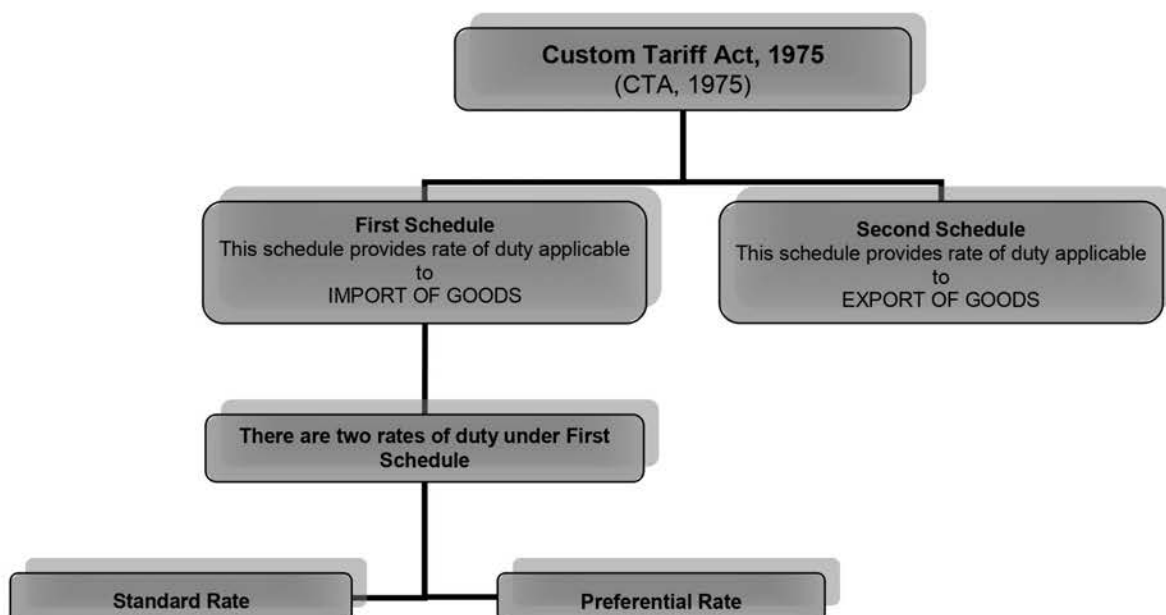
The Customs Act, 1962, not only regulates the levy and collection of duties, but also, serves equally important purposes, like :

- i) Regulation of Imports & Exports*
- ii) Protection of Domestic Industry*
- iii) Prevention of smuggling*
- iv) Conservation and augmentation of foreign exchange*

It may be pertinent to note that it is Section 12 of the Customs Act, 1962 that provides duties of customs to be levied at such rates as may be specified under the Customs Tariff Act, 1975 or other applicable Acts on goods imported into or exported from India.

2.1 CLASSIFICATION OF GOODS AND RATES OF DUTIES

Customs duty is a duty, which is levied on import of goods into, and export of goods from, India. This duty



Classification of goods

- ◆ Schedules are divided into various “SECTIONS” and “CHAPTERS”.
- ◆ The goods are further, categorised into various Tariff Headings > Sub Headings > Tariff Items.

For Example—

SECTION I, (i.e. LIVE ANIMALS; ANIMAL PRODUCTS)

CHAPTER-1 (i.e. live animals), which contain following Tariff Headings, Sub Heading and Tariff Items—

| 0101 | | LIVE HORSES, ASSES, MULES AND HINNIES [This is Tariff Heading] | | | |
|----------|-----|--|--|-----------------------|---------------------------|
| | | | | Standard Rate of Duty | Preferential Rate of Duty |
| | - | Horses: [This is Sub-Heading] | | | |
| 01012100 | -- | Pure-bred breeding animals | | 30% | - |
| 010129 | -- | Other: | | | |
| 01012910 | --- | Horses for polo | | 30% | - |
| 01012990 | --- | Other | | 30% | - |

These are dashes

These are Tariff Items

2.2 RATES OF CUSTOMS DUTY

Provisions in respect of rate of duty are as follows—

1. Basic Customs duty [i.e. BCD] : The applicable rates of customs duty are provided in the First and Second Schedules of Customs Tariff Act (CTA), subject to exemption notifications, if any. In case of imports from preferential area, the preferential rate is applicable, if mentioned in the Tariff. It is needless to mention that if partial or full exemption has been granted by a notification, the effective rate (as per notification) will apply and not the tariff rate (as mentioned in Customs Tariff).

2. Rate for additional duty : Rate for additional duty (CVD) will be equal to the rates of excise duty as mentioned in Central Excise Tariff Act (CETA) which would be leviable on like articles if produced or manufactured in India or if a like article is not so produced or manufactured, which would be leviable on the class or description of articles to which the imported article belongs, and where such duty is leviable at different rates, the highest duty.

This will however be subject to any general exemption notification. Any specific exemption notification (e.g. exemption to goods manufactured by SSI unit or goods manufactured without aid of power) is not considered while calculating CVD.

3. Rate when goods consist of articles liable to different rates of duty : [Section 19 of Customs Act]— Often goods may be imported in sets. One set may contain goods under different Chapter headings and therefore, different rates may be applicable. Rate of duty will be decided as under—

| Situation | Rate of duty |
|--|---|
| <ul style="list-style-type: none"> ▪ If importer is able to provide breakup of prices of different goods (with evidence); or ▪ If the evidence is available (in self-assessment cases) | Different rates of duty as applicable to each type of goods |
| <ul style="list-style-type: none"> ▪ If no such breakup is available/provided: <ul style="list-style-type: none"> ☑ Articles liable to duty with reference to quantity ☑ Articles liable to duty with reference to value: <ul style="list-style-type: none"> → If they are liable to <i>same rate</i> of duty → If they are liable to <i>different rate</i> of duty | <ul style="list-style-type: none"> - Duty to be charged as per their quantity - Duty to be charged as per that rate - Duty to be charged as per HIGHEST of these |

| | |
|--|---|
| <input checked="" type="checkbox"/> Articles not liable to duty | rates - Duty to be charged by using HIGHEST rate of duty of other imported articles. |
| <input type="checkbox"/> If accessories and spare parts for maintenance are compulsorily supplied with the article and no separate charge is made | Accessories will be chargeable at the rate of that article. |

2.3 RELAVANT DATE FOR RATE OF DUTY IN CASE OF 'IMPORTS' [SECTION 15]

1. Import other than Post or Baggage : As per section 15 of Customs Act the relevant date for determination of rate of duty is as under—

| Sr. No. | Situation | Relevant date for rate of duty and valuation |
|---------|--|--|
| 1 | If the goods are directly entered for home consumption under section 46 | ♦ Date on which <i>bill of entry</i> is recorded in the customs records; or ♦ Date on which <i>entry inward</i> is granted to the vessel OR if in case import is made through aircraft/vehicle, then the <i>date of their arrival</i> . — Whichever is later |
| 2 | In case warehoused goods are entered for home consumption under section 68 | The date when bill of entry (for home consumption) is presented under section 68 for clearance from warehouse. |
| 3 | In any other case | The date of payment of duty. |

'Bill of Entry' and 'Entry Inward': As per section 46 of Customs Act, every importer of goods has to submit a 'Bill of Entry' giving details of goods being imported. The carrier of goods has to submit 'Import Manifest' or 'Import Report' giving details of all goods which are brought for unloading at the port. If shipping berth is available, 'Entry Inwards' is granted to the vessel.

Normally, Bill of Entry should be presented after ship arrives and import manifest is submitted by shipper. However, this will delay the assessment process and goods lying on docks will incur heavy demurrage. Hence, it is permitted to submit 'Bill of Entry' if the vessel in which goods have been shipped is expected to arrive within 30 days of such presentation.

However, even if Bill of Entry is submitted earlier, date for purpose of assessment will be

(a) date of grant of 'entry inward' to vessel or

(b) date of submission of Bill of Entry

whichever is later

Warehousing : The Bill of Entry may be for home consumption or for warehousing. Home consumption means goods are for use or consumption in India. At times, the importer may not immediately need the goods. In such cases, he can keep those goods in warehouse without payment of duty and clear the goods from warehouse when needed. In such cases, duty payable is as per rate of duty prevailing on date on which Bill of Entry for home consumption is presented under section 68.

2. Relevant date in case of import through post [Section 83] : As per this section, the rate of duty and valuation shall as under :

| Sr. No. | Situation | Relevant date for rate of duty and valuation |
|---------|--|---|
| 1 | If Postal Authorities submit the LIST to Customs Officer AFTER | Relevant date (for rate of duty and valuation) will be the one which is prevailing on the date on which Postal Authorities submit the LIST to |

| | | |
|---|---|--|
| | the arrival of vessel. | Customs Officer. |
| 2 | If Postal Authorities submit the LIST to Customs Officer BEFORE the arrival of vessel | Relevant date (for rate of duty and valuation) will be the one which is prevailing on the date of arrival of the vessel. |

Similarly, in case of exports, rate and tariff valuation shall be the one which is prevailing on date on which GOODS are handed over to postal authorities.

3. Relevant date in case of import as baggage [Section 78] :As per section 78 of Customs Act, relevant date for rate of duty and baggage is the date on which *declarationis made* in respect of baggage as required under section 77.

2.4 RELEVANT DATE FOR RATE OF DUTY IN CASE OF EXPORTS [SECTION 16]

As per section 16 of Customs Act the relevant date for determination of rate of duty is as under—

| Sr. No. | Situation | Relevant date for rate of duty and valuation |
|---------|--|--|
| 1 | If goods are entered for export under section 50 | The date on which proper officer makes an order for clearance and loading of goods for exportation under section 51. |
| 2 | In any other case | The date of payment of duty. |

2.5 FOREIGN EXCHANGE RATE AND RELEVANT DATE FOR DETERMINING VALUE

Provisions relating to exchange rate and relevant date for its determination are as under—

| | |
|--|---|
| ♦ What is the meaning of 'Exchange rate' for custom valuation | 'Exchange rate' means the rate of exchange determined by CBIC (formally known as CBEC). [Explanation to section 14] |
| ♦What is the relevant date for determining foreign exchange rate | The date relevant for foreign exchange rate will be the date of presentation of BILL OF ENTRY under section 46. [3 rd Proviso to section 14] |

Note: The condition of 'grant of entry inwards' is not provided for this purpose. Bill of Entry can be presented within 30 days prior to the expected date of arrival of vessel. If Bill of Entry is presented within that time and even if 'Entry Inward' is granted subsequently, rate of exchange shall be the one which is prevailing on the date of presentation of bill of entry.

For example: Expected date of arrival of ship is 18th March, 2018. Bill of Entry was filed on 1st March, 2018, i.e. within 30 days prior. However, ship was delayed and 'Entry Inward' was granted on 30th March, 2018. Thus, for 'rate of customs duty', 30th March, 2018 is the relevant date, while for considering foreign exchange rate, 1st March, 2018 is the relevant date.

PRACTICAL PROBLEM

Problem 2.1 :From the following information, you are required to calculate the duty payable :

| | | |
|--|---|-------------------|
| Date of submission of 'import report' | : | February 12, 2018 |
| Date of grant of 'entry inward' | : | February 14, 2018 |
| Date of submission of 'bill of entry' for 'warehousing' | : | February 18, 2018 |
| Date of submission of 'bill of entry' for 'home consumption' | : | March 20, 2018 |
| Value of goods imported | : | \$50,000 |

Rate of exchange :

| | RBI | CBIC |
|------------------------|----------|------------|
| - On February 12, 2018 | Rs.62/\$ | Rs.62.5/\$ |
| - On February 14, 2018 | Rs.63/\$ | Rs.63.5/\$ |
| - On February 18, 2018 | Rs.64/\$ | Rs.64.5/\$ |
| - On March 20, 2018 | Rs.65/\$ | Rs.65.5/\$ |

Rate of Basic Custom Duty (BCD) :

| | |
|------------------------|-----|
| - On February 12, 2018 | 20% |
| - On February 14, 2018 | 22% |
| - On February 18, 2018 | 24% |
| - On March 20, 2018 | 30% |

Solution : As per section 15, in case of 'warehoused goods' the date relevant for determination of rate of duty will be the date submission of bill of entry for 'home consumption' under section 68 *i.e.* March 20, 2018. Therefore, rate of duty will be 30%.

Further, as per section 14, the rate of exchange relevant will be the one which is in force on the date on which bill of entry is presented under section 46 (for home consumption or warehousing) *i.e.* February 18, 2018. Thus, any subsequent change in rate of exchange will not affect the valuation already done. Also, the exchange rate to be adopted will be of CBIC.

Therefore, amount of custom duty will be as under :

| Value | Rate of exchange | Value in rupee | Rate of duty | Amount of duty |
|-----------|------------------|----------------|--------------|----------------|
| \$ 50,000 | Rs.64.5/\$ | 32,25,000 | 30% | 9,67,500 |

2.6 TAX TREATMENT OF RE-IMPORTED GOODS [SECTION 20]

If goods are imported into India after exportation therefrom—

- such goods shall be liable to duty and
- shall be subject to all the conditions and restrictions (if any) as the goods of like kind are liable on their importation.

Thus, re-imported goods are treated *at par* with the other imported goods.

2.7 WHAT ARE 'GOODS DERELICT, JETSAM, FLOATSAM, WRECK' AND WHAT IS THEIR TAXABILITY UNDER CUSTOMS ACT [SECTION 21]

All goods—

- ☒ Derelict [*i.e.* vessel or cargo abandoned in sea],
- ☒ Jetsam [*i.e.* cargo that is voluntarily thrown overboard to lighten the load of the ship],
- ☒ Flotsam [*i.e.* goods floating on water after being lost from a ship that has sunk], and
- ☒ Wreck [*i.e.* damaged goods]

which are brought or coming into India shall be dealt with AS IF they were imported into India.

