



JAGAT GURU NANAK DEV PUNJAB STATE OPEN UNIVERSITY, PATIALA

(Established by Act No. 19 of 2019 of the Legislature of State of Punjab)

The Motto of the University
(SEWA)

SKILL ENHANCEMENT

EMPLOYABILITY

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CERTIFICATE/DIPLOMA COURSE IN ACCOUNTING AND TAXATION

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PREFACE

Jagat Guru Nanak Dev Punjab State Open University, Patiala, established in December 2019 by Act 19 of the Legislature of State of Punjab, is the first and only Open University of the State, entrusted with the responsibility of making higher education accessible to all especially to those sections of society who do not have the means, time or opportunity to pursue regular education.

In keeping with the nature of an Open University, this University provides a flexible education system to suit every need. The time given to complete a programme is double the duration of a regular mode programme. Well-designed study material has been prepared in consultation with experts in their respective fields.

The University offers programmes which have been designed to provide relevant, skill-based and employability-enhancing education. The study material provided in this booklet is self-instructional, with self-assessment exercises, and recommendations for further readings. The syllabus has been divided in sections, and provided as units for simplification.

The Learner Support Centres/Study Centres are located in the Government and Government aided colleges of Punjab, to enable students to make use of reading facilities, and for curriculum-based counselling and practicals. We, at the University, welcome you to be a part of this institution of knowledge.

Prof. G. S. Batra,
Dean Academic Affairs

CERTIFICATE COURSE IN ACCOUNTING AND TAXATION



BASICS OF GOODS AND SERVICE TAX

COURSE III - BASICS OF GOODS AND SERVICE TAX (GST)

Learning Objectives: The course aims to achieve following objectives-

1. To make participants understand the need for GST
2. To understand the implementation of GST
3. To understand the documentation involved in GST

Course Content:

Unit I: Introduction: Overview of Goods & Services Tax –Old Tax System and its Drawbacks - Need for Tax Reforms- Kelkar Committee on Tax Reforms - Constitutional Amendments - Introduction to GST–Concepts -Process of GST Implementation - Territorial Jurisdiction -Multiple Rates of GST- GST Model: Kelkar – Shah Model -Comprehensive structure of GST model in India: Advantages and Drawbacks of GST-Features of Single and Dual GST Models.

Unit-II: Taxes and Duties: Transactions & taxes covered under GST -Taxes and duties outside the purview of GST : Tax structure , computation administration of Tax on items containing Alcohol, Petroleum products and Tobacco products - Taxation of Services. - **Inter-State Goods and Services Tax:** Transactions within a State under GST - Major advantages of IGST Model - Illustrations.

Unit III : Time of Supply of Goods & Services: Scope of Supply – Place and Value of Supply – GST Rate Structure. Input Tax Credit – Tax Invoice - Distribution of Credit - Procedures and Records for Input Tax Credits - Utilization, Recovery of Input Tax Credit - Levy and Collection, Tax Liability, Reserve Charge, Composite and Mixed Supplies, Exemptions and Non-Taxable Supplies.

Unit-IV: Registration and Filing–Registration of Assesses Under GST Act - Persons liable for registration –Procedure for Registration and Cancellation - Deemed registration – Credit and Debit Notes, Accounts and Records – Retention of Records - **Assessment:** Filing of Returns- Self-assessment - Provisional assessment – Assessment of Non-filers of returns - Assessment of Unregistered Persons –Computation of tax liability, TDS, TCS, Demand, Recovery and Adjudication, Refund -Audit by Tax Authorities.- Appeals and Revisions – Appellate Authority and its Powers - Miscellaneous Provisions.

Unit-V : Filing of Tax Returns: Procedure for Filing of tax returns of GST, Matching tax credits and due dates; Payment of tax, Interest and Levy of Late fees.**Assessment:** Self- assessment; Summary and scrutiny; Taxability of e-Commerce, e-way bills; Zero-rated supply.

Suggested Readings and E content

https://www.icaai.org/post.html?post_id=16946

<https://egyankosh.ac.in/handle/123456789/55483>

<https://www.icsi.edu/media/webmodules/publications/GST%20Educational%20Series.pdf>

UNIT- 1 INTRODUCTION

STRUCTURE

- 1.0 Objectives
- 1.1 Introduction
- 1.2 Overview of Goods & Services Tax
- 1.3 Old Tax System and its Drawbacks
- 1.4 Need for Tax Reforms
- 1.5 Kelkar Committee on Tax Reforms
- 1.6 Constitutional Amendments
- 1.7 Introduction to GST
- 1.8 Concepts
- 1.9 Process of GST Implementation
- 1.10 Territorial Jurisdiction
- 1.11 Multiple Rates of GST
- 1.12 GST Model: Kelkar – Shah Model
- 1.13 Comprehensive structure of GST model in India
- 1.4 Advantages and Drawbacks of GST
- 1.15 Features of Single and Dual GST Models
- 1.16 Unit End Questions
- 1.7 References

1.0 OBJECTIVES

After completing this Students will be able to

- Explain the meaning of Goods and Service Tax

- Describe the need for tax reforms
- Explain Kelkar Shah Model of GST
- Discuss the advantages and disadvantages of GSTs

1.1 INTRODUCTION

GST is considered as an indirect tax for the whole nation that would make India one unified common market. It is a tax which is imposed on the sale, manufacturing and the usage of the goods and services. It is a single tax that is imposed on the supply of the goods and services, right from the manufacturer to the customer. The credits of the input taxes that are paid at each stage will be available in the subsequent stage of value addition which makes GST essentially a tax only on the value addition on each stage. The final consumers will bear only the tax charged by the last dealer in the supply chain with the set of benefits that are at all the previous stages.

It is charged at the national and state level at similar rates for the same products and it also replaces almost all the current indirect taxes that are imposed separately by the Centre and the States. Goods & Services Tax is a **destination based tax** which means that the tax is paid at the **place of supply**.

1.2 OVERVIEW OF GOODS & SERVICES TAX

GST is the biggest reform for indirect taxes in India in the post-independence period. It simplified indirect taxation, reduced tax complexities, removed the cascading effect and led to one nation and one tax regime in India. Experts believe that GST will have a huge positive impact on business and change the way the economy functions. In this chapter we shall have a brief introduction on new GST regime introduced in India since July, 2017. Before we are introduced to the system of GST in India let us know the concepts of Direct and Indirect taxes.

Concept of Direct and Indirect Taxes

A tax may be defined as a fee charged by a government on a product, income or an activity. It is a pecuniary burden laid upon individuals or property owners to support the Government, a

payment exacted by legislative authority. A tax "is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority". Taxes are broadly classified into direct and indirect taxes.

Direct Taxes: If a tax is levied directly on or wealth an individual or an organization it is called direct tax. A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. An incidence of direct tax cannot be shifted by the taxpayer to someone else. The burden of such tax is borne by the payer of tax himself. An important direct tax imposed in India is income tax.

Indirect Taxes: If tax is levied on the price of a good or service, then it is indirect tax. The person paying the indirect tax passes on the incidence of tax to some other person. He collects the tax from his customer on sale of goods and services and remits it to the government. The ultimate burden of such tax falls on the final consumer of such goods and services. If the taxpayer (such as a manufacturer or provider of service or seller of goods) is just a conduit and at every stage the tax incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is indirect tax. An indirect tax is one that can be shifted by the taxpayer to someone else. Indirect taxes are also called consumption taxes, they are regressive in nature because they are not based on the principle of ability to pay. All the consumers, including the economically challenged bear the brunt of the indirect taxes equally. Indirect taxes are levied on consumption, expenditure, privilege, or right but not on income or property. Hitherto, a number of indirect taxes were levied in India, namely, excise duty, customs duty, service tax, central sales tax (CST), value added tax (VAT), entry tax, purchase tax, entertainment tax, tax on lottery, betting and gambling, luxury tax, tax on advertisements, etc. However, indirect taxation in India has witnessed a paradigm shift on July 01, 2017 with the introduction of a unified indirect tax regime wherein a large number of Central and State indirect taxes have been subsumed into a single tax – Goods and Services Tax (GST). The introduction of GST is a very significant step in the field of indirect tax reforms in India.

1.3 OLD TAX SYSTEM AND ITS DRAWBACKS

The current tax system is complicated to say the least. While the tax rates are high, there are a lot of ways to reduce your tax liability.

Over the years the government, through addition of clauses to the Income Tax Act, has given Indian taxpayers over 70 exemptions and deduction options through which they can bring down their taxable income and hence pay less.