But if it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act, then no duty will be paid.

2.8 ABATEMENT OF DUTY ON DAMAGED OR DETERIORATED GOODS [SECTION 22]

1. Abatement when: Where it is shown to the satisfaction of AC/DC of customs that—

- (a) any imported goods (other than warehoused goods) had been damaged or deteriorated
 - ☒ at any time before or during unloading; or
 - ☒ after unloading but before their examination under section 17 due to any accident but not due to any willful act, negligence of owner or his employees or agent; or
- (b) any warehoused goods had been damaged at any time before clearance for home consumption due to any accident but not due to any willful act, negligence of owner or his employee or agent

such goods shall be eligible for abatement of duty.

2. Amount of abatement: The abatement will be calculated by using the following formula—

$$\text{Total amount of duty} \times \frac{\text{Value of damaged/deteriorated goods}}{\text{Total value of goods imported}}$$

3. How to compute value of damaged/deteriorated goods: AT THE OPTION OF THE OWNER, the value of these goods may be calculated by any of the following methods —

Method-1: Value determination by the proper officer; or

Method-2: Sale proceeds of these goods if these are sold by the proper officer by means of public auction or tender or any other manner as the owner may suggest.

2.9 REMISSION OF DUTY ON LOST, DESTROYED OR ABANDONED GOODS [SEC. 23]

This section grants remission of duty in the following cases—

- (a) **LOST OR DESTROYED GOODS:** Without prejudice to the provisions of section 13, where it is shown to the satisfaction of the AC/DC that any imported goods have been lost (otherwise than pilferage) or destroyed before their clearance for home consumption, the AC/DC shall remit the duty on such goods.
- (b) **RELINQUISHMENT OF TITLE:** The owner of any imported goods may at any time before the order for clearance for home consumption or warehousing, relinquish his title to the goods and thereupon he shall not be liable to pay the duty thereon.

2.10 NO DUTY ON 'PILFERED GOODS' [SECTION 13]

1. Applicability of this section: The importer shall not be liable to pay the duty leviable on any imported goods which are pilfered (*i.e.* small theft)—

- ♦ AFTER their unloading but
- ♦ BEFORE the proper officer's order for clearance for home consumption or warehousing.

2. Non-applicability of this section: The importer shall be liable to pay the duty on pilfered goods where such goods are restored to him after their pilferage.

2.11 DENATURING OR MUTILATION OF GOODS [SECTION 24]

1. Permitting denaturing or mutilation: 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.

2. Duty on denatured or mutilated goods: Where any goods are 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.

2.12 ASSESSMENT OF DUTY [SECTION 17]

1. Self-assessment by importer/exporter [Section 17(1)]: An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

2. Verification and examination by the proper officer [Section 17(2)]: The proper officer

- may *verify*
 - ♦ the entries made under section 46 or section 50 *and*
 - ♦ the self-assessment of goods referred to in sub-section (1)
- *and* for this purpose, *examine or test* any imported/exported goods or part thereof as may be necessary.
- *Provided that* the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

3. Calling for further information or documents [Section 17(3)]: For the purpose of assessing duty under sub-section (2), the proper officer may require the importer, exporter or any other person:

- ♦ to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and
- ♦ thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

4. Re-assessment of duty by the proper officer [Section 17(4)]: This sub-section provides as under :

- Where it is found
 - ♦ on verification of the goods, or
 - ♦ examination of the goods, or
 - ♦ testing of the goods, or
 - ♦ otherwise
- that the self-assessment is not done correctly,
- the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

5. Passing of speaking order by the proper officer [Section 17(5)] : As per this sub-section :

- Where :
 - (i) any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter, and
 - (ii) in other cases [other than those cases where the importer/exporter confirms his acceptance of the said re-assessment in writing,
- the proper officer shall pass a speaking order on the re-assessment, within 15 days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.

2.13 PROVISIONAL ASSESSMENT OF DUTY [SECTION 18]

1. Circumstances wherein provisional assessment may be ordered [Section 18(1)]: Notwithstanding anything contained in this Act but without prejudice to the provisions contained in section 46 (*it means bill of entry is to be filed in case of provisional assessment also*) and section 50 (entry of goods for exportation), provisional assessment may be ordered in the following cases—

| | |
|--------------------|--|
| Situation-1 | <i>Importer/exporter not able to make self-assessment</i> : where the importer or exporter is unable to make self-assessment under section 17(1) and makes a request in writing to the proper officer for assessment, or |
| Situation-2 | <i>Testing intention of proper officer</i> : Where the proper officer deems it necessary to subject any imported/export goods to any chemical or other test for the purpose of assessment of duty thereon, or |
| Situation-3 | <i>If documents/information produced but proper officer wants to have further inquiry</i> : Where the importer/exporter has produced all the necessary documents and information for the assessment of duty but the proper officer deems it necessary to make further enquiry for assessing the duty, or |
| Situation-4 | <i>If NO documents/information produced and proper officer wants to have further inquiry</i> : Where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry for assessing the duty. |

2. Order of provisional assessment [Section 18(1)]: Thereafter, the proper officer may direct that the duty leviable on such goods may, (pending the above documents or test or enquiry), be assessed provisionally if the importer/exporter furnishes such security as the proper officer deems fit for the payment of the deficiency, if any, between-

- (i) the duty finally assessed and
- (ii) the duty provisionally assessed.

3. Submitting the documents or information by the importer/exporter [Section 18(1A)] : After the provisional assessment under sub-section (1),

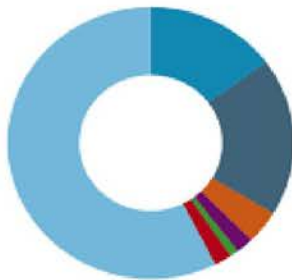
- ♦ if any document or information is required by the proper officer for final assessment, the importer/exporters shall submit such document or information within such time, and
- ♦ the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.

3. Final assessment [Section 18(2)]: When the duty leviable on such goods is assessed finally in accordance with the provisions of this Act, then following treatment shall be made—

| | |
|--|--|
| (a) In case goods are cleared for home consumption or exportation | <p>The amount paid under provisional assessment, shall be adjusted against the duty finally assessed as under:</p> <ul style="list-style-type: none"> ■ <i>Demand</i>: if the provisional amount is LESS THAN the final amount, the importer/exporter of the goods shall pay such deficiency (<i>i.e.</i> the difference); ■ <i>Refund</i>: If the provisional amount EXCEEDS the final amount, the importer/exporter shall be entitled to a refund of such difference. ■ <i>Refund subject to 'unjust enrichment'</i>: As per section 18(5) the amount of refund <i>plus</i> interest thereon shall be paid only if: <ul style="list-style-type: none"> (a) The importer/exporter had not passed on the incidence of such duty and interest to any other person; (b) Such import is made by an individual for his personal use; (c) The buyer who has borne such duty if he had not passed on the incidence of such duty to any other person; (d) such duty is relatable to the export duty as specified in section 26 [<i>i.e.</i> refund of |
|--|--|

| | |
|--|--|
| | <p>export duty IF</p> <ul style="list-style-type: none"> ✓ goods are returned, or ✓ are re-imported (within 1 year) and ✓ refund claimed has been filed within 6 months from the order of the clearance of the goods]; <p>(e) such duty is relatable to the drawback of duty payable under sections 74 and 75.</p> <p>Note: If these conditions are not satisfied, the refund plus interest thereon shall be credited to Consumer Welfare Fund (CWF) established under section 12C of Central Excise Act, 1944.</p> |
| (b) In case of warehoused goods | <p>The proper officer may, where the duty finally assessed EXCEEDS the duty provisionally assessed, require the</p> <ul style="list-style-type: none"> ☑ importer to execute a bond, ☑ for binding himself in a sum equal to twice the amount of the excess duty. Thus, bond amount = $2 \times (\text{final duty} - \text{provisional duty})$ |
| (c) Interest on demand amount [Sub-section (3)] | <p>The importer/exporter shall be liable to pay interest, on amount of demand as under:</p> <ul style="list-style-type: none"> ▪ <i>Rate of interest:</i> Rate between 10% p.a. - 36% p.a. as may be notified by the CG [vide N.N. 33/2016-Customs (NT), the notified rate is 15% p.a.] ▪ <i>Period of interest:</i> Interest shall be payable from the first day of the month in which the duty is provisionally assessed till the date of payment thereof. |
| (d) Interest on refund amount [Sub-section (4)] | <p>Subject to the provisions of the sub-section (5), if any refundable amount referred to in (a) above is not refunded within 3 months from the date of final assessment, interest on such refund will be paid as under:</p> <ul style="list-style-type: none"> ▪ <i>Rate of interest:</i> Rate of interest is currently 6% p.a. ▪ <i>Period of interest:</i> Interest shall be calculated from the first day after the expiry of said 3 months (<i>i.e.</i> 3 months from the date of final assessment) till the date of such refund. |

TYPES OF DUTIES UNDER CUSTOMS LAW



Broadly customs duties are divided into two categories viz Import duties and export duties. Import duties are levied on almost on all goods imported into the country except on importation of a few things like lifesaving drugs/equipment, fertilizers, food grains etc. Import duties are further divided into basic duty, additional customs duty, countervailing duty, protective duty, and anti-dumping duty, safeguard duty etc.

Export duties (however) are levied on a few goods as specified under the Second Schedule of CTA, 1975.

3.1 TYPES OF IMPORT DUTIES OF CUSTOMS

A brief overview of various duties of customs is as under—

| Relevant section of CTA, 1975 | Name of duty | Description of duty |
|-------------------------------|-----------------------------|--|
| Section 2 | BCD | <ul style="list-style-type: none"> ◆ Basic Custom Duty or BCD is levied under section 12 of Custom Act, 1962 ◆ Rates of BCD are specified in Schedules of CTA, 1975. |
| Section 3(1) | CVD | <ul style="list-style-type: none"> ◆ Countervailing Duty or CVD is levied under section 3(1) of CTA, 1975. ◆ It is levied to counter balance the excise duty leviable on like goods manufactured or produced in India. |
| Section 3(3) | CVD | <ul style="list-style-type: none"> ◆ Countervailing Duty or CVD is levied under section 3(3) of CTA, 1975. ◆ It is levied to counter balance the excise duty on inputs/raw material used in manufacture of imported articles. Although no such duty is presently levied. |
| Section 3(5) | Special CVD | <ul style="list-style-type: none"> ◆ Special CVD (or SAD) is levied under section 3(5) of CTA, 1975. ◆ It is levied to counter balance the sales tax/VAT. |
| Section 6 | Protective Duty | <ul style="list-style-type: none"> ◆ Protective duty is levied on recommendation of Tariff Commission to protect the domestic industry. |
| Section 8B | Safeguard Duty | <ul style="list-style-type: none"> ◆ Safeguard duty is levied to provide safeguard against bulk imports. |
| Section 9 | Duty on subsidised articles | <ul style="list-style-type: none"> ◆ Countervailing duty on subsidised articles is levied under section 9 of CTA, 1975. ◆ It is levied on articles which are exported from a foreign countries to India at a subsidised price. |
| Section 9A | Anti-dumping duty | <ul style="list-style-type: none"> ◆ Anti-dumping duty is levied under section 9A of CTA, 1975. ◆ It is levied to protect dumping in India. |

3.2 BASIC CUSTOMS DUTY (BCD) [SECTION 12 OF CUSTOMS ACT, 1962 READ WITH SECTION 2 OF CTA, 1975]

Section 12 of Customs Act : Basic customs duty is levied under section 12 of Customs Act. Sub-section (1) of section 12 provides as under :

- Except as otherwise provided in this Act, or any other law for the time being in force,
- 'duties of customs' shall be levied at such rates as may be specified under the CTA, 1975 or any other law for the time being in force,
- on goods imported into, or exported from, India.

Sub-section (2) thereof provides that the provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government.

Section 2 of Customs Tariff Act, 1975 : The rates at which duties of customs shall be levied under the Customs Act, 1962, are specified in the First and Second Schedules. First Schedule deals with rates of duties on Imports. It has two types of rates :

| | |
|---------------------------|---|
| <i>Standard rates</i> | Import duty is normally charged at Standard rates. However, if goods are imported from 'preferential countries' then 'Preferential Rates' are used for calculating import duty. |
| <i>Preferential rates</i> | Section 4 of CTA, 1975 : Where in respect of any article a preferential rate of duty is specified in the First Schedule, the duty to be levied and collected shall be at the preferential rate IF the owner of the article claims that such article is chargeable with a preferential rate of duty, being the produce or manufacture of such preferential area as is notified under sub-section (3). |

Thus, BCD is levied as per section 12 of Customs Act and its rates are provided by section 2 of CTA. Normally, it is levied as a percentage (%) of *value* as determined under section 14(1)/(2). Section 14(1) contains provisions relating to 'transaction value' whereas section 14(2) contains provisions of 'tariff value'. The duty may be fixed on *ad-valorem* (i.e. as a % of value) or at a specific rate. Under section 25, the Central Government has the powers to reduce or exempt any goods from these duties.

Provisions relating to valuation and calculation of assessable value are contained in next chapter.

To sum up :

| | |
|--|--|
| <i>Charging Section</i> | This duty is levied under section 12 of Customs Act, 1962. |
| <i>Duty leviable on</i> | This duty is levied on <i>all imported goods</i> except those goods which are exempted by Central Government under section 25. |
| <i>Rate of such duty</i> | This duty is levied at the rate specified in First and Second Schedule of CTA. Generally it is charged at the rate of 10%. |
| <i>Assessable value for charging this duty</i> | This duty is calculated on Transaction value referred to in section 14(1) or Tariff value referred to in section 14(2) as the case may be. |

3.3 INTEGRATED TAX —SECTION 3(7) OF CTA

1. Levy [Section 3(7)] : With the introduction of GST w.e.f. 1.7.2017, imported goods (in addition to BCD) are subject to IGST and Compensation Cess. Section 3(7) of CTA, 1975, provides as under :

- ♦ Any article which is imported into India shall, in addition, be liable to integrated tax
- ♦ at such rate, not exceeding 40%
- ♦ as is leviable under section 5 of IGST, 2017 on a like article on its supply in India,
- ♦ on the value of the imported article as determined under sub-section (8).

2. Valuation [Section 3(8)] : For the purposes of calculating the integrated tax on any imported article where such tax is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—

| | |
|---|-------|
| The value of the imported article determined under section 14(1) the Customs Act, 1962 OR The tariff value of such article fixed under section 14(2) the Customs Act, 1962 | xxx |
| ADD : Any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, (i.e. BCD) and 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, | + xxx |
| LESS : Tax referred to in sub-section (7) or the cess referred to in sub-section (9) | —xxx |
| Assessable Value for charging IGST | xxx |
| Important Note (Author): As no deduction is given for any other duty, therefore IGST will be levied on AV + BCD + SWS + RIC + Anti-Dumping Duty + CVD on Subsidised Goods + Protective Duty + Safeguard Duty. Similarly, Compensation Cess (given below) will also be calculated on the above total. | |

Note : While calculating above assessable value, the IGST itself and Compensation cess will NOT be considered.

3.4 GST COMPENSATION CESS — SECTION 3(9) OF CTA

1. Levy [Section 3(9)] : GST Compensation Cess is levied under section 8 of the GST (Compensation to State) Act, 2017. It is levied on intra-state and inter-state supply of goods or services to provide compensation to the States for loss of revenue due to implementation of GST in India. Cess is applicable only on those supply of goods or services that have been notified by the Central Government. As of now, GST compensation cess is levied on luxury and sin goods like pan masala, tobacco etc.

Section 3(8) provides the levy of Cess on imported goods as well. This section provides as under :

- ◆ 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 under section 8 of the GST (Compensation to States) Cess Act, 2017
- ◆ on a like article on its supply in India,
- ◆ on the value of the imported article as determined under sub-section (10).

2. Valuation [Section 3(10)] : The assessable value for levying GST compensation cess is to be computed in the same manner as discussed above. It means, both IGST and Cess will be calculated on TV + BCD.

3.5 ADDITIONAL CUSTOMS DUTY (CVD) — SECTION 3(1) OF CTA

1. About CVD : 'Additional Customs Duty' is often called 'Countervailing Duty' (CVD). Additional duty is levied under section 3(1) of CTA, 1975. Thus, it is not a 'duty under the Customs Act'. However, it is 'duty of customs'. CVD is imposed when excisable articles are imported, in order to counter balance the excise duty, which is leviable on similar goods if they are manufactured in India.

Rationale behind CVD is to safeguard interests of manufacturers in India and to provide level playing field to indigenous producers or manufacturers. Though excise duty rate is considered for the purpose of CVD, yet it is not 'excise duty'.

Section 3(1) of CTA provides as under—

- ◆ This duty is levied on imported goods. It is equal to excise duty levied on a like product manufactured or produced in India. **[Author : With the introduction of GST, imported goods are subject to BCD and IGST thus, this duty is levied only on a few imported goods which are outside the preview of GST Law.]**
- ◆ If like article is not produced or manufactured in India, the excise duty that would have been leviable on that article had it been produced in India is the base.

- ◆ If the product is leviable with different rates, then highest rate among those rates is to be considered. The duty is leviable on Value of goods **plus** customs duty payable (*i.e.* BCD).

Note : If excise duty is exempt for these goods, no CVD is levied—*Collector v. J. K. Synthetics 2000 (SC)*.

2. Mode of Calculation of CVD : CVD is payable on Assessable Value [as determined under section 14(1) of Customs Act or tariff value fixed under section 14(2) of Customs Act] **plus** BCD chargeable under section 12 of Customs Act **plus** any other sum chargeable on that article.

However, while calculating CVD, following duties are not to be considered—

- a. Safeguard duty under sections 8B and 8C of Customs Tariff Act.
- b. Countervailing duty, if any, under section 9 of Customs Tariff Act.
- c. Anti-dumping duty payable under section 9A of Customs Tariff Act.
- d. Customs portion of EC and SHEC on imported goods.
- e. CVD itself which is payable under section 3(1).
- f. Additional Duty payable under section 3(3) and 3(5) of Customs Tariff Act.

3. CVD Payable at effective rate of Excise duty : Additional duty (CVD) is payable at effective rate of excise duty *i.e.* any concession granted by a notification should be considered *e.g.* if Excise Tariff Rate is 25%, but by an unconditional exemption notification, excise duty is reduced to 15%. In such case, additional duty is payable @ 15% and not @ 25%. Additional duty is leviable even if like goods are not produced in India.

4. Rate of CVD in case of alcoholic liquor : Since alcoholic liquor is a State subject, excise duty varies from State to State. This was creating problems in imposing CVD in case of alcoholic liquor for human consumption. Hence, in case of alcoholic liquor, rate of additional duty (CVD) will be determined by Central Government by issuing a notification, having regard to excise duty leviable on like alcoholic liquor in different States. [Proviso to section 3(1)]

5. E.C. and S.H.E.C on CVD exempted : EC and SHEC on CVD has been exempted *m.e.f.* 17-3-2012 vide N.N. 13/2012 and 14/2012.

6. Post GST regime [IGST v. CVD] : With the introduction of GST, imported goods are subject to IGST. However, even after introduction of GST, CVD is still payable on those goods which are outside the preview of GST laws. *E.g.* under GST regime, alcoholic liquor is still under state excise which has not been subsumed under GST. So, their import is (still) subject to CVD and no IGST is levied.

Similarly, until now, GST is not levied on petroleum products such as motor spirit, high speed diesel, aviation turbine fuel; therefore, additional duties of Customs will also be levied on the import of these products.

7. To sum up :

| | |
|-------------------|--|
| Charging Section | This duty is levied under section 3(1) of Customs Tariff Act, 1975. |
| Duty leviable on | It is levied on <i>all imported goods</i> except— <ul style="list-style-type: none"> ◆ those which are subject to IGST, or ◆ those goods which are exempted by Central Government under section 25 |
| Rate of such duty | This duty is levied at the rate of excise duty leviable on like article if manufactured or produced in India. Thus, rate of such duty will be taken from Central Excise Tariff Act, 1985. Notes— 1. Only excise duty rate will be taken for calculating CVD <i>and no EC and SHEC</i> . 2. In case of imported goods being 'alcoholic liquor for human consumption' the rates for charging CVD are separately specified by the Central Government. |

| | | |
|---|--|-----|
| Assessable value for charging this duty | Assessable value for charging this duty will any of the following : | |
| | 'Tariff value' if 'tariff values' are fixed by the Central Government under section 3(2) for like article manufactured or produced in India; | xxx |
| | Assessable Value under section 14(2) for charging CVD | xxx |
| | OR | |
| | Take : 'Transaction value' calculated under section 14(1) if no tariff values are fixed for that article | xxx |
| | Add : Amount of Basic Customs Duty (BCD) | xxx |
| | Assessable Value for charging CVD | xxx |

3.6 EC and SHEC ON CUSTOMS DUTY [Abolished by Finance Act, 2018]

The Education Cess (EC) will be 2% and Secondary Higher Education Cess (SHEC) will be 1% of the aggregate duty of customs. However, EC and SHEC will not be payable on—

- (a) Special CVD (SAD) payable under section 3(5) of Customs Tariff Act
- (b) Safeguard duty under sections 8B and 8C
- (c) Countervailing duty under section 9 and
- (d) Anti-Dumping Duty under section 9A of the Customs Tariff Act
- (e) EC and SHEC on imported goods.

3.7 Social Welfare Surcharge (SWS) [Section 108, Chapter VI of Finance Act, 2018]

1. SWS on Imported Goods : [Section 108(1)] : This section provides as under :

- There shall be levied and collected,
- a duty of *customs*,
- to be called a Social Welfare Surcharge (SWS),
- on the goods specified in the First Schedule of CTA, 1975,
- being the *goods imported* into India
- to fulfil the commitment of the Government to provide and finance
 - ♦ education,
 - ♦ health and
 - ♦ social security

2. SWS to be levied at 10% : [Section 108(3)] : The SWS shall be calculated at the rate of 10% of on the aggregate of duties, taxes and cesses levied and collected under section 12 of the Customs Act, 1962 and any sum chargeable on these goods (*i.e.* goods imported into India) under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including—

- (a) the **safeguard duty** referred to in sections 8B and 8C of the Customs Tariff Act;
- (b) the **countervailing duty** referred to in section 9 of the Customs Tariff Act;
- (c) the **anti-dumping duty** referred to in section 9A of the Customs Tariff Act;
- (d) the **Social Welfare Surcharge** on imported goods levied under sub-section (1).

3. SWS will not be levied on IGST and Compensation Cess : [NN 13/2018 Cus.] : Vide this notification, CG has exempted the levy of SWS on IGST and Compensation Cess amounts.

3.8 ROAD and INFRASTRUCTURE CESS (RIC) [Section 109, Chapter VII of Finance Act, 2018]

1. RIC on Imported Goods : [Section 109(1)] : This section provides as under :

- There shall be levied and collected,
- an additional duty of *customs*,
- to be called the Road and Infrastructure Cess (RIC),
- on the goods specified in the Sixth Schedule (see table below),
- being the *goods imported* into India
- at the rates specified in the said Schedule
- for the purpose of financing infrastructure projects.

2. RIC on Excisable Goods : [Section 110(2)] : This section provides as under :

- There shall be levied and collected,
- an additional duty of *excise*,
- to be called the Road and Infrastructure Cess (RIC),
- on the goods specified in the Sixth Schedule (see table below),
- being the *goods manufactured or produced*
- at the rates specified in the said Schedule
- for the purpose of financing infrastructure projects.

3. Specified Goods and Rates of RIC :

| Item No. | Description of Goods | Rate |
|----------|---------------------------------------|-----------------|
| (1) | (2) | (3) |
| 1. | Motor spirit commonly known as petrol | Rs. 8 per litre |
| 2. | High speed diesel oil | Rs. 8 per litre |

3.9 How to calculate Customs duty – various scenarios (suggested by CBIC)

| If goods are subject to IGST but no CVD | | | If there is IGST and Comp Cess but no CVD | | |
|---|---------------------------------|----------|---|---------------------------------|----------|
| | | Rs. | | | Rs. |
| A | Assessable value | 1,00,000 | A | Assessable value | 1,00,000 |
| B | BCD@10% of A | 10,000 | B | BCD@10% of A | 10,000 |
| C | SWS@10% of B | 1,000 | C | SWS@10% of B | 1,000 |
| D | IGST@12% of A+B+C | 13,320 | D | IGST@12% of A+B+C | 13,320 |
| E | Total duties (B+C+D) | 24,320 | E | Comp. Cess @10% of A+B+C | 11,100 |
| | Effective rate of duties (E/A)% | 24.32% | F | Total duties (B+C+D+E) | 35,420 |
| | | | | Effective rate of duties (F/A)% | 35.42% |
| If goods are subject to CVD | | | If there is Anti-Dumping Duty, IGST and Comp Cess | | |
| | | Rs. | | | Rs. |
| A | Assessable value | 1,00,000 | A | Assessable value | 1,00,000 |
| B | BCD@10% of A | 10,000 | B | BCD@10% of A | 10,000 |
| C | CVD@12% of A+B | 13,200 | C | Anti-Dumping Duty | 15,000 |
| D | SWS@10% of B+C | 2,320 | D | SWS@10% of B+C | 2,500 |
| E | Total duties (B+C+D) | 25,520 | E | IGST@12% of A+B+C+D | 15,300 |
| F | Effective rate of duties (E/A)% | 25.52% | F | Comp. Cess @10% of A+B+C+D | 12,750 |
| | | | G | Total duties (B+C+D+E+F) | 55,550 |
| | | | | Effective rate of duties (G/A)% | 55.55% |

3.10 ADDITIONAL DUTY UNDER SECTION 3(5) [i.e. SPECIAL CVD]

1. About Special CVD : Section 3(5) of Customs Tariff Act empowers Central Government to impose additional duty. This is in addition to the CVD levied under section 3(1) of Customs Tariff Act.

The Additional Duty under section 3(5) can be imposed by issuing a notification. Such duty cannot exceed 4% of value of that Article.

2. Purpose of such duty : Purpose of the Additional Duty is to counter-balance sales tax, VAT, local tax or other charges leviable on articles on its sale, purchase or transaction in India.

The obvious intention is to provide level playing field to manufacturers in India who are manufacturing similar goods. Hence, it is termed as 'Special CVD' or 'SAD' (Special Additional Duty).

3. Value for purpose of Special CVD (SAD) : As per section 3(6) of Customs Tariff Act, value of article for purpose of levy of this Additional Duty is aggregate of—

| | |
|---|------|
| ▪ Assessable Value or Tariff Value determined under section 14(1)/14(2) of Customs Act. | xxxx |
| ▪ Basic customs duty payable under section 12 of Customs Act | xxxx |
| ▪ CVD payable under section 3(1) | xxxx |
| ▪ EC and SHEC or SWS or RIC | xxxx |
| Total for levy of Special CVD | xxxx |

However, 'value' will not include following :

- Additional Duty payable under section 3(5)
- Safeguard duty payable under sections 8B and 8C
- Countervailing duty payable under section 9 and
- Anti-dumping duty under section 9A of Customs Tariff Act.

4. GST impact on special CVD: With the introduction of GST, the applicability of additional duty of customs is very limited. GST is levied on all supplies of goods and /or services except supply of alcoholic liquor for human consumption. Further, GST on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council. Thus, additional duty of customs will be levied only on the few products not leviable to GST.