While exemptions are part of your salary, like the House Rent Allowance (HRA) and Leave Travel Allowance (LTA), deductions allow you to lower your tax amount by investing, saving or spending on specific items. The biggest section for deduction is Section 80c through which you can bring down your taxable income by Rs.1.5 lakh. Apart from this, there are several other sections that let you take tax deductions on things ranging from interest on your loans (home and education) to premiums you pay for health insurance.

Most common exemptions and deductions availed by Indian taxpayers

Exemptions	Deductions
House Rent Allowance	Public Provident Fund
Leave Travel Allowance	ELSS (Equity Linked Saving Scheme)
Mobile and Internet Reimbursement	Employee Provident Fund
Food Coupons or Vouchers	Life Insurance Premium
Company Leased Car	Principal and Interest component of Home Loan
Standard Deduction	Children Tuition Fees
Uniform Allowance	Health Insurance Premiums

Leave Encashment	Investment in NPS
	Tuition fee for Children
	Saving Account Interest

Table :1.1 Most common exemptions and deductions availed by Indian taxpayers

The combination of exemptions and deductions can bring down your taxable income by lakhs. However, it also means every year you have to find ways to optimize your salary and savings/investments so as to keep you taxable income at the minimum level.

Drawbacks of Old Tax regimes

- In the old tax regime, tax benefits to individual taxpayers were available for a fixed period. This period or specified lock-in generally lasted for three to five years. This tax-saving option may not be fit for millennials as they are looking forward to sending first and then save. Also, senior citizens prefer having liquidity in their hands which is again not possible in the old tax regime.
- In the old tax, regime investors could not make investments in other instruments which had chances of performing better. They were trapped investing in the specified instruments irrespective of their performance.
- In the old tax regime documentation and additional proof of investments are required in case of proceedings of assessments before tax authorities which are not necessary for the new tax regime.

1.4 NEED FOR TAX REFORMS

There was a need for tax reforms in India to ensure international competitiveness and to meet the requirements of the market economy. You can read about the Tax Administration Reform Commission – TARC. Mandate, Report, Recommendations in the given link. There was a transition to a market based economy from the centrally planned development strategy. In 1991, the then Finance Minister Manmohan Singh had recommended the appointment of the

Tax Reforms Commission (TRC). Raja Chelliah was the chairman of the Tax Reforms Commission (TRC). Fiscal crisis is always the immediate reason for reforming the tax system.

A key element of India's economic liberalization has been tax reform. New Delhi's tax reform strategy is largely based on the Raja Chelliah Committee report. It proposed that the share of customs duties in total taxes be reduced and the share of direct taxes raised. More revenue needed to be mobilized via excise duties by transforming them into value added taxes. Maximum rates of personal and corporate income taxes were reduced. Last year the Centre levied a new minimum alternate tax on firms whose total income, after deductions, was below 30 per cent of the book profit. If so the firm's income was deemed to be 30 per cent and taxed accordingly. The effective rate worked out to 12 per cent of book profit calculated under the Companies Act. Thanks to higher growth and tax reforms, tax revenues of Centre and states, which fell from 16.7 per cent of gross domestic product in 1991-92 to 15.2 the next year, recovered to almost 16 cent in 1995-96. The loss in revenue was due to reduced customs and excise duties as a result of the reforms started in 1991. Growth made taxes buoyant again. The rise in Central tax revenue was largely due to greater direct tax collection. The Centre made reasonable progress over indirect taxes. Import tariff reform aimed to reduce the cost of intermediate and capital good imports and lower the protection provided to Indian industry. Customs duties, though lowered, remain higher than India's competitors, reducing India's attractiveness to investors. Reforms of commodity taxation were initiated in 1993-94 to rationalise the then existing excisemodified value added tax system. Under MODVAT credit of duty is allowed on inputs used either for producing excisable finished products or intermediate products. Over time the ambit of MODVAT has expanded. But its conversion into a full-fledged VAT up to the manufacturing stage is far from complete. Other Central excise duty reforms include cuts in the number of ad valorem rates, phasing out of exemption notifications and simplifying the procedure to value excise duty. Briefly put, the increased share of direct taxes, and decline in indirect taxes indicates the tax reforms strategy since 1991 is basically working. But more needs to be done. For both direct and indirect taxes, we suggest measures to improve the yield of direct taxes. To augment revenue from personal income tax, the government should broaden the tax paying population. Base widening can be done in two ways: bring large numbers of potential taxpayers into the net, and eliminate the tax exemptions and deductions provided to serve non-tax objectives. Attempts have been made to broaden the base of presumptive taxation, where incomes are

estimated by including shopkeepers, small transport operators and the like. Later, a new estimated income scheme for contractors with turnover up to Rs 40 million and for owners of up to 10 trucks was introduced. Presumptive taxation is suitable since evasion is rampant in the unorganised sector. Easy to administer, such levies increase equity and efficiency by taxing those who never paid taxes earlier.

The experience of countries like France, Israel and Turkey with presumptive taxation is not encouraging. We don't expect significant results. Nonetheless, India should continue to improve on the scheme. A major reason people avoid the scheme is fear of getting into the books of tax authorities. The relationship of the presumptive tax to the rest of the tax system needs clarification. Extending estimated income schemes to cover more activities would be worthwhile. Base broadening can also be done by removing the exemptions and deductions allowed on various grounds of social and economic policy. Several incentive provisions have been withdrawn. Many remain. A number of Income Tax Act concessions could be removed. This would further help to lower tax rates. There is also a case for levying tax on free or concessional rent accommodations provided to public employees. Similarly, since restrictions on private sector salaries have been removed, fringe benefits for such employees need to be taxed. State governments need to tax agricultural income. Small farmers can be exempted. In the past 30 years agricultural incomes, especially for large landowners, have risen considerably: particularly in Punjab, Haryana, western Uttar Pradesh; deltaic West Bengal and coastal Andhra Pradesh, Tamil Nadu, Kerala, coastal and eastern Karnataka. The states need tax systems simple to administer, of moderate rates and broad based. Corporate taxation also needs to see an increase in the number of taxpaying companies. There are many firms which pay hefty dividends without paying income tax: zero tax companies. They used incentive provisions in tax laws to show no taxable profits. The present process of eliminating incentives was supposed to eradicate zero tax companies. This has not happened. The persistence of the zero tax firm points to a need to introduce a minimum tax in order to improve fairness and revenue buoyancy. Though a step in the right direction, MAT will not tackle under reported profits through manipulate transfer pricing. Nor is it applicable if there is no taxable income. In other words, if firms post losses under both the Companies Act and the Income Tax Act. Firms with enough investments to allow for depreciation provisions could well show zero taxable income. Companies could charge the same depreciation rates under the Companies Act in their books as well, and thereby show zero book profits. MAT may serve its purpose better if levied on gross corporate assets instead of book profits.

Additional revenue of Rs 100 to 170 billion, about one to 1.7 per cent of GDP, could be mobilized based on realistic assumptions about coverage and a rate of return in the range of 1.6 to two per cent on the book value of assets. Of the Centre's indirect taxes, consider first customs duties. In the last five years import duties have plummeted. But India needs to bring them down to east Asian levels. In the World Economic Forum's list of 49 country tariff rates, India had the highest in the sample. The Chelliah committee recommended average tariff rates be brought down to 25 per cent. We believe this to be thoroughly inadequate. Most importantly, tariff rates on imported capital goods used for export, and on imported inputs into export production, should be duty free.

There is also the question of liberalising consumer goods imports. Such liberalization has not occurred because of misconceptions, fears and ignorance of the benefits of liberalising such imports. Protecting consumer goods industries diverts resources to inefficient production, causing higher prices. Lack of international competition leads to minimal quality upgrading in consumer sectors. Another area of reform of indirect taxes is domestic commodity taxation. Today's domestic commodity taxation. Today's system is an excise-MODVAT framework. Reforms are required to make this a comprehensive VAT at the central level. VAT is the major tax instrument in many countries since it is practicable and avoids cascading. Over time VAT will be instrumental in generating dynamic efficiency gains. VAT has worked well in federations like Brazil, Germany, Mexico and is being introduced in China and Pakistan. Transformation to a VAT at the Central level needs to be supplemented by reformed indirect taxes at the state level. Inefficient state sales tax regimes and disharmony between Centre and state taxes means indirect tax system as a whole remain complex and distortionary. State sales tax rates differ: from six per cent in Orissa to 22 in Gujarat. Some states are reforming sales taxes gradually. However, most have yet to initiate tax reforms. In 1993 Kerala and Tamil Nadu introduced VAT on some commodities. Some states, Like Madhya Pradesh, Uttar Pradesh and West Bengal, are streamlining sales tax administration. We suggest India adopt a comprehensive VAT. The suggested tax regime would constitute a national level VAT shared between Centre and states. The revenue implications of the tax policies outlined earlier cannot easily be calculated. We would expect to lose further revenues through customs and to raise revenue via base broadening and MAT. Conservatively the overall impact would be small, so that MAT reform would finance further liberalization on trade taxation.