3.11 PROTECTIVE DUTIES [SECTION 6 OF CTA, 1975]

As the name implies, protective duty can be levied to protect the Indian industry but this duty should not be very stiff so as to discourage the imports. It should be sufficiently attractive to encourage imports to bridge the gap between demand and supply of those articles in the market. Provisions relating to this duty are provided in section 6 and 7 as under :

| | |
|---|---|
| Chargeability [Section 6 of CTA, 1975] | <ul style="list-style-type: none"> Protective duties are levied by the Central Government on the recommendation of Tariff Commission established under the Tariff Commission Act, 1951 upon it being satisfied that circumstances exist which render it necessary to take immediate action to provide protection to any industry established in India. |
| Duration of duty [Section 7 of CTA, 1975] | <p>(1) <i>Effective date</i> : Protective duty shall have effect only up to and inclusive of the date, if any, specified in the First Schedule.</p> <p>(2) <i>Increase or decrease in the rate of duty</i> : Where in respect of any such article the Central Government (CG) is satisfied after such inquiry as it thinks necessary that such duty has become ineffective or excessive for the purpose of securing the protection intended to be</p> |

| | |
|--|--|
| | <p>afforded by it to a similar article manufactured in India and that circumstances exist which render it necessary to take immediate action, it may, by notification in the Official Gazette, increase or reduce such duty to such extent as it thinks necessary.</p> <p>(3) <i>Parliament approval</i> : This sub-section provides as under :</p> <ul style="list-style-type: none"> ◆ Every notification under sub-section (2), if it relates to increase of such duty, shall be laid before each House of Parliament if it is sitting as soon as may be after the issue of the notification, ◆ and if it is not sitting within 7 days of its re-assembly, ◆ and the CG shall seek the approval of Parliament to the notification by a resolution moved within a period of 15 days beginning with the day on which the notification is so laid before the House of the People ◆ and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, ◆ but without prejudice to the validity of anything previously done thereunder. <p>(4) <i>Rescinding the duty</i> : For the removal of doubts, it is hereby declared that any notification issued under sub-section (2), including any such notification approved or modified under sub-section (3), may be rescinded by the CG at any time by notification in the Official Gazette.</p> |
|--|--|

3.12 COUNTERVAILING DUTY ON SUBSIDISED GOODS [SECTION 9 OF CTA]

1. Chargeability [Section 9(1)] : If a country or territory pays any subsidy (directly or indirectly) to its exporters for exporting goods to India, Central Government can impose Countervailing duty upto the amount of such subsidy under section 9 of Customs Tariff Act. If the amount of subsidy cannot be ascertained, provisional duty can be collected and after final determination, difference may be refunded. Such imposition should be by way of a notification.

Notes :

- (a) Such subsidy includes subsidy on transportation of such article.
- (b) The importation may or may not directly be from the country of manufacture or production.
- (c) The article, may be in the same condition as when exported from the country of manufacture or production or may be changed in condition by manufacture, production or otherwise.

2. Other details about this duty are as follows :

| | |
|---|--|
| Meaning of Subsidy <i>[Explanation to Section 9(1)]</i> | <p>For the purpose of this section, subsidy shall be deemed to exist if there is any financial contribution in any of the following manner—</p> <ul style="list-style-type: none"> ◆ Transfer of funds including grants, loans and equity infusion; ◆ Foregoing of revenue (which is otherwise due); ◆ Providing goods or services other than general infrastructure. |
| Provisional imposition of duty <i>[Section 9(2)]</i> | <p>The CG may (pending the determination of amount of subsidy) provisionally impose a countervailing duty under this sub-section not exceeding the amount of such subsidy and if such countervailing duty exceeds the subsidy so determined,—</p> <ol style="list-style-type: none"> (a) the CG shall reduce such countervailing duty; and (b) shall refund the excessive duty co collected. |
| Conditions for levy of duty <i>[Section 9(3)]</i> | <p>Subject to any rules made by the CG, by notification in the Official Gazette, duty under sub-section (1) or sub-section (2) shall be levied only if it is determined that—</p> <ol style="list-style-type: none"> (a) the subsidy relates to <i>export performance</i>; (b) the subsidy relates to the <i>use of domestic goods over imported</i> goods in the export article; or (c) the subsidy has been conferred on a <i>limited number of persons</i> engaged in the manufacture, |

| | |
|---|---|
| | production or export of articles; |
| CG's powers to impose duty retrospectively [Section 9(4)] | <p>This sub-section provides as under :</p> <ul style="list-style-type: none"> - If CG 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 this duty retrospectively, - the CG may levy such duty retrospectively but not beyond 90 days from the date of notification issued for levy of duty under sub-section (1) or (2) - and such duty shall be payable from the date as specified in the notification issued under this sub-section. |
| Time limits for this duty [Section 9(6)] | <ul style="list-style-type: none"> ♦ Original time – 5 years :The countervailing duty imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of 5 years from the date of such imposition. ♦ Extended time – 5 years :If CG, in a review, is of the opinion that the cessation of such duty is likely to lead to continuation or recurrence of subsidization and injury, it may, from time to time, extend the period of such imposition for a further period of 5 years and such further period shall commence from the date of order of such extension. ♦ Pending review, duty to continue upto 1 year after expiry of 5 years of original period : 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. |
| Notification to be laid before the House of Parliament [Section 9(8)] | Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament. |

3. No cesses on this duty : Following cesses will NOT apply to this duty :

- ♦ EC,
- ♦ SHEC,
- ♦ Social Welfare Surcharge (SWS) and
- ♦ Road and Infrastructure Cess (RIC) apply on this duty.

4. All machinery provisions of Customs Act apply [Section 9(7A)] : All machinery provisions of Customs Act including those relating to date of determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall apply to this duty.

3.13 ANTI DUMPING DUTY (ADD) ON DUMPED ARTICLES [SECTION 9A OF CTA]

1. About this duty :Often, large manufacturer from abroad may export goods at very low prices compared to prices normally prevalent in exporting country's market. Such dumping may be with intention to cripple domestic industry or to dispose of their excess stock. This is called 'dumping' and is an unfair trade practice. In order to avoid such dumping and to protect domestic industry, Central Government can impose anti-dumping duty under section 9A of Customs Tariff Act.

This duty can be imposed if the goods are being sold at a price which is less than its normal value. Levy of such anti-dumping duty is permissible as per WTO agreement. Anti-dumping action can be taken only

when there is an Indian industry producing 'like articles'. Presently, countries like China, Taiwan are said to be involved in dumping.

Details about this duty are as under :

| | | | | | |
|--|---|----------|--|--|--|
| Chargeability <i>[Section 9A(1)]</i> | <p>This section provides as under :</p> <ul style="list-style-type: none"> - Where any article is exported by an exporter or producer from any country (i.e. exporting country) to India - at less than its <i>normal value</i>, - then (on the importation of such article into India) CG may impose an anti-dumping duty (i.e. ADD) - not exceeding the <i>margin of dumping</i> in relation to such article. | | | | |
| Meaning of certain terms <i>[Expl. to Section 9A(1)]</i> | <p>(a) Margin of dumping : Margin of dumping in relation to an article, means the difference between its EXPORT PRICE and its NORMAL VALUE;</p> <p>(b) Export price: Export price, in relation to an article, means</p> <table border="1" data-bbox="432 741 1394 1025"> <tr> <td data-bbox="432 741 762 819">Normally</td><td data-bbox="762 741 1394 819">Export price means the price of the article exported from the exporting country.</td></tr> <tr> <td data-bbox="432 819 762 1025">If there is no export price or if the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party</td><td data-bbox="762 819 1394 1025"> <ul style="list-style-type: none"> - 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, the export price may be determined in accordance with the rules made under sub-section (6); </td></tr> </table> <p>(c) Normal value: Normal value, in relation to an article, means—</p> <p>(i) <i>If domestic price available— domestic price</i> : i.e. the comparable price, in the ordinary course of trade, for the like article when destined for consumption in the exporting country as determined in accordance with the rules made under sub-section (6); or</p> <p>(ii) <i>If no domestic price available — export price to 3rd country or cost of production</i> : i.e. when there are no sales of the like article in the ordinary course of trade in the domestic market of the exporting country, or where proper comparison is not possible because of the particular market situation or low volume of the sales in the domestic market of the exporting country, the normal value shall be either —</p> <p>(a) <i>3rd country export price</i> - comparable representative price of the like article when exported from the exporting country to an appropriate third country as determined in accordance with the rules made under sub-section (6); or</p> <p>(b) <i>Cost of production+ overheads</i> - 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 under sub-section (6).</p> <p>Provided that in the case of import of the article from a country other than the country of origin, the normal value shall be determined with reference to its price in the country of origin.</p> | Normally | Export price means the price of the article exported from the exporting country. | If there is no export price or if the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party | <ul style="list-style-type: none"> - 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, the export price may be determined in accordance with the rules made under sub-section (6); |
| Normally | Export price means the price of the article exported from the exporting country. | | | | |
| If there is no export price or if the export price is unreliable because of association or a compensatory arrangement between the exporter and the importer or a third party | <ul style="list-style-type: none"> - 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, the export price may be determined in accordance with the rules made under sub-section (6); | | | | |
| Levy of ADD to other country <i>[Section 9A(1A)]</i> | <ul style="list-style-type: none"> - Where the CG (on inquiry) is of the opinion that circumvention (Hindi meaning - <i>tarkeeb</i>) of anti-dumping duty imposed under sub-section (1) has taken place, <ul style="list-style-type: none"> ♦ 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 antidumping 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. | | | | |

| | |
|---|--|
| Provisional imposition of ADD <i>[Section 9A(2)]</i> | <ul style="list-style-type: none"> - The CG 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 ADD on the basis of a provisional estimate of such value and margin - and if such ADD exceeds the margin as so determined :- <ul style="list-style-type: none"> (a) the CG shall <i>reduce</i> such anti-dumping duty; and (b) <i>refund</i> shall be made for the excess amount of ADD collected. |
| No ADD if import is made by 100% EOU <i>[Section 9A(2A)]</i> | <p>Notwithstanding anything contained in sub-section (1) and sub-section (2), ADD shall not apply to articles imported by a 100% EOU unless, —</p> <ul style="list-style-type: none"> (i) it is specifically made applicable to 100% EOU in such notifications; or (ii) the article imported is either cleared as such into the domestic tariff area (DTA) or used in the manufacture of any goods that are cleared into the DTA <p>[Note : In case of (ii) above ADD shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India]</p> |
| CG's powers to impose duty retrospectively <i>[Section 9A(3)]</i> | <p>If the CG, in respect of the dumped article under inquiry, is of the opinion that —</p> <ul style="list-style-type: none"> (i) there is a history of dumping which caused injury or that the importer is aware that the exporter practices dumping; 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 antidumping duty liable to be levied, <p>the CG may levy ADD retrospectively from a date prior to the date of imposition of anti-dumping duty under subsection (2) but not beyond 90 days from the date of notification under that sub-section, and notwithstanding anything contained in any law for the time being in force, such duty shall be payable at such rate and from such date as may be specified in the notification.</p> |
| Time limits for this duty <i>[Section 9A(5)]</i> | <ul style="list-style-type: none"> ♦ Original time – 5 years :ADD imposed under this section shall, unless revoked earlier, cease to have effect on the expiry of 5 years from the date of such imposition. ♦ Extended time – 5 years :If CG, 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 of 5 years and such further period shall commence from the date of order of such extension. ♦ Pending review, duty to continue upto 1 year after expiry of 5 years of original period : Where a review initiated before the expiry of the aforesaid period of 5 years has not come to a conclusion before such expiry, ADD may continue to remain in force pending the outcome of such a review for a further period not exceeding 1 year. |
| Powers of CG relating to ADD <i>[Section 9A(6)]</i> | <p>This sub-section gives the following powers to the CG relating to ADD :</p> <ul style="list-style-type: none"> ♦ The 'margin of dumping' (as referred above) shall be ascertained and determined by the CG, after such inquiry as it may consider necessary and ♦ the CG may make rules for the purposes of this section, and without prejudice to the generality of the foregoing, such rules may provide for <ul style="list-style-type: none"> (i) the manner in which articles liable for ADD may be <i>identified</i>, and (ii) the manner in which the <i>export price, normal value and margin of dumping</i> may be determined and (iii) the manner for the <i>assessment and collection</i> of such ADD <p>Note : The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under this sub-section shall be determined on the basis of records maintained, and information provided, by such exporter or producer. Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available. [Section 9A(6)]</p> |

| | |
|--|--|
| Notification to be laid before the House of Parliament [Section 9A(7)] | Every notification issued under this section shall, as soon as may be after it is issued, be laid before each House of Parliament. |
|--|--|

2. No cesses on this duty : Following cesses will NOT apply to this duty :

- ◆ EC,
- ◆ SHEC,
- ◆ Social Welfare Surcharge (SWS) and
- ◆ Road and Infrastructure Cess (RIC) apply on this duty.

3. All machinery provisions of Customs Act apply [Section 9A(8)] : All machinery provisions of Customs Act including those relating to date of determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall apply to this duty.

4. Appeal against order determining dumping duty [Section 9C] : Appeal against the order determining the duty can be made to CESTAT. Other details are as under:

- ◆ *Appeal fees* : Appeal shall be accompanied by fee of Rs. 15,000. [Fees for rectification of mistake or grant of stay will be Rs.500]
- ◆ *Time limit for filing of appeal* : Every appeal shall be filed within 90 days of the date of order. Although on being satisfied on the sufficient reason, appeal may be accepted even after 90 days.

The appeal will be heard by at least three member bench (*i.e.* a special bench) consisting of President of CESTAT, one judicial member and one technical member. The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order appealed against.

5. Doctrine of unjust enrichment applicable to refund of excess anti-dumping duty [Section 9AA] : If importer proves that anti-dumping duty imposed is more than the actual margin of dumping, he will be entitled to refund [section 9AA].

Refund of excess anti-dumping duty paid is subject to provisions of unjust enrichment-*Automotive Tyre Manufacturers Association v. Designated Authority* [2011] 2 SCC 258 (SC).

3.14 RESTRICTION ON IMPOSITION [SECTION 9B OF CTA]

Following restrictions are provided by this section—

| | |
|--|--|
| No double imposition | No article shall be subjected to both countervailing duty and anti-dumping duty to compensate for the same situation of dumping or export subsidization. |
| Other imposition restriction for both | No duty under section 9 and 9A shall be imposed— <ul style="list-style-type: none"> ◆ by reasons of exemption of such articles from duties or taxes (in case these articles are meant for consumption in the country of origin or exportation or by reasons of refund of such duties or taxes); ◆ if imports are from WTO member countries or imported from countries having MFN status UNLESS these imports cause or threaten material injury to any established domestic industry. |
| Restriction on imposition of duty under section 9 | No such duty can be imposed if : <ul style="list-style-type: none"> ◆ The exporting country agrees to eliminate the subsidy or ◆ The exporter agrees to revise the price, and ◆ Central Govt. is satisfied that this will eliminate injurious effect of the subsidy. |
| Restriction on imposition of duty | No such duty can be imposed if : |

under section 9A

- ◆ The exporter ceases to export at dumped price, or
- ◆ The exporter agrees to revise the price, and
- ◆ Central Govt. is satisfied that this will eliminate injurious effect of dumping.

PRACTICAL PROBLEM

Problem 3.1: Miss Priya imported certain goods weighing 1,000 kgs. with CIF (i.e. cost including insurance and freight) value US \$ 40,000. Exchange rate as per RBI was 1 US \$ = Rs. 64 on the date of presentation of bill of entry and Exchange rate as per CBEC was 1 US \$ = Rs. 65 on that date. Basic customs duty is chargeable @ 10%, IGST@12% and cesses as applicable.

As per Notification issued by the Government of India, antidumping duty has been imposed on these goods. The anti-dumping duty will be calculated @ US \$70 per kg. You are required to compute duties payable by Miss Priya.

Solution : CIF value is Rs. 26,00,000 (65×40,000). Landing charges @ 1% are Rs.26,000. Hence, assessable value is Rs. 26,26,000. Computation of customs duty is as follows—

| Particulars | Duty % | Amount (Rs.) | Total Duty (Rs.) |
|---------------------------------|--------|------------------|------------------|
| (A) Assessable Value Rs. | | 26,26,000 | |
| (B) Basic Customs Duty @10% | 10 | 2,62,600 | 2,62,600 |
| (C) SWS @10% of 'B' | 10 | 26,260 | 26,260 |
| (D) Anti-Dumping duty (1000×70) | | 70,000 | 70,000 |
| (E) Total before IGST | | 29,84,860 | 3,58,860 |
| (D) IGST- 12% of 'E' | 12 | 3,58,183 | 3,58,183 |
| (F) Landed cost/Total duties | | 33,43,043 | 7,17,043 |

3.15 SAFEGUARD DUTY [SECTION 8B OF CTA]

1. Circumstances under which this duty can be imposed: Central Government is empowered to impose 'safeguard duty' on specified imported goods if—

- ◆ Central Government is satisfied that the goods are being imported in large quantities and
- ◆ Under such conditions that they are causing or threatening to cause serious injury to domestic industry.

Government has to conduct an enquiry and then issue a notification. The duty is in addition to any other customs duty being imposed on the goods.

2. Period of validity of duty: The duty, once imposed shall (unless revoked earlier) be valid for four years,. This can be extended by Central Government, but total period of 'safeguard duty' cannot be more than ten years.

3. No safeguard duty in certain cases: This duty cannot be imposed in the following cases—

| | |
|--|--|
| Import from developing country | In case of imports from <i>any</i> notified developing country, safeguard duty cannot be imposed unless imports from that country exceed 3% of the total imports. |
| Imports from various developing countries | Safeguard duty cannot be imposed unless imports from all such developing countries [<i>share of each such country being less than 3%</i>] taken together exceeds 9% of total imports of that Article into India. |

| | |
|----------------------------------|--|
| Imports by EOUs, SEZs etc | <p>Safeguard duty is not applicable on imports made by EOUs or SEZ units, unless :</p> <ol style="list-style-type: none"> it is specifically made applicable in the notification imposing anti-dumping duty, or the article imported 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 and in such cases safeguard duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India. |
|----------------------------------|--|

Central Government can impose provisional safeguard duty, pending final determination upto 200 days.

4. No cesses on this duty : Following cesses will NOT apply to this duty :

- ◆ EC,
- ◆ SHEC,
- ◆ Social Welfare Surcharge (SWS) and
- ◆ Road and Infrastructure Cess (RIC) apply on this duty.

5. All machinery provisions of Customs Act apply [Section 8B(4A)] : All machinery provisions of Customs Act including those relating to date of determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall apply to this duty.

CHAPTER FOUR

VALUATION UNDER CUSTOMS LAW



Customs duties are calculated on 'value'. Without valuation, customs duties cannot be calculated. Valuation for Customs Duty begins with determination of "Transaction Value". Transaction Value includes the price paid/payable as consideration. This chapter deals with provisions relating to valuation.

4.1 VALUE FOR THE PURPOSE OF CUSTOMS ACT

1. What is the meaning of value under customs: Customs duty is payable as a percentage (%) of 'Value' often called 'Assessable Value' or 'Customs Value'. As per section 2(41) of Customs Act 'value', in relation to any goods, means the value thereof determined in accordance with the provisions of section 14(1) or section 14(2) of Customs Act.

Thus, value may be either—

- ◆ 'Value' as defined in section 14(1) of Customs Act, [It is called as *ad valorem* duty] or
- ◆ 'Tariff value' prescribed under section 14(2) of Customs Act. [It is called as *specific* duty]

2. Tariff Value: Tariff Value can be fixed by CBIC for any class of imported goods or export goods. CBIC should consider trend of value of such or like goods while fixing tariff value. Once so fixed, duty is payable as percentage of this value. (The percentage applicable is as prescribed in Customs Tariff Act). [Section 14(2)]

3. Customs Valuation on basis of transaction value: Section 14(1) of Customs Act defines the term 'value' as under—

- ◆ 'value' of imported and export goods will be their 'transaction value' *i.e.* the price actually paid or payable for the goods
 - (a) when sold for export TO India for delivery at the time and place of importation, or
 - (b) 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 made in this behalf.

Value of imported goods : Price paid/payable for delivery at the time and place of Importation, which essentially implies that the price up to a port in India when goods are imported has to be considered (*i.e.* CIF Value).

Value of imported goods : Price paid/payable for delivery at the time and place of Exportation, which essentially implies that the price up to a port in India when goods are exported has to be considered (*i.e.* F.O.B. Value).

Accordingly Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and Customs Valuation (Determination of Value of Export Goods) Rules, 2007 have been notified effective from 10-10-2007.

4. Addition to transaction value: First proviso to section 14(1) states that such transaction value in the case of imported goods shall also include:

- ♦ any amount that the buyer is liable to pay for costs and services, including commissions and brokerage, engineering, design work, royalties and licence fees,
- ♦ costs of transportation to the place of importation, insurance, loading, unloading and handling charges

to the extent and in the manners specified in the Rules.

Though the proviso does not specifically say so, it is obvious that only those expenses which are relating to imported goods alone can be added.

5. Rate of foreign exchange: Following points are relevant—

| | |
|---|---|
| ♦ <i>What is the meaning of 'Exchange rate' for custom valuation</i> | 'Exchange rate' means the rate of exchange determined by CBEC. [Explanation to section 14] |
| ♦ <i>What is the 'relevant date' for determining foreign exchange rate</i> [3rd Proviso to section 14] | The date relevant for foreign exchange rate will as under— <ul style="list-style-type: none"> ✓ Clearance for HC: Date of presentation of <i>bill of entry</i> u/s 46 ✓ Warehoused goods: Date of presentation of <i>bill of entry</i> u/s 46 ✓ Export goods: Date of presentation of <i>bill of export or shipping bill</i> u/s 50. |

6. Valuation Rules will be resorted if transaction value is not determinable: If there is no sale or buyer or seller are related or price is not the sole consideration, value of the goods will be determined as per Valuation Rules.

Customs Valuation (Determination of Value of Imported Goods) Rules, 2007

RULE —3 TRANSACTION VALUE TO BE THE 'VALUE' FOR CUSTOMS

This rule provides as under —

| | |
|---|---|
| Transaction value to be the 'value' for customs. | Value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10 of these rules. As per rule 10, <ul style="list-style-type: none"> ♦ various additions like sales commission, cost of containers, cost of packing, cost of materials, components etc. or services supplied by buyer, royalties payable, transport charges, insurance etc. ♦ are includible, ♦ if these do not already form part of transaction value. |
| Transaction value not to be accepted and valuation will be made as per the rules 4 to 9. | If value cannot be determined as per rule 3(1), it shall be determined by proceeding sequentially through rules 4 to 9 of Valuation Rules. Value may be rejected due to the following reasons : Reasons for rejection of transaction value specified under section 14 : (a) Buyer and seller are related persons EXCEPT the following cases (<i>so in the following cases, despite this relationship, TV will be accepted</i>) : <ul style="list-style-type: none"> ♦ Where the examination of the circumstances reveals that the relationship did not influence the price, ♦ If the importer demonstrates that the declared value of goods closely |

| | |
|--|---|
| | <p>approximates to one of the following values ascertained at or about the same time :</p> <ul style="list-style-type: none"> ✓ value of identical goods ✓ deductive value for identical/similar goods ✓ computed value for identical/similar goods <p>(b) Price is not the sole consideration</p> <p>Reasons for rejection of transaction value specified by rule 3 itself :</p> <p>(c) There are restriction as to the disposal or use of goods by the buyer</p> <p>(d) Sale is subject some conditions or consideration for which value cannot be determined</p> <p>(e) Subsequent sale proceeds are accruing to the seller</p> <p>EXCEPT the following cases(<i>so in the following cases, despite the restrictions, TV will be accepted</i>)</p> <ul style="list-style-type: none"> ◆ Where these restrictions are imposed by any law or by any public authority, ◆ Restriction on geographical area within which goods may be resold <i>e.g.</i> goods should not be sold outside particular State or outside India, ◆ Restriction that does not materially affect the value of goods. |
|--|---|

Meaning of 'related person' : Rule 2(2) define that persons shall be deemed to be 'related' only if one of the conditions is satisfied:

- ◆ They are officers or directors of one other's businesses;
- ◆ They are legally recognised partners in business;
- ◆ They are employer and employee;
- ◆ Any person directly or indirectly owns, controls or holds 5% or more of shares of both of them;
- ◆ One of them controls other directly or indirectly;
- ◆ Both of them are controlled - directly or indirectly - by third person;
- ◆ Together they control a third person - directly or indirectly;
- ◆ They are members of same family.

RULE —10 INCLUSION IN 'VALUE' [RULE 10 OF CUSTOM VALUATION RULES, 2007]

Rule 10 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provide that following cost and services are to be added, if these are not already included in the invoice price—

| | |
|--------------------------------------|---|
| 1. Commission or brokerage | Commission and brokerage, except buying Commission, if not already included in the invoice price. ◆ <i>Meaning of 'buying commission'</i> : Buying commission means fees paid by importer to HIS agent for the service of representing him abroad in purchase of imported goods. |
| 2. Cost of container | Cost of container which are treated as being one with the goods for customs purposes, if not already included in the invoice price. |
| 3. Cost of packing | Cost of packing is to be included (whether cost of labour or materials), if not already included in the invoice price. |
| 4. Cost of moulds, tools etc. | Materials, components, tools, dies, moulds, and consumables used in production of imported goods, supplied by buyer directly or indirectly, free of charge or at reduced cost, to the extent not already included in price. |
| 5. Cost of design etc. | Engineering, development, art work, design work, plans and sketches undertaken elsewhere than in India and necessary for production of imported goods, to the extent not already included in price. |

| | |
|---|---|
| 6. Payments of royalties etc. | 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. |
| 7. Sale proceeds of re-sale | Value of proceeds of subsequent resale, disposal or use of goods that accrues directly or indirectly to seller (<i>i.e.</i> to foreign exporter). |
| 8. Obligations of seller | All other payments made as condition of sale of goods being valued made directly or to third party to satisfy obligation of seller, to the extent not included in the price. |
| 9. Cost of transportation [Rule 10(2)(a)] | As per Rule 10(2)(a) cost of transport UPTO place of importation will be added as under: ♦ If such cost is NOT ascertainable : 20% of FOB is to be added; ♦ If such cost is ascertainable : (a) If import is through AIR→ Actual cost or 20% of FOB, whichever is LOWER, is to be added; (b) If import is through any other mode→ actual cost is to be added. |
| 10. Loading or unloading [Rule 10(2)(b)] | Loading, unloading and handling charges associated with delivery of imported goods at place of importation. [These are termed as landing charges and are to be taken as 1% of CIF]. |
| 11. Cost of insurance [Rule 10(2)(c)] | Cost of insurance : ♦ If such cost is NOT ascertainable : 1.125% of FOB is to be added; ♦ If such cost is ascertainable : actual cost is to be added. |

No other additions : No other addition shall be made to price paid or payable, except as provided for in rule 10.

PRACTICAL PROBLEMS

Problem 4.1 : From the following particulars determine the Assessable Value of the imported equipment giving explanation for each item:

- (1) FOB cost of equipment (Japanese Yen) = 2,00,000 Yen
- (2) Freight charges in Japanese Yen = 20,000 Yen
- (3) Charges for development connected to equipment paid in India = ₹ 60,000
- (4) Insurance charges paid in India for transportation from Japan = ₹ 15,000
- (5) Commission payable to agent in India = ₹ 15,000.