1.5 KELKAR COMMITTEE ON TAX REFORMS

Guiding Principles

The task force has recognised, based on international practices, that other economies have increased their tax revenue to GDP ratio not by increasing tax rates but by simplifying tax structures, widening tax base and improving tax administration.

The task force recognised the three generally accepted principles of taxation, i.e.,

- efficiency (minimising distortions in resource allocation)
- equity (progressiveness of effective tax rates)
- effectiveness (of tax administration)

Keeping these principles in mind, task force identified the following four operational objectives for submissions of report on tax reforms in India -

- (1) Institution of a simple and transparent system.
- (2) Reduction of transactions costs of tax revenue collection and compliance costs of taxpayers.
- (3) Alignment of incentives of taxpayers and the tax administration; and
- (4) Widening of the tax base.

The Task force has since submitted its report. It has admitted that the current trajectory of public debt dynamics of the country is worrisome. Apart from the crowding-out effects on investment of this decline, our capacity for macro-economic stabilisation and counter-cyclical policy-making, as well as our international standing, have the potential of being severely circumscribed. While strongly advocating rationalising the revenue side of this fiscal equation, the task force emphasises that fiscal reform needs to be undertaken as an integrated package; while initiating a revenue rationalisation exercise, the Government needs to simultaneously control expenditure (and ensure that taxpayers money is spent productively). Enacting and implementing the impending Fiscal Responsibility and Budget Management Bill will have a salutary impact on the regimen of such fiscal reform.

The Report

Kelkar opines that a fiscal system, which provides equal incentives to everybody is important to promote growth and employment. For regeneration and taking the economy to a higher

path of growth, fiscal regime should promote growth and transparency which lowers cost to both debt and equity for all entrepreneurs who want to come in. Indian tax system had become regressive in the sense that it became iniquitous by treating different sections differently. The solution lies in removal of unequal treatment in the system need to reduce cost of risk capital and promote simplicity, which in turn will promote voluntary compliance.

The report categorically states its concern that the efficiency of its recommendations is likely to be seriously vitiated if individual components are selectively accepted or rejected and that success of tax reforms efforts depend on their implementation in integrated manner.

The report covers various areas for reforms. This includes role of tax administration, tax payer service, taxpayer identification and registration, collection of information, verification and processing of tax returns, computerisation of tax administration, collection and accounting of taxes, refunds, search and seizure, income tax clearance certificates, dispute resolution, accountability, delegation of financial powers, human resource management, infrastructure, tax policy, tax treatment of agricultural income, reforms of personal and corporate income tax; tax treatment of charitable trusts, nonresidents (to be dealt by separate group), co-operative society, statutory liability, capital gains, etc. It has also suggested abolition of levy of wealth tax.

The present tax system is hedged with many incentives and loaded with many surcharges to collect more revenue without major increase in rates for last couple of years. The task force presents a case of trade-off between incentives and tax rates which is the key to new system of tax rationalisation. The report admits that other economies in the world have increased their tax revenue to GDP rate by simplifying tax structures and not by increasing the tax rates, thus, realising that compliance holds the key. Though there cannot be any ideal ratio as such, this ratio rises or falls depending upon the pace (slow or fast) of growth of the economy and rigid tax regime prevailing. India has already reduced the tax rates in last decade and any reversal now would undo what was done earlier. The best way forward is now to expand the tax base substantially by at least doubling the number of assesseees in next two years by strict and efficient tax administration. It is indeed pathetic that we have such a small percentage of tax assesseees (about 30 million) out of 100 billion plus living population. About 75% of the present assesseees are expected to come out of tax net under proposed limit of Rs. 1 lakh. The report recommends the extension of reasonable rate structure and only two slabs of 20% and 30% for individuals and HUFs with general exemption limit of Rs. 1 lakh. It suggests a lower tax rate of 30% for domestic companies and 35% for foreign companies.

The report is opposed to reintroduction of dividend tax (abolished in 1997, reintroduced in 2002) and suggests abolishing dividend distribution tax payable by companies, minimum alternate tax (MAT), long-term capital gains on equity, etc., and abolishment of exemptions without appreciating their logic and objectives.

Exemptions and Savings

Exemptions per se are not bad and tax retrogressive. Many exemptions are good, logical and based on sound principles of governance, equity and justice. They help in growth of infrastructure and economy. If task force is trying to increase the revenue collection at the cost of these exemptions coming from various savings and investments, perhaps it is on the wrong footing. You may increase the revenue which nobody knows how efficiently it will be put to use. But you miss the golden avenue of mobilising funds for infrastructural development, trade and industry and long term economic development projects. Channelisation of funds into right direction will come to halt and every capital expenditure will become the responsibility of state. Will then the government invest in capital market instead of mutual funds, banks and financial institutions or will government put its equity in banks and other lending institutions. Unlike other developed economies, we do not have a good (even any) social security and mass health programmes where most of the citizens could be covered. Over this, poor health services, malnutrition, lack of good social welfare measures, absence of senior citizen schemes, etc., all do not warrant a total withdrawal of exemption on savings and investments out of taxable income.

Withdrawals of tax exemptions counter productive

Withdrawal of tax exemptions on genuine savings such as life insurance, government saving schemes, tax saving bonds, etc., may not be justified as these are the only safe saving avenues available to Indian middle class in absence of perfect capital market and social welfare measures. In India, tax regime has been subjected to policy changes in every successive budget, depicting total failure on the part of government and tax administration to have medium to long-term policy on tax structure, tax rates and tax administration. Investment in instruments like life insurance, public provident funds, etc., are not only one time investment and are planned keeping in view the "going concern" or "continuity principle" and assuming as such in absence of a policy to a contrary.

Any sudden withdrawal of exemptions or deductions for investments already made or committed is a breach of trust on the part of the government and a case to be called a

mockery with its tax law abiding citizens . . . those who belong to the middle class and do not have much room to plan their investments and taxes. Someone going to the court of law to restrict the government from such a move is also not ruled out. A suit for "promissory estoppel" challenging such guaranteed benefits which is nothing but betrayal and breach of trust on the part of government may come up. It is a fact that individuals, mostly salaried class, bear the brunt of taxes left with not much leverage to plan. It is strongly felt that withdrawal of sections like 10A, 10B, 80-IA and 80-IB dealing with exemptions should be carefully thought of and then implemented, that too in a phased manner.

Similarly, suggestion to eliminate provision of section 36(1)(iii) in relation to interest on borrowed capital will be anti-development and anti-industry. Such provision is very much essential for business development. Withdrawal of section 35 in respect of expenditure on scientific research for research and development activities in corporate sector and section 35CCA relating to associations and institutions carrying rural development work will only prove to be counterproductive. All these exemptions and incentives were introduced after being properly documented and debated by earlier task forces/committees.

While Kelkar Committee has assumed that incentives and exemptions are a source of abuse, it has failed to realise that tax law still suffers from ambiguity and complexity and there is a dire need to clean up the system first and promise the taxpayers that their money will be used with proprietary concerns.

Housing Finance Sector

One of the suggestions include withdrawal of rebate of interest on housing loans. It has to be appreciated that India which was reeling under tremendous housing problems till eighties is now better shaped so far as housing sector is concerned. With so many schemes of housing finance both for urban and rural areas, the growth of housing sector and contribution of National Housing Bank, HUDCO, HDFC and other housing finance outfits cannot by any count be undermined. Thanks to the tax reliefs, today a major portion of middle-class in India owns a house or lives in a quality house. Then, housing has also given boost to industries like steel, cement, marble, tile, wood, electricity appliances and several other sectors. The report has called for phasing out tax sops for housing loans in a period of three years slashing it to Rs. 1 lakh during 2003-04 from the present Rs. 1.5 lakh and to Rs. 50,000 during 2004-05 and to zero level during 2005-06. The impact of proposals on housing finance industry is going to be negative and more so the credit off-take in remaining part of the year will be

adversely affected as everybody will adopt a wait and watch policy, more so when interest rates continue to be lower. Borrowers will gradually digest that even without tax incentives, soft interest rate regime would still make housing loans affordable. Net to net, the future of housing finance business hangs in a dilemma.