Exchange rate as per RBI is 1 Yen = ₹ 0.45

Exchange rate as per CBEC is 1 Yen = ₹ 0.50.

Landing charges: 1% of CIF cost

Solution :

| | Japanese Yen | Amount(₹.) |
|--|--------------|--------------------|
| FOB Value of equipment | 2,00,000 | 1,00,000.00 |
| Add: Freight charges | 20,000 | 10,000.00 |
| Add: Transit Insurance | | 15,000.00 |
| Add: Selling Commission | | 15,000.00 |
| Total CIF Value | | 1,40,000.00 |
| Add: Landing Charges (1% of CIF Value) | | 1,400.00 |

| | |
|------------------|-------------|
| ASSESSABLE VALUE | 1,41,400.00 |
|------------------|-------------|

Problem 4.2: An importer imports some goods @ 10,000 US \$ on CIF basis. Following dollar rates are available on the date of presentation of bill of entry:

(a) RBI Floor rate : Rs. 43.37

(b) Interbank closing rate: Rs. 43.38

(c) Rate notified by CBEC under section 14(3)(a)(i) of Customs Act: Rs. 43.55

(d) rate at which bank has realised the payment from importer : Rs. 43.58.

Find the assessable value for customs purposes.

Solution : The relevant exchange rate is Rs. 43.55. Thus, CIF value of goods is Rs.4,35,500. Landing charges @ 1% of CIF value are to be added i.e. Rs. 4,355. Thus, Assessable Value is Rs.4,39,855.

Problem 4.3: A consignment is imported by air. CIF price is 1,000 US Dollars. Freight is 320 US \$. Insurance cost was \$ 35. Exchange rate is same as above. Find Value for customs purposes.

Solution :

| | Amount |
|---|---------------------|
| FOB Value of equipment [1,000–320–35] | \$ 645 |
| Add: Freight charges [645 × 20% = 129, or actual, which is LOWER] | \$ 129 |
| Add: Transit Insurance [Since it is ascertainable, therefore, actual] | \$ 35 |
| Total CIF Value | \$ 809 |
| Exchange Rate | Rs.43.55/\$ |
| Total CIF Value | Rs.35,231.95 |
| Add: Landing Charges (1% of CIF Value) | Rs.352.32 |
| Total | Rs.35,584.27 |
| ASSESSABLE VALUE (Rounded off) | Rs.35,584 |

Problem 4.4 : Compute the assessable value for purpose of determination of Customs duty from the following data:

(i) Machinery imported from USA by air (FOB price) = USD 4,000

(ii) Accessories compulsorily supplied alongwith the machinery = USD 1,000

(iii) Air freight = USD 1,200

(iv) Insurance Charges = Actual not available

(v) Local agent's commission to be paid in Indian Currency = Rs. 9,300

(vi) Transportation from Indian Airport to factory = Rs. 4,000.

Exchange rate USD 1 = Rs. 48.

Provide explanations where necessary.

Solution : Accessories and spare parts and maintenance implements which are compulsorily supplied along with the machinery are chargeable at the same rate as applicable to main machine [proviso (a) to section 19 of Customs Act, read with Accessories (Conditions) Rules, 1963.]. Hence, it is not necessary to find separate value of accessory. Thus, valuation is as under :

| | Amount |
|--|----------|
| FOB Value of equipment [4,000 + 1,000] | \$ 5,000 |

| | |
|--|-------------|
| Add : Freight charges $[5,000 \times 20\% = 1000, \text{ or actual, which is LOWER}]$ (\$) | \$ 1,000 |
| Add : Transit Insurance $[5,000 \times 1.125\% = 56.25]$ | \$ 56.25 |
| Total CIF Value | \$ 6,056.25 |
| Exchange Rate | Rs.48/\$ |
| Total CIF Value | Rs.2,90,700 |
| Add : Local agents commission (Rs.) | Rs.9,300 |
| Total CIF | Rs.3,00,000 |
| Add : Landing Charges (1% of CIF Value) | Rs.3,000 |
| ASSESSABLE VALUE (Rounded off) | Rs.3,03,000 |

Note : Transportation cost within India is not required to be added to arrive at assessable value.

Problem 4.5 : T Ltd. imported some goods from LMP Inc. of United States by air. You are required to compute the value for purposes of customs duty under the Customs Act, 1962 from the following particulars:

- (1) CIF value - US \$ 6,000
- (2) Freight paid - US \$ 2,000
- (3) Insurance cost - US \$ 700.

The bank had received payment from the importer at the exchange rate of US \$ 1 = Rs. 46 while the CBEC notified exchange rate on the relevant date was US \$ 1 = Rs. 45.50

Make suitable assumptions where required and provide brief explanations to your answer.

Solution : Calculation of assessable value :

| | Amount |
|---|-------------|
| FOB Value of equipment $[6,000 - 2,000 - 700]$ | \$3,300 |
| Add : Freight charges $[3,300 \times 20\% = 660 \text{ or actual, which is LOWER}]$ | \$660 |
| Add : Transit Insurance [Actual] | \$700 |
| Total CIF Value | \$4,660 |
| Exchange Rate [Notified by CBEC] | Rs.45.50/\$ |
| Total CIF Value | Rs.2,12,030 |
| Add : Landing Charges (1% of CIF Value) | Rs.2,120 |
| ASSESSABLE VALUE (Rounded off) | Rs.2,14,150 |

Problem 4.6 : Compute the assessable value of the machine imported by M/s. Exports India Pvt. Ltd., under the Customs Act, 1962 (Figures in US Dollars)

- (i) FOB price of the machine = Rs.10,000
- (ii) Air freight paid = Rs.2,500
- (iii) Insurance for transit of machine = Not Ascertainable
- (iv) Cost of development work in India = Rs.40,000
- (v) Local agent's commission = Rs.10,000
- (vi) Cost of local transport = Rs.5,000
- (vii) Exchange rate applicable US \$ 1 = Rs.45. Provide explanation for your answer.

Solution:

- (i) Includible
- (ii) Air freight restricted to 20% of FOB
- (iii) Insurance 1.125% of FOB
- (iv) Not includible
- (v) Includible
- (vi) Not includible.

Problem 4.7 : Determine the assessable value for the purpose of Customs Act, 1962 from the following information in respect of import of a machine from UK:

- (i) FOB Value UK £ 6,000
- (ii) Air Freight UK £ 1,500
- (iii) Design and development charges paid in UK £ 500
- (iv) Design and development charges paid in India Rs. 10,000
- (v) Commission paid to local agents 1% of FOB Value
- (vi) Date of Bill of Entry 10-4-2011 (Exchange rate notified by CBEC UK £ 1 = Rs. 70)
- (vii) Date of entry Inward 20-4-2011 (Exchange rate notified by CBEC £ 1 = Rs. 65).

Insurance charges are not ascertainable. Make assumptions where required and provide suitable explanations

Solution: Air freight is to be restricted to 20%. Exchange rate on date of presentation of Bill of Entry i.e. as on 10-4-2011 is to be considered, presuming that Bill of Entry was presented on that day. Insurance charges are to be taken as 1.125% of FOB value.

RULE —3 EXCLUSIONS FROM 'VALUE' [INTERPRETATIVE NOTES TO RULE 3]

Interpretative Note to rule 3 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 provides that the following charges shall be excluded:

| | |
|---|---|
| 1. Cost of transport after import | Cost of transport after importation |
| 2. Duties and taxes in India | Duties and taxes in India |
| 3. Other non-related payments | Other payments from buyer to seller that do not relate to imported goods are not part of the customs value. |
| 4. Erection, testing, commissioning after importation | Erection, testing and commissioning charges are post importation expenses and are not required to be considered for purpose of customs value. |
| 5. Bank charges | Bank charges paid to banker for services rendered by them are not consideration of goods given to seller. It is not includible. |
| 6. Interest on deferred payment | Interest on deferred payment, if shown separately in the Invoice cannot be added. |
| 7. Demurrage | Demurrage is of two types— (a) Ship Demurrage when whole ship is chartered and demurrage is payable when ship was not unloaded within specified time. This is addible in Assessable Value (b) Demurrage payable to port trust as goods are not cleared from port within prescribed time. Demurrage charges payable to port trust authorities for delay in clearing goods are not to be added. |

4.2 METHODS OF VALUATION

1. Methods of valuation : The methods of valuation for customs methods are as follows—

- a. Transaction Value of Imported goods [Section 14(1) and Rule 3(1)]
- b. Transaction Value of Identical Goods [Rule 4]
- c. Transaction Value of Similar Goods [Rule 5]
- d. Deductive Value which is based on identical or similar imported goods sold in India [Rule 7]
- e. Computed value which is based on cost of manufacture of goods plus profits [Rule 8]
- f. Residual method based on reasonable means and data available [Rule 9]

2. Methods to be applied sequentially : These methods are to be applied in sequential order, *i.e.* if method one cannot be applied, then method two comes into force and when method two also cannot be applied, method three should be used and so on. The only exception is that the 'computed value' method may be used before 'deductive value' method, if the importer requests and Assessing Officer permits.

3. Methods of valuation :

RULE 4 Transaction value of 'identical goods'

1. Applicability of this rule [Rule 4(1)(a)] : This rule provides that if valuation on the basis of 'transaction value' is not possible, the 'Assessable value' will be decided on basis of transaction value of identical goods which are—

- ♦ sold for export to India and
- ♦ imported at or about the *same time* as the goods being valued.

Note : It should be noted that transaction value shall NOT be the value of goods provisionally assessed under section 18 of Custom Act, 1962.

2. Same commercial level and quantity to be considered [Rule 4(1)(b)] : Transaction value of identical goods is the base. The value of identical goods will be arrived at as under:

FIRST STEP— Same commercial level and quantity: Transaction value of identical goods

- at the same *commercial level* [*i.e.* size of business] and
- in substantially *same quantity*

as the goods being valued shall be used to determine value of imported goods.

SECOND STEP— Adjustments, if same commercial level and quantity do not exist: As discussed above, price of identical goods should be compared at same commercial level and in substantially same quantity of goods.

But if the transaction value at

- different commercial level or
- in different quantities or
- both,

is available, suitable adjustments can be made to take into account the difference.

Provided that such adjustment is made on the basis of demonstrated evidence which clearly establishes reasonableness and accuracy of the adjustments.

3. Meaning of 'identical goods' [Rule 2(1)(d)] : 'Identical goods' are those goods which fulfill all following conditions *i.e.*—

| | |
|-----------------------------------|---|
| 1. Same in all respect (+PCQR) | Goods being valued and these goods (<i>i.e.</i> identical goods) should be same in all respects, including physical characteristics, quality and reputation; except for minor differences in appearance that do not affect value of goods; |
| 2. Country of manufacture is same | These goods (<i>i.e.</i> identical goods) should have been produced in the same country in which imported goods were produced; |

3. Manufacturer is same or other

These goods (*i.e.* identical goods) should be produced by same manufacturer who has manufactured the goods being valued; if manufacturer is different, the price of goods produced by another manufacturer in the same country will be considered.

Exception to 'identical goods': If in relation to these goods (*i.e.* identical goods),

- ♦ engineering, development work, art work, design work, plan or sketch undertaken IN INDIA
 - ♦ were completed by the buyer free of charge or at reduced rate
 - ♦ for use in connection with the production and sale for export of these goods,
- these will not be considered as 'identical goods'.

4. Adjustment for distances and transport costs [Rule 4(2)] : If valuation of identical goods was made after adding costs and services as per rule 10 of Valuation Rules, 2007, differences arising due to the following should be considered while arriving at 'Assessable Value' of goods being valued—

- ♦ Difference due to *differences in distances* [*e.g.*—'identical goods' are imported from 'USA' and goods being valued are imported from 'Canada'] and
- ♦ Difference due to *means of transportation* [*e.g.*—'identical goods' are imported by 'AIR' and goods being valued are imported by 'SEA']

5. Lowest value will be considered if more than one value is determined : If by applying this rule, more than one transaction value of 'identical goods' are found, then, the lowest of these transaction values will be considered for making valuation of goods being valued.

RULE 5 Transaction value of 'similar goods'

1. Applicability of this rule : If first method of *transaction value of the goods* [*i.e.* rule 3] or second method of *transaction value of identical goods* [*i.e.* rule 4] cannot be used; rule 5 provides for valuation on basis of 'Transaction value' of 'similar goods' which are—

- ♦ sold for export to India and
- ♦ imported at or about the *same time* as the goods being valued.

Note : It should be noted that transaction value shall NOT be the value of goods provisionally assessed under section 18 of Custom Act, 1962.

2. Same commercial level and quantity to be considered : Same as given for rule 4.

3. Meaning of 'similar goods' [Rule 2(1)(f)] : 'Similar goods' are those goods which fulfill all following conditions *i.e.*—

| | |
|--|--|
| 1. <i>Alike in all respect (+LCLCSF) + CIC</i> | These goods (<i>i.e.</i> similar goods) are although NOT alike in all respects, but have like characteristics, like components and perform same functions. These goods should be commercially inter-changeable with goods being valued having regard to their quality, reputation and trade mark; |
| 2. <i>Country of manufacture is same</i> | These goods (<i>i.e.</i> similar goods) should have been produced in the same country in which imported goods were produced; [Same as in case of 'identical goods'] |
| 3. <i>Manufacturer is same or other</i> | These goods (<i>i.e.</i> similar goods) should be produced by same manufacturer who has manufactured the goods being valued; if manufacturer is different, the price of goods produced by another manufacturer in the same country will be considered. [Same as in case of 'identical goods'] |

Exception to 'similar goods': If in relation to these goods (*i.e.* similar goods),

- ♦ engineering, development work, art work, design work, plan or sketch undertaken IN INDIA
 - ♦ were completed by the buyer free of charge or at reduced rate
 - ♦ for use in connection with the production and sale for export of these goods,
- these will not be considered as 'similar goods'.