Agricultural Income

Panel has advocated for levying tax on agriculture income. It may be noted that the agricultural income of non-agriculturists were being increasingly used as tax shield for laundering funds resulting in leakage to the tune of Rs. 1,000 crore annually. The states could pass a resolution under article 252 of the Constitution authorising the centre to impose tax on agricultural income. All taxes collected by the centre, net of collection costs could be assigned to states. A separate income tax return form will be prescribed for such tax payers. This is likely to help mobilise additional revenue by states without touching 95% of the genuine farmers, who would in anyway not fall under income tax net when exemption limit becomes Rs. one lakh per annum. Tax on agricultural income is welcome and opposing tax on agriculture makes no sense as this step would plug the loophole of existing system where agricultural income is used as a conduit to avoid tax.

Search and Seizure

On search and seizure operations, it suggests removal of block assessment power of the department for concealed income. It has also suggested that the procedure for assessment of search cases, which provides for tax @ 60% and exonerates the concealed income detected from interest, penalty and prosecution, should be omitted. The provision for charging full interest, penalty and prosecution in search cases is harsh and also against the basic objective of reducing litigation and enhancing tax collection.

Reforms through information technology

Kelkar task force has stressed on the use of information technology to provide better services to taxpayers and enhance tax efficiency. Computerisation would help in having efficient system of tax assessment and issuing refunds orders. The designated banks will be authorised to issue tax refunds like interest/dividend warrants. Similarly, the discretion in selection of the tax reforms for scrutiny will go away. It recommends a system for risk assessment on a scientific basis to identify cases of potential tax evasion for a detailed scrutiny. It has also suggested that penalty orders must be made with assessment order. It may be desirable from revenue's point of view but it will pose problems as in case of disputed orders, it will increase

the work at appeal stage. It is a welcome step on information technology front as it plans to fulfil the core functions of assessment and enforcement through integrated and rapid deployment of information technology. This will ensure better administration and reduce tax payers' grievances. Use of IT will also simplify the tax returns, reduce the assessment time and eliminate human delays and discretion. It is hoped that barring taxmen and tax evaders, all will welcome this.

Most of the IT related work is expected to be outsourced for reducing transaction costs relating to tax administration, permanent account numbers, TDS, processing of tax returns and refund orders. A tax information network (TIN) will be set-up on a build, operate and transfer (BOT) basis. Data entry work for pending jobs is also expected to be outsourced.

Focus on assessee as a customer

The task force has called assessee a customer - may be to follow in letter the spirit to serve him better. Complaints about the present tax system, i.e., complex structure, lower transparency, delay in issue of PAN numbers and refund orders, high compliance cost resulting in lower compliance, lack of attention on tax payer needs, lack of basic amenities and respect from officials, harassment (not in all cases), tax leakage, corruption (in some quarters) - all have been directly or indirectly addressed with an aim to provide friendly service and greater compliance.

Finance Minister's stand

Finance Minister has already indicated his priorities, which include improving the tax-GDP ratio, fiscal consolidation and economic growth. For improving the tax GDP ratio, he has said that it can't be done through expropriation and that it requires a move into a far more modern tax system. A modern, citizen-friendly tax administration is the primary requirement; establishment of an impersonal system with minimum personal interface between the tax paying assessee and tax official, elimination of cascading of taxes and having taxes which are self-enforcing - all are required. If we look at GDP, quarter of it comes from agriculture which is out of tax net. One half of it comes from services, which is subject to selective nominal taxation by way of service tax. This calls for a need to widen the tax net for service tax.

Kelkar on Indirect Taxes

While Kelkar has been direct with direct tax proposals, indirect taxes have not been addressed the way it deserved. On indirect taxation, the Kelkar suggestions include two rates of customs

and excise duties and most of the products to be fixed into these categories, imposing 16% centvat, exemptions only on life saving drugs and security items, exempt public utilities from service tax, etc.

With expected move towards VAT regime and integration of service sector taxes with VAT principles, there should have been a single Central Excise rate of 16%. There should be no need for separate rates for food, agriculture products, textiles and small-scale industry. Arvind Virmani Committee had earlier recommended a single rate of customs duty but Kelkar Committee has suggested two rates. Also, there will be 150% duty on demerit goods and agro products. The report has also suggested to reduce multiplicity of customs duty rates.

In indirect taxes, there is a need to continue exemptions and provisions relating to the development of backward regions and promotion of savings and investments. The limit of turnover for SSI units should also not be reduced from Rs. 100 lakh to Rs. 50 lakh as it will go against industrial growth.

However, industry feels that there was no alternative to differential treatment for industrial sectors with regard to customs and excise duty.

Points to be Considered

Kelkar Committee has recommended a clean sweep of tax administration and tax exemptions. The recommendations, inter alia, include 20% levy of tax on income between Rs.1 lakh to Rs.4 lakh and 30% tax on income above Rs. 4 lac for individuals. Domestic corporations will have to pay tax @ 30% but on the profits declared to shareholders. Depreciation allowance under section 32 of Income-tax Act will be restricted to the allowance charged to profit and loss account as per provisions of Companies Act.

The task force has assumed that there will be an additional inflow of Rs. 5000 crore from amended deprecation norms and Rs. 6000 from removal of section 88 rebate where as removal of minimum alternate tax would cost Rs. 2000 crore, dividend tax Rs. 1500 crore and reduction in tax rate would cost about Rs. 4000 crore to the revenue.

The recommendations, if implemented may result in about 75% of individual assesseees going out of tax net, and proliferation of companies with zero tax base which was captured in last decade.

For tax regime to be successful and credible, the proper deployment of tax revenue in providing public services that government is expected to provide is essential. Unfortunately,

it does not always so happen in India.

There is a wide concern that our tax system is inefficient, cost ineffective, arbitrary, predatory, corrupt and full of loopholes. The task force should have also addressed such issues as well.

It is said that like earlier king rule, no government should collect money from tax to public, more than that is needed to run the state. But then, government need to check its expenditure.

With the elimination of tax incentives and rationalisation of tax rates, taxation will become neutral and will not influence investors, consumers and assesseees on decisions like how much to consume, how much to save, where to invest, how much profit to distribute, etc. Savings and investments are decisions of personal nature and government should not have policies which govern such demand through tax structure. In absence of a fair and perfect market system, incentives need to be continued.

Since the recommendations are by and large revenue neutral, what would happen to situations like drought or war or Kargil or earthquake in future or if there is severe industrial or economic recession and tax collections are lower. From where the shortfall will be met? All such possibilities do not find place in the report. Will surcharge again be imposed or tax rate hiked? There is, therefore, a need for taking all contingencies into account and plan well for future.

Let's look at one more example. On one hand Kelkar panel is advocating withdrawal of almost all exemptions to taxpayers and particularly salaried class but it has deliberately left out members of Parliament and State Legislative Assemblies who are allowed tax-free perquisites. The facilities provided may be given but tax system need to be uniformly applied to all citizens in a democratic country like ours and there should be no discrimination between the governors and the governed.

One can say that the report does not contain any thing innovative or revolutionary.

The suggestions are predictable which include cutting the tax rate and reducing the tax slabs to just two, withdrawal of almost all exemptions, simplifying procedures, introducing computerisation in big way, removing 10% dividend tax, rationalising corporate taxation, doubling tax exemption basic limit, etc. On one hand tax exemption limit has been doubled but on the other hand withdrawal of rebate under section 88 and standard deduction from salaries would make it a tax neutral proposal.

Transparency, rationalisation and simplification are concepts that look theoretical which every honest tax payer and revenue official would dream at but converting it into a reality is a distant dream which is subject to many ifs and buts. What Prof (Dr.) Raja J Chelliah, a noted economist did as a chairman of tax reforms committee in early 1980s and was responsible for tax reforms implemented in decade of 1990s including service tax, Dr.

Vijay Kelkar is no way near to his contribution which were partly implemented. There was a yet another committee headed by Dr. Parthasarthy Shome, which submitted its report in May 2001 and recommended several measures to improve the buoyancy of tax revenue and augment the share of direct taxes in total revenue.

1.6 CONSTITUTIONAL AMENDMENTS

The Bill was introduced in the Lok Sabha on 5 April 2017 and passed on 2 August 2018.

- Rajya Sabha passed the Bill on 8 August 2018.
- The President gave his assent to the Bill on 11 August 2018.
- The Bill granted Constitutional Status to NCBC (National Commission for Backward Classes).
- The 102nd Constitutional Amendment Act introduced the following articles into the Indian Constitution.
- Article 338B: Deals with Structure, Duties and Powers of NCBC (National Commission for Backward Classes).
- Article 342A clause 1: Empowers the President to notify the list of SEBC (Socially Economic and Backward Classes for each State and Union Territory in consultation with the Governor.
- Article 342A clause 2: Empowers the Parliament to amend the Central List.
- The Bill has brought changes in Article 366.