4. Adjustment for distances and transport costs : Same as given for rule 4.

5. Lowest value will be considered : Same as given for rule 4.

RULE 7 Deductive value for custom valuation

1. Applicability of this rule : This is the 4th method of valuation. If however, the importer requests and the Customs Officer approves, the 'computed value' method as given in rule 8 can be used before the method of 'deductive value' as given in rule 7 [Proviso to rule 6]. This method should be applied if transaction value of identical goods or similar goods is not available, but these products are sold in India.

ASSUMPTIONS UNDER THIS METHOD: This method assumes that,

- ♦ the goods being valued or 'identical goods' or 'similar goods' are sold in India and
- ♦ their selling price in India is available and
- ♦ their sale is in the same condition as they are imported.

2. Valuation as this rule : Assessable Value is calculated by reducing post-importation costs and expenses from the selling price of goods being valued or 'identical goods' or 'similar goods'. This is called 'deductive value' because assessable value has to be arrived at by method of deduction.

FORMULA FOR CALCULATING VALUE : The value for goods being valued will be calculated as under—

| | |
|--|----|
| The unit price at which imported goods or 'identical goods' or 'similar goods' are sold, ♦ at or about the same time at which declaration for determination of value is presented; ♦ in the Greatest Aggregate Quantity; ♦ to a non-related buyer in India. | xx |
| Deductions— | |
| 1. Selling commission, general (selling) expenses and selling profits made in connection with sale of imported goods in India. General expenses includes direct and indirect cost of marketing the goods in question in India; | xx |
| 2. Transport, insurance and associated costs within India; | xx |
| 3. Customs duties, sales tax and other taxes levied in India. | xx |
| Transaction Value as per this rule | xx |

Notes—

Unit price sold in greatest numbers— This rule further specifies that while considering selling price of imported goods in India, unit price at which greatest aggregate quantity of imported goods or identical or similar goods are sold to unrelated persons in India should be the basis.

e.g.— if 65 units are sold @ Rs. 100, 55 units are sold @ Rs. 95 and 80 units are sold @ Rs. 90; then greatest aggregate quantity is 80 which is sold @ Rs. 90 per unit, which will be the basis for valuation.

RULE 8 Computed value for custom valuation

1. Applicability of this rule : This is the 5th method of valuation and is (normally) applied if valuation is not possible by 'deductive method' under rule 7. However, if the importer requests and the Customs Officer approves, this 'computed value' method can be used before the method of 'deductive value'.

2. Valuation as this rule : Assessable Value is calculated by adding all the costs from production to importation. This is called 'Computed value' because assessable value has to be arrived at by method of Computation.

FORMULA FOR CALCULATING VALUE : The value for goods being valued will be calculated as under—

| | |
|---|----|
| Value of materials and fabrication or other processing employed in producing the imported goods; | xx |
| Plus : An amount for profit and general expenses equal to that usually reflected in sale of goods of the same class or kind, which are made in the country of exportation for export to India; | xx |
| Plus : Cost or value of all other expenses under rule 10(2) i.e. transport, insurance, loading, unloading and handling charges. | xx |
| Transaction Value as per this rule | xx |

RULE 9 Residual method for custom valuation

1. Applicability of this rule : This is the 6th and last method of valuation and is applied if valuation is not possible as

per preceding rules. This is similar to 'best judgment method' of the Central Excise, Income Tax. Assessable Value under this method shall be determined,

- ♦ using reasonable means consistent with general provisions of these rules and
- ♦ on basis of data available in India.

2. Value cannot exceed normal price + buyer-seller are not related + price is the sole consideration [proviso to rule 9(1)] : This proviso provides as under—

- (a) The price determined under this rule shall not exceed the 'normal price' *i.e.* price at which such or like goods are ordinarily sold for delivery at the time and place of importation in course of International Trade,
- (b) seller and buyer have no interest in the business of other and
- (c) price is the sole consideration for sale or offer for sale.

Best judgment assessment is a residuary rule and it cannot prevail over previous rules in the absence of discussion as to how transaction value was not to be accepted.

3. What can be considered : Interpretative Note to rule 9 provides as under:

- (i) The valuation under this rule, to the greatest extent possible, be based on previously determined values.
- (ii) The method of valuation should be based on previous methods *e.g.* transaction value, identical goods, similar goods, deductive value or computed value but some flexibility may be used in applying these rules.

E.g.-1 : If value of identical or similar goods produced in same country is not available, value of identical or similar goods manufactured in other country could be considered.

E.g.-2 : If value of identical or similar goods imported at or about the same time is not available, value at other time may be considered.

E.g.-3 : While considering deductive method, condition that imported goods should be sold in the same condition as imported may be flexibly applied.

4. What cannot be considered [rule 9(2)] : This rule expressly prohibits use of any of the following means for determining Assessable Value:

- ♦ Use of the *selling price in India* of goods produced in India;
- ♦ Using a system of accepting *highest* of the alternative *values*;
- ♦ Using a *price* of goods prevalent *in the country of exportation* (*e.g.* if goods are imported from Germany, price of the goods within Germany cannot be considered);
- ♦ Using a *price* of goods for export to a *country other than India*;
- ♦ Using a *minimum* customs *values*;
- ♦ Using arbitrary or *fictitious values*.

WAREHOUSING, TRANSIT, TRANSSHIPMENT



Importer can store the imported goods in a warehouse without payment of duty under a bond and then clear from warehouse when required, on payment of duty. This facility is available to traders as well as direct importers.

5.1 WAREHOUSING UNDER CUSTOMS

Importer can store the imported goods in a warehouse without payment of duty under a bond and then clear from warehouse when required, on payment of duty. This facility is available to traders as well as direct importers.

5.2 PUBLIC AND PRIVATE WAREHOUSES [SECTION 57 AND 58]

Following points are relevant in this regard :

| | |
|--|--|
| Meaning of 'warehouse' | As per section 2(43) of Customs Act, 'warehouse' means: → a public warehouse <i>appointed</i> under section 57 or → a private warehouse <i>licensed</i> under section 58 of Customs Act. |
| Meaning of 'warehoused goods' | As per section 2(44), 'warehoused goods' means goods deposited in a warehouse. |
| Meaning of warehousing | Warehouses allow goods to be stored and thus deferment of duty. The Goods are to be released from the Warehouse, subject to "clearance"; i.e.; post assessment and payment of Duty. |
| Appointment or licensing of warehouse | Sections 57 and 58 of Customs Act provide that 'warehouse' can be appointed or licensed only at a 'warehousing station'. |
| Meaning of 'warehousing station' | As per section 2(45) of Customs Act, 'warehousing station' means a place declared as a warehousing station under section 9 of Customs Act. Section 9 of Customs Act authorises CBIC to declare places as warehousing stations. |
| Public or private warehouses | 1. <i>Types</i> :Warehouses are of two types— <ul style="list-style-type: none"> ◆ Public warehouses <i>appointed</i> by Assistant Commissioner of Customs under section 57 of Customs Act. ◆ Private warehouses <i>licensed</i> by Assistant/Deputy Commissioner of Customs. 2. <i>Cancellation of licence</i> : The licence can be cancelled by giving one month notice. Licence can be cancelled if licensee contravenes any provisions of Customs Act. In such cases, show cause notice has to be issued and pending enquiry, licence can be suspended. |

5.3 WAREHOUSING BOND [SECTION 59]

Following points are relevant in this regard :

| | |
|----------------------------|--|
| 1. Purpose of bonds | Since imported goods are kept in warehouse without payment of customs duty, importer has to execute a bond for binding himself : |
|----------------------------|--|

| | |
|--------------------------------|--|
| | <p>(a) <i>To observe all provisions</i> of Customs Act and rules/regulations in respect of the goods;</p> <p>(b) <i>To pay on demand the duties</i>, interest, warehousing rent and charges with interest;</p> <p>(c) <i>To pay all penalties</i> leviable for violations of provisions of Customs Act, rules and regulations.</p> |
| 2. Amount of bond | The bond amount is equal to twice the amount of duty assessed. Generally, part of bond amount is secured by way of a bank guarantee. Bond will continue to be valid even if goods are transferred to another person or removed to another warehouse. |
| 3. Cancellation of bond | The bond can be cancelled and returned only when duty and all other dues are paid on goods cleared and goods are duly accounted for. (Section 73) |

5.4 WAREHOUSING PERIOD [SECTION 61]

Section 61 of Customs Act prescribes warehousing period. If goods are not removed within the prescribed period, Customs Officer can sell the goods after notice to owner as much quantity as he deems fit. Warehousing period can be summarised as under—

| | |
|---|---|
| 1. Goods intended to be used in 100% EOU | <p>1. Normal period: Normal warehousing can be upto—</p> <ul style="list-style-type: none"> ◆ In case of capital goods: 5 years; ◆ In case of other goods: 3 years, <p>from the date of order of Proper Officer permitting the deposit of goods in a warehousing.</p> <p>2. Extended period: In case of goods which are not likely to deteriorate, the period may, on sufficient cause being shown, be extended by the Commissioner of custom, for such period as he may deem fit.</p> |
| 2. In case of other goods | <p>1. Normal period : Warehousing can be upto 1 year from the date of order of Proper Officer permitting their deposit into warehouse.</p> <p>2. Extension/reduction of period : The warehousing period may be extended or reduced as under—</p> <ul style="list-style-type: none"> ◆ <i>Extension of period:</i> If the goods are not likely to be deteriorated, the warehousing period may be extended as under— <ul style="list-style-type: none"> (i) by the Commissioner → 6 months; (ii) by the Chief Commissioner → any period as he deem fit. ◆ <i>Reduction of period:</i> If the goods are likely to be deteriorated, the warehousing period of 1 year may be reduced by the Commissioner. |

5.5 CONTROL (OF PROPER OFFICER) OVER WAREHOUSED GOODS [SECTION 62]

This section provides as under—

| | |
|-------------------|--|
| 1. Control | All warehoused goods shall be subject to the control of the proper officer. |
| 2. Entry | No person shall enter a warehouse or remove any goods therefrom without his permission. |
| 3. Lock | He may cause any warehouse to be locked with the lock of the Customs Department and no person shall remove or break such lock. |
| 4. Access | He shall have access to every part of a warehouse and power to examine the goods therein. |

5.6 OWNER'S RIGHT TO DEAL WITH WAREHOUSED GOODS [SECTION 64]

With the sanction of the proper officer and on payment of the prescribed fees, the owner of any goods may either before or after warehousing the same is entitled to —

- (a) *inspect* the goods;

- (b) *separate* damaged or deteriorated goods from the rest;
- (c) sort or *change containers* for the purpose of preservation, sale or disposal etc. of the goods;
- (d) *show* the goods for sale;
- (e) *take samples* of goods:
 - ♦ without entry for home consumption,
 - ♦ and if the proper officer so permits, without payment of duty on such samples.

TRANSIT AND TRANSSHIPMENT

A conveyance/vessel may reach a port but may not unload the goods at that port. It may halt at the port for any other purpose such as repairs, replenishment of supplies, refuelling etc. Once the purpose is over, it may start sailing to the destination port. In this case two ports are involved :

- (1) the halting port (known as transit port) and
- (2) the destination port (called as port of clearance).

Such a phenomenon of temporary stay at a port other than a destination port is called transit. In transit; the goods remain in the same vessel and consequently reach the port of clearance.

In transshipment, however, the vessel after reaching an intermediate port, transfers the goods to another vessel and the second vessel into which the goods are transferred (loaded) from the first vessel, carries the goods to the destination port.

5.14 TRANSIT GOODS (i.e. taking goods from one place to another) [SECTION 53]

Section 53 provides that any goods imported in any conveyance will be allowed to remain on the conveyance and to be transited without payment of customs duty, to:

- ♦ any place out of India or
- ♦ any customs station.

However, all these goods—

- ♦ must be mentioned in import manifest/ import report submitted by person in charge of conveyance.
- ♦ Such goods should not be 'prohibited goods' under section 11 of Customs Act.

After transit, the goods may go to another customs station. On arrival at customs station, the goods will be liable to customs duty as if it is first importation in India - section 55.

5.15 TRANSHIPMENT OF GOODS (i.e. taking imported goods to other custom station by transferring them from one conveyance to other) [SECTION 54]

1. Meaning of transshipment : Goods imported in any customs station can be transshipped without payment of duty, under section 54 of Customs Act. Transshipment means transfer from one conveyance to another. Such transshipment may be to any major port or airport in India.

2. Provisions regarding transshipment : This section provides as under—

1. Presentation of—

- ♦ “Bill of transshipment”
- OR
- ♦ “Declaration for transshipment”

Transshipment in India : Goods imported into a customs station which are intended for transshipment, a *bill of transshipment* shall be presented to the proper officer in the prescribed form.