1.7 INTRODUCTION TO GST

GST is the most ambitious and remarkable indirect tax reform in India's post-Independence history. Its objective is to levy a single national uniform tax across India on all goods and services. GST has replaced a number of Central and State taxes, made India more of a national integrated market, and brought more producers into the tax net. By improving efficiency, it can add substantially to growth as well as government finances. Implementing a new tax, encompassing both goods and services, by the Centre and the States in a large and complex federal system, is perhaps unprecedented in modern global tax history. GST is a tax on goods and services with comprehensive and continuous chain of set-off benefits up to the retailer level. It is essentially a tax only on value addition at each stage, and a supplier at each stage is permitted to set-off, through a tax credit mechanism, the GST paid on the purchase of goods and services. Ultimately, the burden of GST is borne by the end-user (i.e. final consumer) of the commodity/service. With the introduction of GST, a continuous chain of

set-off from the original producer's point and service provider's point up to the retailer's level has been established, eliminating the burden of all cascading or pyramiding effects of an indirect tax system. This is the essence of GST. GST taxes only the final consumer. Hence the cascading of taxes (tax-on-tax) is avoided and production costs are cut down. As already noted, prior to the introduction of GST, the indirect tax system of India suffered from various limitations. There was a burden of tax-on-tax in the pre-GST system of Central excise duty and the sales tax system of the States. GST has taken under its wings a profusion of indirect taxes of the Centre and the States. It has integrated taxes on goods and services for set-off relief. Further, it has also captured certain value additions in the distributive trade. There is now a continuous chain of set-offs which would eliminate the burden of all cascading effects. Presently, services sector in India constitutes a tax base with vast potential which has not been exploited as yet. It is in this context that GST is justified as it has subsumed under it almost all the services for the purpose of taxation. Since major Central and State indirect taxes have got subsumed under GST, the multiplicity of taxes has been substantially reduced which, in turn, would decrease the operating costs of the country's tax system. The uniformity in tax rates and procedures across the country will go a long way in reducing compliance costs. In a nutshell, GST is a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at the national level. GST is an indirect tax for the whole of India to make it one unified common market. GST is designed to give India a world class tax system and improve tax collections. It would end the long-standing distortions of differential treatment of manufacturing sector and services sector. GST will facilitate seamless credit across the entire supply chain and across all States under a common tax base.

1.8 CONCEPTS

The salient features of GST in India have been highlighted below:

1. Supply as the base: GST would be applicable on "supply" of goods or services as against the erstwhile concept of tax on the manufacture of goods or on sale of goods or on provision of services.
2. Destination-based tax: As opposed to the previous principle of origin-based taxation, GST would be based on the principle of destination-based consumption taxation.

3. Dual GST: The Centre and the States would simultaneously levy tax on a common base. The GST to be levied by the Centre would be called Central GST (CGST) and the GST to be levied by the States (including Union territories with legislature) would be called State GST (SGST). Union territories without legislature would levy Union territory GST (UTGST).
4. Inter-State supply: An integrated GST (IGST) would be levied on inter-State supply of goods or services. This would be collected by the Centre so that the credit chain is not disrupted. Imports of goods and services would be treated as inter-State supplies and would be subject to IGST. (This would be in addition to applicable customs duties).
5. Central taxes subsumed: GST would subsume the following taxes that were levied and collected by the Centre: Central excise duty; Additional duties of excise; Additional duties of customs (commonly known as countervailing duty); special additional duty of customs (SAD); service tax; and cesses and surcharges insofar as they relate to supply of goods or services.
6. State taxes subsumed: GST would subsume the following taxes that were levied and collected by the State: State VAT; Central Sales Tax; purchase tax; luxury tax; entry tax; entertainment tax (except those levied by the local bodies); taxes on advertisements; taxes on lotteries, betting and gambling; and State cesses and surcharges insofar as they relate to supply of goods or services.
7. Applicability: GST would apply to all goods and services except alcohol for human consumption. GST on five specified petroleum products (crude, petrol, diesel, aviation turbine fuel, natural gas) would be applicable from a date to be recommended by the GST Council.
8. Threshold for GST: A common threshold exemption would apply to both CGST and SGST. Taxpayers with an annual turnover of ` 20 lakh (` 10 lakh for special category States (except J&K) as specified in article 279A of the Constitution) would be exempt from GST. A compounding option (i.e. to pay tax at a flat rate without credits) would be available to small taxpayers (including to manufacturers other than specified category of manufacturers and service providers) having an annual turnover of up to ` 1 crore (` 75 lakh for special category States (except J&K and Uttara hand) enumerated in article 279A of the Constitution). The threshold exemption and compounding scheme is optional.
9. Exports: All exports and supplies to Special Economic Zones (SEZs) and SEZ units would be zero-rated. 10. Input tax credit: Credit of CGST paid on inputs may be used only for

paying CGST on the output and the credit of SGST/UTGST paid on inputs may be used only for paying SGST/ UTGST. In other words, the two streams of input tax credit (ITC) cannot be cross utilized, except in specified circumstances of inter-State supplies for payment of IGST. (For details, see the Chapter on Input Tax Credit).

11. Electronic filing of returns: There will be electronic filing of returns by different class of persons at different cut-off dates. Various modes of payment of tax available to the taxpayer including internet banking, debit/credit card and National Electronic Funds Transfer (NEFT)/Real Time Gross Settlement (RTGS).

12. Tax deduction on payment made: While the provision for TDS has not been notified yet, it is obligatory on certain persons including government departments, local authorities and government agencies, who are recipients of supply, to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds ` 2,50,000.

13. Tax collection at source by E-commerce operators: While the provision for TCS has not been notified yet, it is obligatory for electronic commerce operators to collect 'tax at source', at such rate not exceeding 2% of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals.

14. Refund: Refund of tax can be sought by taxpayer or by any other person who has borne the incidence of tax within two years from the relevant date. Refund is to be granted within 60 days from the date of receipt of complete application and interest is payable if refund is not sanctioned within 60 days.

15. Anti-profiteering clause: An anti-profiteering clause has been provided in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers.

1.9 PROCESS OF GST IMPLEMENTATION

1. Formation of cross functional core team to drive implementation of GST. This team shall disseminate the learnings to all the stakeholders of the company by keeping abreast of all the developments in the subject. Finance Head of the company should regularly meet and review the suggestions being made by the team and should take necessary action

2. ERP Systems: ERP team shall be part of discussions for smooth changeover and should identify the areas / processes requiring changes. It shall be ready for the complications arising out of partial implementation of GST in the country. Should facilitate state-wise trading account CGST and SGST on each transaction to be accounted separately with linkage to state of origin and IGST with linkage to state of destination (Since IGST goes to importing state based on destination principle) as well as state of origin (since there is an additional levy of not exceeding 1% which goes to the originating state) Capturing credit of CGST, SGST and IGST separately state wise on the purchases Automatic setoff and determination of tax liability

3. Business Process Reengineering: Business performance needs to be improved by Re-engineering the business processes at the earliest basis to take the full advantage of GST

Procurement: In the light of implementation of GST, Cost of procurement shall be minimized by optimizing and consolidating supplier location and base by exploring the option of Indigenous Vs. Import Parity or Local procurement Vs. Procurement from outside state as the case may be. Suppliers/ Service Providers shall be aligned according to the sourcing strategy.

Manufacturing: Review the manufacturing strategy for alignment with GST and phase out of incentives in the near term. Account for ITC at every point of purchase and integrate with ERP system. Possibility of differential tax base for some time.

Distribution: Re-aligning depots & Infrastructure to leverage on technology and minimize the cost of distribution. Levy of GST on stock transfers needs to be addressed. Review C&FA, Transportation and other service and rental contracts to build in ITC benefit and changed operating conditions

Sales: Review sales agreements for margins etc and align the network of stockists with company sales and distribution system. Support the sale partners on IT and GST compliance i.e Infrastructure and training. Examine and evaluate the likely impact of GST rates on various category of goods / service in the context of improved ITC benefit, exemptions and pricing of the products shall be GST efficient

4. ENROLLMENT & REGISTRATION: NSDL has been appointed to incubate the GST Portal and develop the functionality. NSDL has created a pilot portal for implementation of GST known as “GST Pilot Portal” In the proposed GST regime, every tax payer or business entity will be issued a 15 digit common identification number which will be called as “Goods & Service Tax Identification Number” (GSTIN) a PAN based number The portal will have a web based enrolment facility for the new dealers. The GST system will have an online application form for dealers to provide their details and upload certain specified documents

SIX EASY STEPS FOR REGISTRATION Enrolment Login Dealer Home Page Initiate New Registration Fill-in Registration Application Form Submit Registration Application Form Enrolment: Any dealer expecting to register under GST should first ENROL himself in the enrolment page Login: Users can login only after completing “Enrolment” process. Users can enter Registration Application by submitting “User ID” and “password” received in his registered E-mail ID after Enrolment process is completed. Documents: Keep PAN, existing registration numbers like Central Excise Numbers, Service Tax Numbers, Import & Export Number, Corporate Identity Number, Professional Tax Number, Shops & Establishment Number and any other state specific registration numbers, contact numbers, postal address & E-mail address of business entity, bank account details including MICR code, place of business, details of goods & services , scanned signed photographs of the prescribed persons,

5. LIASON WITH GOVT Engage with Govt. for specific business related issues and tax classifications Uniformity of law, procedures, formats, classification and valuation Re-dressal of issues arising out of GST (e.g. GST on inter-state stock transfers)

1.10 TERRITORIAL JURISDICTION

The Commercial taxes Department is organized territorially into Divisions and Circles.

The CTD has 12 Divisions . The City of Hyderabad is made of 7 Divisions. A Division is headed by a Joint Commissioner.

Each Division in turn comprise of Circles headed by an Assistant Commissioner. Typically, there may be 8-14 circles per Division. There are 100 Circles and 24 STU's (Strategic Tax Payer Units) in the State of Telangana.

1.11 MULTIPLE RATES OF GST

GST rates list is crucial for every Indian business and consumer to know. When the GST Council revises GST rates, it hits respective industries, trade bodies and end consumers, impacting the economy. Everyone tends to evaluate their position as a result of this change. Our HSN cum GST rates finder helps you identify the accurate and latest GST rate applicable for the product/service.

In this article, learn the meaning of GST rate and catch all the latest updates on GST rates in

India 2022.

Meaning of GST Rates

GST rates refer to the percentage rates of tax imposed on the sale of goods or services under the CGST, SGST and IGST Acts. A business registered under the GST law must issue invoices with GST amounts charged on the value of supply.

The GST rates in CGST and SGST (For intra-state transactions) are approximately the same. Whereas, the GST rate in the case of IGST (For inter-state transactions) is approximately the sum total of CGST and SGST rate.

Types of GST Rates and GST Rate structure in India

The primary GST slabs for any regular taxpayers are presently pegged at 0% (nil-rated), 5%, 12%, 18% & 28%. There are a few lesser-used GST rates such as 3% and 0.25%.

Also, the composition taxable persons must pay GST at lower or nominal rates such as 1.5% or 5% or 6% on their turnover. There is a concept of TDS and TCS under GST as well, whose rates are 2% and 1% respectively.

These are the total GST rate of IGST for interstate supply or the addition of both CGST and SGST for intrastate supply. The GST rates shall be multiplied by the assessable value of the supply to arrive at the GST amounts in a tax invoice.

Further, the GST law levies cess in addition to the above GST rates on the sale of some items such as cigarettes, tobacco, aerated water, petrol, and motor vehicles, rates widely varying from 1% to 204%.

The GST rate structure for some of the commonly-used consumable products is given in the below table. For more items, type in the item you wish to know the GST rate of by visiting our HSN code & GST rates finder.

Tax Rates	Products	
0%	Milk	Kamal
0%	Eggs	Educations Services

0%	Curd	Health Services
0%	Lassa	Children's Drawing & Colouring Books
0%	Unpacked Foodgrains	Unbranded Atta
0%	Unpacked Paneer	Unbranded Maida
0%	Gur	Besan
0%	Unbranded Natural Honey	Prasad
0%	Fresh Vegetables	Palmyra Jaggery
0%	Salt	Phool Shari Jhadoo
5%	Sugar	Packed Paneer
5%	Tea	Coal

5%	Edible Oils	Raisin
5%	Domestic LPG	Roasted Coffee Beans
5%	PDS Kerosene	Skimmed Milk Powder
5%	Cashew Nuts	Footwear (< Rs.500)
5%	Milk Food for Babies	Apparels (< Rs.1000)
5%	Fabric	Coir Mats, Matting & Floor Covering
5%	Spices	Agarbatti
5%	Coal	Mishti/Mithai (Indian Sweets)
5%	Life-saving drugs	Coffee (except instant)

12%	Butter	Computers
12%	Ghee	Processed food
12%	Almonds	Mobiles
12%	Fruit Juice	Preparations of Vegetables, Fruits, Nuts or other parts of Plants including Pickle, Chutney, Jam, Jelly
12%	Packed Coconut Water	Umbrella
18%	Hair Oil	Capital goods
18%	Toothpaste	Industrial Intermediaries
18%	Soap	Ice-cream
18%	Pasta	Toiletries
18%	Corn Flakes	Computers
18%	Soups	Printers
28%	Small cars (+1% or 3% cess)	High-end motorcycles (+15% cess)

28%	Consumer durables such as AC and fridge	Bidis are NOT included here
28%		Luxury & sin items like BMWs, cigarettes and aerated drinks (+15% cess)

1.12 GST MODEL: KELKAR – SHAH MODEL

This model of a unified GST is based on a grand bargain to merge central excise, service tax and state VAT into one common base. Two different rates of tax are to be levied by the Centre and the states. The collection may be by the Centre. This is like the HST model in Canada.

1.13 COMPREHENSIVE STRUCTURE OF GST MODEL IN INDIA

The Goods and Service Tax in India is organized in such a way that all the necessary services and some food items are placed in the lowest bracket, and the other luxury goods and services and de-merit goods are placed in the highest bracket.

The GST council has set the four-tier structure at 0%,5%,12% and 18% and 28%.The Government has decided in an attempt to keep inflation in check to exclude essential items such as basic food commodities from tax. However, a 5% tax will be applicable for common commodities. Most of the standard services will fall under the 12%, and 18% tax slab and the luxury items will fall under the 28% slab.

The Four-Tier Tax Structure

- Nil rate Rate
- Lower Rate
- Standard Rate

- Higher Rate

NIL Rate (0%)

Under this category, the GST council has decided to exempt or not charge any taxes on a few of the basic commodities. Most of the items in the Consumer Price Index (CPI) comes under the zero rate. Basically, in simple words, no GST will be charged on these goods.

The following items stated below are some of the GST-Exempted Goods:

- Raw vegetables including potatoes, onions, and various leguminous vegetables, etc
- Live animals such as sheep, goats, live poultry, birds, bird's eggs in the shell, fresh fish
- Wheat, corn, maize, cereal grains, soybeans that have yet to put into containers
- Human blood and various components of the same
- Fresh ginger, melon, roasted coffee beans, unprocessed green tea leaves, etc.
- Raw materials such as raw silk, silk waste, khaki fabric, khaki yarn, charcoal, firewood, handloom fabrics and wool (not processed).
- Tools and instruments such as hearing aids, spades, shovels, tools used in agricultural purposes, handmade musical instruments, etc.

*There are many more products that are exempted from GST and the products mentioned above are just an indication of some of the products that qualify for zero GST.

Lower Rate (5%)

Under this slab, a 5% rate will apply to most of the common commodities and services. This mainly includes the rest of the items under the Consumer Price Index and the mass consumption products. Some of these items are-frozen vegetables, coffee, tea, rail tickets, economy air tickets, takeaway food, fertilizers, etc.

Standard Rate (12% and 18%)

Most of the goods and services come under this slab. To keep inflation in check, the government has decided to keep two standard rates for the products and services. The 12% slab consists of -butter, cheese, handbags, jewelry boxes, cellphones, frozen meat, business class air tickets, movie tickets priced under ₹100, etc. Some of the items under the 18% slab are-pasta, pastries, cakes, vacuum cleaners, hairdryers, panels, wires, IT services, telecom

services, etc.

Higher Rate (28%)

More than 200 products will come under the 28% tax slab. This mostly consists of luxury products. Some of these items include-pan masala, paint, cement, automobile, washing machine, shampoo, sunscreen, motorcycles, aerated water, etc. For some of the products under the 28% slab category, an additional cess has been fixed by the government.

1.14 ADVANTAGES AND DRAWBACKS OF GST

After the implementation of Goods and Services Tax (GST), the Government received several feedback on the advantages and disadvantages of GST. The GST acts as a Value added Tax (VAT) and designed as a comprehensive indirect tax levy on manufacture, sale, and consumption of goods as well as services at the national level. It shall replace all indirect taxes levied on goods and services by the Indian Central and State governments. Though GST serves as to be historical tax reform in India, it also includes some demerits. In this article, let us look into GST Taxation and deal with its advantages and disadvantages.