Transshipment outside India : Where the goods are being transshipped under an international treaty between the Government of India and Government of a foreign country, a *declaration for transshipment* (instead of a bill of transshipment) shall be presented to the proper officer in the prescribed form.

| | |
|---|---|
| 2. Allowance of transshipment to any place OUTSIDE INDIA without payment of duty | <ul style="list-style-type: none"> ♦ any goods imported into a customs station for transshipment to any place OUTSIDE INDIA ♦ which are mentioned in (i) import manifest or (ii) import report (as the case may be) ♦ such goods may be allowed to be so transshipped without payment of duty. |
| 3. Allowance of transshipment to any place IN INDIA without payment of duty | <ul style="list-style-type: none"> ♦ any goods imported into a customs station for transshipment to— <ul style="list-style-type: none"> (a) to any <i>major port/customs airport</i> (at Mumbai, Calcutta, Delhi or Chennai) or any other notified <i>customs port</i> or <i>customs airport</i>, or (b) to any other customs station and the proper officer is satisfied that the goods are <i>bona fide</i> intended for transshipment to such customs station ♦ which are mentioned in (i) import manifest or (ii) import report (as the case may be) ♦ such goods may be allowed to be so transshipped without payment of duty, subject to conditions for their arrival of such goods at the customs station to which transshipment is allowed. |

3. Distinction between Transit and transshipment :

| Point of difference | Transit | Transshipment |
|---------------------|--|---|
| <i>Conveyance</i> | In 'transit' goods continue to be on same vessel/vehicle | In transshipment, goods are transferred to another vessel/vehicle. |
| <i>Docs</i> | Only import manifest has to be submitted for entry | Bill of Transshipment / declaration is also required to be submitted |
| <i>Supervision</i> | No supervision is required at the Intermediate Port | Transshipment process is conducted under the supervision of the Customs Officer |
| <i>Destination</i> | The same vessel reaches the destination port | A different vessel reaches the destination port |

5.17 PERSON IN CHARGE—MEANING [SECTION 2(31)]

1. Meaning: As per section 2(31), 'person in charge' means,

| | |
|-------------------------------|---------------------------------------|
| ♦ In case of vessel | The master of the vessel. |
| ♦ In case of aircraft | The commander or pilot-in-charge. |
| ♦ In case of train | The conductor or guard. |
| ♦ In case of other conveyance | The driver of other person in charge. |

2. Significance of this definition:

- ♦ He is responsible for submitting Import Manifest and Export Manifest
- ♦ He is responsible to ensure that the conveyance comes through approved route and lands at approved place only.
- ♦ He has to ensure that goods are unloaded after written order, at proper place. Loading also has to be only after permission.
- ♦ He has to ensure that conveyance does not leave without written order of Customs authorities.
- ♦ He can be penalised for (a) Giving false declaration and statement (b) shortages or non-accounting of goods in conveyance.

3. Arrival at customs port/airport only : Section 29 provides that person-in-charge of a vessel or an aircraft entering India shall call or land at customs port or customs airport only.

It can land at other place only if compelled by accident, stress of weather or other unavoidable cause. In such case, he should report to nearest police station or Customs Officer. While arriving by land route, the vehicle should come by approved route to 'land customs station' only.

DUTY DRAW BACK (DDB), DEMAND & RECOVERY



Importer can store the imported goods in a warehouse without payment of duty under a bond and then clear from warehouse when required, on payment of duty. This facility is available to traders as well as direct importers.

6.1 MEANING OF DUTY DRAW BACK (DDB)

Duty Draw Back means refund of import duty. Under this scheme, if the importer re-export (*i.e.* sending back) the goods after their importation into India, will be entitled to the refund of duty which has been paid at the time of importation of these goods. Duty draw-back is allowed in the following cases :

- (a) Re-exportation of duty paid imported goods [Section 74]
- (b) Export of final products/processed goods after using the duty paid imported material [Section 75]

Thus DDB, will be allowed, if all the following conditions are satisfied :

| | |
|-------------|--|
| Condition 1 | There must be 'import' of certain goods into India. |
| Condition 2 | In respect of these goods, the importer has paid import duty. |
| Condition 3 | The goods so imported are re-exported : ♦ in the same form in which they were imported (new/old) or ♦ in some different form (<i>i.e.</i> after processing the same). |
| Condition 4 | They are entered for re-exportation within a specified time limit. |

6.2 DDB ALLOWED ON RE-EXPORT OF DUTY PAID GOODS [SECTION 74]

1. Amount of DDB : Section 74(1) provides that when goods capable of being easily identified, which have been imported into India and upon which any duty has been paid on their importation, 98% of such duty shall be paid back if these goods :

- (a) Are entered for export and the proper officer makes an order permitting clearance and loading of the goods for exportation under section 51; or
- (b) are to be exported as baggage and the owner of the baggage, makes a declaration of its contents to the proper officer under section 77 and such officer makes an order permitting clearance of the goods for exportation, or
- (c) are entered for export by post under section 82 and the proper officer makes an order permitting clearance of the goods for exportation,

2. Conditions to be satisfied :

| | |
|---------------------------|--|
| Identification of 'goods' | The goods are identified to the satisfaction of the AC/DC of Customs as the goods which were imported; and |
|---------------------------|--|

| | |
|--|---|
| Time lag between 'import' and 'export' | These goods are entered for export within 18 MONTHS from the date of payment of import duty (and NOT from the date of importation). |
|--|---|

3. Powers of Central Government to make rules : Section 74(3) provides that the Central Government may make rules for the purpose of carrying out the provisions of this section and, in particular, such rules may—

- provide for the manner in which the identity of goods imported in different consignments which are ordinarily stored together in bulk, may be established;
- specify the goods which shall be deemed to be not capable of being easily identified; and
- provide for the manner and the time within which a claim for payment of drawback is to be filed.

e.g.: Section 74 is resorted to where there is an excess shipment or wrong shipment or goods have been imported for the purpose of participating in an exhibition and sent back etc.

6.3 DDB IN CASE OF USED GOODS [SECTION 74(2)]

As per this section, where the imported goods are used after importation, the amount of drawback will be at the reduced rates as fixed by the Central Government having regard to the duration of use, depreciation in value and other relevant circumstances prescribed by a Notification.

1. List of goods which are not entitled to draw back at all under this notification : As per this notification, no drawback of import duty will be allowed in respect of the following goods, if they have been used after their importation in India:

- Wearing Apparel;
- Tea Chests;
- Exposed cinematograph films passed by Board of Film Censors in India.
- Unexposed photographic films, paper and plates, and
- X-ray films.

It implies that if these goods are not used after their importation into India and subsequently re-exported in the condition they were imported, then they would be entitled to 98% drawback

2. Reduced draw back rate shaving regard to duration of use : Following percentages have been fixed as the rates at which drawback of import duty shall be allowed in respect of goods which were used after their importation and which have been out of Customs control.

| S.No. | Length of period between the date of clearance for home consumption and the date when the goods are placed under Customs control for export | % of import duty to be paid as Drawback |
|-------|---|---|
| 1. | Use up to 6 months | 85% |
| 2. | More than 6 months but not more than 12 months | 70% |
| 3. | More than 12 months but not more than 18 months | 60% |
| 4. | More than 18 months but not more than 24 months | 50% |
| 5. | More than 24 months but not more than 30 months | 40% |
| 6. | More than 30 months but not more than 36 months | 30% |
| 7. | More than 36 months | Nil |

Note : Drawback is allowed if the use is over 24 months only with permission of Commissioner of Customs if sufficient cause is shown.

6.4 MANNER OF CLAIMING DDB ON GOODS EXPORTED OTHER THAN BY POST [RULE 5]

(a) Time-limit for filing drawback claim : A claim for drawback under these rules shall be filed :

- in the prescribed form
- within **three months** (by paying prescribed fees, this period is further extendable by 12 subject to fulfilment of certain conditions and upon payment of prescribed fees)

from the date on which an order permitting clearance and loading of goods for exportation under section 51 is made by proper officer of customs.

(b) Documents to be filed along with drawback claim: The claim shall be filed along with the following documents, namely :

1. Shipping Bill bearing examination report of the proper officer at the time of export.
2. Bill of Entry or other prescribed document against which goods were cleared on importation.
3. Import invoice.
4. Evidence of payment of duty paid at the time of importation of the goods.
5. Permission from Reserve Bank of India for re-export of goods, wherever necessary.
6. Export invoice and packing list.
7. Copy of Bill of lading or Airway bill.
8. Any other documents as may be specified in the deficiency memo.

6.5 No DDB in the following cases

The Customs Act, 1962 lays down certain limitations and conditions for grant of Duty Drawback. No Duty Drawback shall be admissible where :

- (a) The Duty Drawback amount is less than Rs.50.
- (b) The Duty Drawback amount exceeds $1/3^{\text{rd}}$ of the market price of the export product.
- (c) The Duty Drawback amount is less than 1% of FOB value of export (except where the amount of Duty Drawback per shipment exceeds Rs.500).
- (d) Where value of export goods is less than the value of imported material used in their manufacture. If necessary, certain minimum value addition over the value of imported materials can also be prescribed by the Government.

The duty drawback needs to be paid, within 1 month, and if not paid, interest is payable to the claimant, at a specified rate.

Also, where drawback has been paid to the claimant in excess of what he is eligible to, the claimant has a time period of 2 months, to repay the excess, else, interest would be charged on the exporter from the date of payment of drawback until the date of recovery.

DEMAND AND RECOVERY

6.6 Demand of duty

The notice of demand, must be served in writing, clearly mentioning the reasons, and providing the party an opportunity of being heard.

Generally, the Show Cause Notice, should be served within 1 year from the relevant date *i.e.* 1 year from the date of assessment/payment of duty.

However, in special cases, where the duty or interest is not paid, or short paid, by reason of collusion, wilful suppression of facts, or misstatement, then the notice could be served within a period of 5 years.

The demand of duty provisions also calls for attachment of property for upto 6 months, for protection of interest of revenue and that could be extended for another period of 6 months, but the attachment period cannot exceed 2 years.

Post which the duty must be collected, in the name of customs duty and paid to the credit of the Government.

CONFISCATION OF GOODS AND CONVEYANCE

6.7 Confiscation of Goods and Conveyance

Confiscation would generally tend to connote the forceful seizure/repossession of goods by the Government, without any compensation to the owner, as the possession of the goods was contrary to the law.

Section 111 states that the following improperly imported goods, shall be liable to confiscation

- ◆ those which are imported by sea/air and off loaded/ attempted to be off loaded in a port other than the appointed customs' port
- ◆ those which are imported by land / inland water, through a route other than a specified route
- ◆ any dutiable / prohibited goods brought in to any bay / creek / gulf etc. for the purpose of being landed at a place other than customs' port
- ◆ any dutiable / prohibited goods, found concealed in a conveyance
- ◆ any dutiable / prohibited goods which should have been disclosed in the Import General Manifest but were not
- ◆ any dutiable / prohibited goods removed / attempted to be removed from a warehouse / customs station, without permission
- ◆ goods which do not match the description in the documents, vis-à-vis value / any other particulars
- ◆ any goods, which were exempted from duty subject to a condition, which was eventually not met.

Section 112 states that the following improperly exported goods, shall be liable to confiscation

- ◆ those which are exported by sea / air and loaded / attempted to be loaded in a port other than the appointed customs' port
- ◆ those which are exported by land / inland water, through a route other than a specified route
- ◆ any dutiable / prohibited goods brought near any bay / creek / gulf etc. for the purpose of being exported from a place other than customs' port
- ◆ any dutiable / prohibited goods, found concealed in a conveyance
- ◆ any goods loaded in a wrongful manner without necessary permissions
- ◆ goods which do not match the description in the documents, vis-à-vis value / any other particulars
- ◆ any goods, on which import duty wasn't paid and entered for export under a claim for drawback

Section 115 deals with Conveyances which are liable to confiscation

- ◆ Any vessel which has been within the Indian customs waters, any aircraft in India, or any vehicle, which has been adapted or fitted or structured in a manner that it purports or enables the concealment of goods
- ◆ Any conveyance from which the goods are destroyed to prevent seizure
- ◆ Any conveyance which had to stop / land but didn't do so except for sufficient cause
- ◆ Any vessel from which goods which have been cleared for exportation, under a claim for drawback, were unloaded without necessary permissions
- ◆ Any conveyance which carried goods into India, but which were later missing without any account for the loss
- ◆ Any conveyance / animal used for smuggling

Section 118 deals with confiscation of packages

- ◆ Where the goods imported / exported are liable to confiscation, the packages within which they are cased and carried, are also liable for confiscation

Section 119 states that any goods used to conceal the smuggled goods are also liable to confiscation

Section 120 & 121 state that where the smuggled goods undergo a change in their physical form, post smuggling, even then they would be liable for confiscation (example : gold bars, later converted to ornaments). Also, where the smuggled goods are mixed in a manner with other goods such that they are inseparable, entire goods would be liable to confiscation, and if the smuggled goods are sold off, the sale proceeds thereof are liable to confiscation

Section 122 states that the adjudicating authorities shall be give an opportunity of being heard to the party concerned

Section 123 clearly states that if goods are seized, the onus is on the owner to prove that they were not smuggled

Section 124 clearly states that before confiscation, it is necessary that a show cause notice (SCN) is issued to the owner, citing grounds and he should be given an opportunity to make a representation / of being heard. The SCN can be issued by a person not below the rank of Assistant Commissioner of Customs

Section 125 states that the authorised officer may allow the owner an option to pay fine in lieu of confiscation

Section 126 mentions that confiscated goods vest with the Central Government

Section 127 clarifies that any award of confiscation / penalty shall not interfere with or prevent the owner from being punished under any other provisions of this or any other law for the time being in force.

REFUNDS OF IMPORT/EXPORT DUTY

6.8 Refund of export duty

Where on the export of goods; any duty has been paid, such duty shall be refunded to the person by whom or on whose behalf it was paid, if -

- (a) the goods are returned to such person otherwise than by way of re-sale;
- (b) the goods are re-imported within one year from the date of exportation; and

An application for refund of such duty is made within 6 months from the date on which the proper officer makes an order for the clearance of the goods when they are imported back.

6.9 Refund of Import duty

Where on the import of any goods, duty has been paid upon clearance for home consumption, such duty can be refunded to the person by whom or on whose behalf it was paid, if -

- (a) The goods are found to be defective or not in conformity with the specifications
- (b) The importer does not claim any duty draw back with respect to these goods
- (c) If the goods are exported back / importer relinquishes his title to the goods / they are destroyed in the presence of the proper officer

An application for refund of duty is to be made within 6 months from the relevant date, i.e.,

- (i) The date when the proper officer makes an order for clearance of goods when they are exported back
- (ii) Date of relinquishment if the importer relinquishes his title to the goods
- (iii) Date of destruction, where the goods are destroyed

Moreover, for all general refunds of duty, apart from the ones covered above, have a limitation period of 1 year, that is, the refund application must be led within 1 year from the date of payment of such duty.