The GST Advantages

- GST is a transparent tax and also reduces the number of indirect taxes.
- GST will not be a cost to registered retailers therefore there will be no hidden taxes and the cost of doing business will be lower.
- Benefit people as prices will come down which in turn will help companies as consumption will increase.
- There is no doubt that in the production and distribution of goods, services are increasingly used or consumed and vice versa.
- Separate taxes for goods and services, which is the present taxation system, requires division of transaction values into value of goods and services for taxation, leading to greater complications, administration, including compliances costs.
- In the GST system, when all the taxes are integrated, it would make possible the taxation burden to be split equitably between manufacturing and services.
- GST will be levied only at the final destination of consumption based on the VAT

principle and not at various points (from manufacturing to retail outlets). This will help in removing economic distortions and bring about development of a common national market.

- GST will also help to build a transparent and corruption-free tax administration.
- Presently, a tax is levied on when a finished product moves out from a factory, which is paid by the manufacturer, and it is again levied at the retail outlet when sold.
- GST is backed by the GSTN, which is a fully integrated tax platform to deal with all aspects of GST.

GST Disadvantages

- Some Economist says that GST in India would impact negatively on the real estate market. It would add up to 8 percent to the cost of new homes and reduce demand by about 12 percent.
- Some Experts says that CGST (Central GST), SGST (State GST) are nothing but new names for Central Excise/Service Tax, VAT and CST. Hence, there is no major reduction in the number of tax layers.
- Some retail products currently have only a four percent tax on them. After GST, garments, and clothes could become more expensive.
- The aviation industry would be affected. Service taxes on airfares currently range from six to nine percent. With GST, this rate will surpass fifteen percent and effectively double the tax rate.
- Adoption and migration to the new GST system would involve teething troubles and learning for the entire ecosystem.

1.15 FEATURES OF SINGLE AND DUAL GST MODELS

The Model of GST laws is generally governs by the politico-economic arrangement of the country in subject. Unitary nature of company does not require to adopt a dual nature of GST, where as a strong federal country need to adopt Dual model of GST.

National GST model is generally adopted by those countries where the level of trust between Union and state at it best.

Models of GST

The world is divided on the adoption of GST model every country have their own GST laws and are unique in nature itself however in broader sense the GST adopted by the different countries can be classified under four broader categories:

- Single National GST
- Single State GST
- Non Concurrent Dual GST
- Concurrent Dual GST

Single National GS

National GST is one of the peculiar models of GST wherein two level of Government viz. the Centre and the State, combine their levies in the form of a single National GST along with appropriate revenue sharing arrangements among them. In simple words, under this model, taxes are levied by the centre with provision for revenue sharing with the provinces/states.

Australia is most recent example of a National GST, which is levied and collected by the centre, but the proceeds of which are allocated entirely to the States. In China, the VAT law and administration is centralised, but revenues are shared with the province.

The single National GST is an ideal model for promotion and establishment of a common market in a country.

India has strong federal structure of governance wherein every state is enjoying fiscal autonomy. The Single National is not possible because there is not adequate level of trust between state and centre and states do not want lose is fiscal autonomy.

Single State GST

This model is inverse of the Single National GST model, under this model GST would be levied by the State only and Centre relinquish its entitle to collect GST. USA is the most prominent example of this kind of model.

In India the adoption of this kind of model is not viable as by adopt as by adopting this model Union will have huge loss of revenue. Compliance with tax laws of each state will also be very difficult as each may adopt different rate, procedure, return etc of GST.

Non-concurrent Dual GST

This model is designed to enable State to levy taxes on all goods and Centre is entitled to collect tax on all services. This model was suggested by Plodder-Ahmed Working to avoid constitutional amendment.

This model was also not adopted as this model not able to address the existing problem of cascading and dual taxation.

Concurrent Dual GST

As the name suggests, under this model, a concurrent or dual GST is levied by the Centre and State on both goods and services. This model is based on concept of sharing of revenue by State and Centre to create good balance between fiscal autonomy of state and the union.

The Concurrent Dual GST model has been successfully implemented in Canada and Brazil where this model proved to be an efficient model to remove cascading effect of taxation and create fiscal balance between Union and State.

Kelkar Committee suggested this model as an ideal model for Indian Indirect tax reform.

- The advantage of Concurrent Dual GST model are as below:
- It create good balance of fiscal autonomy of State and Centre
- It Empowers both state and central governments to apply the tax to comprehensive base of goods and services, at all level of supply chain.

Since India has a federal structure of governance, the fiscal needs of both the Union and the States have to be catered. There is a general consensus among the States and Union Governments and other stakeholders to adopt Concurrent Dual GST which is consistent with the federal philosophy of the country. The Concurrent Dual GST will enable State and Centre to charge a similar transaction at the same point of time for the same even, it will have two components: one levied by the Centre (hereinafter referred to as Central GST), and the other levied by the States (hereinafter referred to as State GST)

This dual GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State). However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.

Charging of SGST and CGST from a common base and event, through a concurrent dual

GST would kill two birds with one stone. On the one hand, it would ensure fiscal autonomy of states and on the other, it would preserve the regulatory powers of the Centre. Concurrent Dual GST scores over other models in many respects.

1.16 UNIT END QUESTIONS

A. Descriptive Questions

Long Answer Questions

1. Which of the existing taxes are proposed to be subsumed under GST?
2. What are the major chronological events that have led to the introduction of GST?
3. How would GST be administered in India?
4. How is a GST number assigned?
5. What purpose does the registration of GST practitioners serve?

Short Answer Questions

1. What are the benefits of GST?
2. Which taxes at the Centre and State level are being subsumed into GST?
3. What are the major features of the Constitution (122nd Amendment) Bill, 2014?
4. What is GST? How does it work?
5. What are the taxes that GST replaces?

B. Multiple Choice Questions

1. _____ was first country to adopt GST as indirect system of taxation.
 - a. France
 - b. Germany
 - c. UK
 - d. India
2. What kind of tax is GST called as..?

- a. Movement based tax
 - b. Destination based tax
 - c. Consumption based tax
 - d. None of these
3. Integrated Goods and Services Tax is applicable when -
- a. Sold from one GST dealer to another GST dealer
 - b. Sold within a state
 - c. There is interstate supply
 - d. Sold in Union territory
4. Which of the following constitutional amendment governs GST act?
- a. 122nd amendment
 - b. 152 amendment
 - c. 140th Amendment
 - d. 101st amendment
5. The system of charging tax on tax (also called as incidence of tax) is called as...
- a. Cascading Effect
 - b. Sales Tax
 - c. Tax Compliance
 - d. Input Tax Credit

Answers: 1-a, 2-b, 3-c, 4-d, 5-a

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UNIT –2 TAXES AND DUTIES

STRUCUTRE

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2.0 OBJECTIVES

After completing this Students will be able to

- Explain tax structure under GST
- Describe Inter-state Goods and Service Tax
- Explain advantages of IGST model
- Discuss Computation administration of Tax on items containing Alcohol, Petroleum products and Tobacco products

2.1 INTRODUCTION

GST is one indirect tax for the whole nation, which will make India one unified common market. GST is a single tax on the supply of goods and services, right from the manufacturer to the consumer. Credits of input taxes paid at each stage will be available in the subsequent stage of value addition, which makes GST essentially a tax only on value addition at each stage. The final consumer will thus bear only the GST charged by the last dealer in the supply chain, with set-off benefits at all the previous stages.

The introduction of Goods and Services Tax (GST) would be a very significant step in the field of indirect tax reforms in India. By amalgamating a large number of Central and State taxes into a single tax, it would mitigate cascading or double taxation in a major way and pave the way for a common national market. From the consumer point of view, the biggest advantage would be in terms of a reduction in the overall tax burden on goods, which is currently estimated to be around 25%-30%. Introduction of GST would also make Indian products competitive in the domestic and international markets. Studies show that this would have a boosting impact on economic growth. Last but not the least, this tax, because of its transparent and self-policing character, would be easier to administer.

2.2 TRANSACTIONS & TAXES COVERED UNDER GST

GST Transactions

Under the GST system, all documents issued during a transaction must follow the rules and format specified by the government. This guide explains the nature of each document and its formats.

Different types of GST compliant documents

Document	Purpose
Tax Invoice	A tax invoice contains the list of goods/services, along with the description, quantity, and value of the supply made by the vendor. It also includes the total value and the tax charged on the supply. It is issued when a registered dealer

Document	Purpose
	supplies taxable goods or services.
Bill of Supply	A bill of supply is issued when tax cannot be charged on the goods or services sold. It is usually issued when composition dealers make a sale or when exempt goods/services are supplied.
Delivery Challan	When no actual sale of goods or services takes place, a delivery challan is generated instead of a tax invoice. For example, during the transportation of goods from one warehouse to another, a delivery challan is issued.
Credit Note	When the cost of goods or services supplied (or the tax amount levied on them) that is furnished in a tax invoice is higher than the actual chargeable rate, a credit note is issued to the recipient. The credit note allows the supplier to credit the corresponding amount to the client's account.
Debit Note	Debit notes are usually issued to rectify the erroneous values recorded in the invoices. At times, a debit note may be issued by the vendor to request a credit note from the customer.
Bill of Entry	Bill of Entry is a legal document that is filed by importers or customs clearance agents on or before the arrival of imported goods. It's submitted to the Customs department as a part of the customs clearance procedure.
Shipping Bill	When certain goods are exported out of India, or supplies are provided to SEZ, they need to be taxed under GST and approved by the Customs department. The shipping bill contains information about the exported supplies, their value, and the custom duty and IGST paid on them.

Types of GST

There are Four GST types namely Integrated Goods and Services Tax (IGST), State Goods

and Services Tax (SGST), Central Goods and Services Tax (CGST), and Union Territory Goods and Services Tax (UTGST). The taxation rate under each of them is different.

The new indirect tax regime under the Goods and Services Tax (GST) which was rolled out on 1 July 2017, had witnessed a considerable amount of confusion over how the new taxation system will affect businesses and the payment of taxes. The Goods and Services Tax (GST) has subsumed several local taxes that were levied on goods and services.

Difference Between Types of GST

Types of GST	Authority which is benefitted	Priority of Tax Credit use	Who is it collected by?	Transactions which are applicable (Goods and Services)
CGST	Central Government	CGST IGST	Central Government	Within a single state, i.e. intrastate
SGST	State Government	SGST IGST	State Government	Within a single state, i.e. intrastate
IGST	Central Government and State Government	IGST CGST SGST	Central Government	Between two different states or a state and a Union Territory, i.e. interstate
UTGST/UGST	Union Territory (UT) Government	UTGST IGST	Union Territory (UT) Government	Within a single Union Territory (UT)

Types of GST and its Explanation

As per the newly implemented tax system, there are 4 different types of GST:

1. Integrated Goods and Services Tax (IGST)
2. State Goods and Services Tax (SGST)

3. Central Goods and Services Tax (CGST)

4. Union Territory Goods and Services Tax (UTGST)

Additionally, the government has fixed different taxation rates under each, which will be applicable to the payment of tax for goods and/or services rendered.

1. Integrated Goods and Services Tax or IGST

The Integrated Goods and Services Tax or IGST is a tax under the GST regime that is applied on the interstate (between 2 states) supply of goods and/or services as well as on imports and exports. The IGST is governed by the IGST Act. Under IGST, the body responsible for collecting the taxes is the Central Government. After the collection of taxes, it is further divided among the respective states by the Central Government. For instance, if a trader from West Bengal has sold goods to a customer in Karnataka worth Rs.5,000, then IGST will be applicable as the transaction is an interstate transaction. If the rate of GST charged on the goods is 18%, the trader will charge Rs.5,900 for the goods. The IGST collected is Rs.900, which will be going to the Central Government.

2. State Goods and Services Tax or SGST

The State Goods and Services Tax or SGST is a tax under the GST regime that is applicable on intrastate (within the same state) transactions. In the case of an intrastate supply of goods and/or services, both State GST and Central GST are levied. However, the State GST or SGST is levied by the state on the goods and/or services that are purchased or sold within the state. It is governed by the SGST Act. The revenue earned through SGST is solely claimed by the respective state government. For instance, if a trader from West Bengal has sold goods to a customer in West Bengal worth Rs.5,000, then the GST applicable on the transaction will be partly CGST and partly SGST. If the rate of GST charged is 18%, it will be divided equally in the form of 9% CGST and 9% SGST. The total amount to be charged by the trader, in this case, will be Rs.5,900. Out of the revenue earned from GST under the head of SGST, i.e. Rs.450, will go to the West Bengal state government in the form of SGST.

3. Central Goods and Services Tax or CGST

Just like State GST, the Central Goods and Services Tax of CGST is a tax under the GST regime that is applicable on intrastate (within the same state) transactions. The CGST is governed by the CGST Act. The revenue earned from CGST is collected by the Central Government. As mentioned in the above instance, if a trader from West Bengal has sold

goods to a customer in West Bengal worth Rs.5,000, then the GST applicable on the transaction will be partly CGST and partly SGST. If the rate of GST charged is 18%, it will be divided equally in the form of 9% CGST and 9% SGST. The total amount to be charged by the trader, in this case, will be Rs.5,900. Out of the revenue earned from GST under the head of CGST, i.e. Rs.450, will go to the Central Government in the form of CGST.

4. Union Territory Goods and Services Tax or UTGST

The Union Territory Goods and Services Tax or UTGST is the counterpart of State Goods and Services Tax (SGST) which is levied on the supply of goods and/or services in the Union Territories (UTs) of India. The UTGST is applicable on the supply of goods and/or services in Andaman and Nicobar Islands, Chandigarh, Daman Diu, Dadra, and Nagar Haveli, and Lakshadweep. The UTGST is governed by the UTGST Act. The revenue earned from UTGST is collected by the Union Territory government. The UTGST is a replacement for the SGST in Union Territories. Thus, the UTGST will be levied in addition to the CGST in Union Territories.

Taxes that were Replaced by GST

The implementation of the Goods and Services Tax (GST) replaced a number of taxes of both the state and the centre. The levies that were replaced are listed below:

List of State taxes:

- Value Added Tax (VAT) or Sales Tax
- Octroi
- Entertainment Tax
- Tax on Lottery or Betting or Gambling
- Purchase Tax
- Luxury Tax

List of Central taxes:

- Service Tax
- Additional Excise Duty
- Central Excise Duty and so on

2.3 TAXES AND DUTIES OUTSIDE THE PURVIEW OF GST

The new Goods and Services Tax (GST) is the biggest indirect tax reform in India since independence. It is often assumed to be a complete unification of all indirect taxes currently levied in India by Central and State governments, but the reality is a little different. Though it is true that most major indirect taxes will be subsumed under GST, there are still certain products on which the indirect taxes will not be covered. Typically, this is when the taxes are either outside the purview of the GST constitutional amendment, or there is an agreement between Centre and States to defer their inclusion

For business owners to plan a roadmap for the upcoming GST marathon of changes, it's necessary to understand what is covered under GST and what is not. In this article, Avalara will take a closer look at taxes outside the purview of GST and their expected impact on business owners.

Taxes under GST Regime

First, it's good to have an idea of which taxes will be subsumed under the GST. The following Central Taxes will no longer be calculated separately, and will instead be computed using GST laws:

- Central Excise Duty
- Additional Excise Duties
- The Excise Duty levied under the Medicinal and Toiletries Preparation Act
- Service Tax
- Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- Special Additional Duty of Customs - 4% (SAD)
- Surcharges, and
- Cesses

Several State taxes will also be included in GST:

- VAT / Sales tax
- Entertainment tax (unless it is levied by the local bodies).
- Luxury tax

- Taxes on lottery, betting and gambling.
- State Cesses and Surcharges in so far as they relate to supply of goods and services.
- Entry tax

Taxes on products not under GST

The following tax and product types are not covered under GST. Business owners making sales or purchases of these products should make sure they understand the specific tax requirements that will still be imposed beyond GST assessments.

- **Tax on items containing alcohol**

Alcoholic beverages for human consumption would be kept out of the purview of GST as an exclusion mandated by constitutional provision. Sales Tax/VAT could be continued to be levied on alcoholic beverages as per the existing practice. VAT is levied on alcohol purchases in some states, and there will be no objection to that. Excise duty, which is presently levied by the states, may also be unaffected.

- **Tax on Petroleum Products**

The full range of petroleum products, including crude oil and motor spirits including Aviation Turbine Fuel (ATF) and High Speed Diesel (HSD), would be kept outside GST, as is the prevailing practice in India. Sales tax could continue to be levied by the states on these products with the prevailing floor rate. Similarly, Centre could also continue its levies. A final opinion on whether natural gas should be kept outside the GST will be issued after further deliberations.

As for petroleum products, although the GST constitutional amendment provides for levying GST on these products, it allows the timeframe for their inclusion to be decided by the GST Council. Therefore, in the initial years of GST, petroleum products will remain out of the scope of GST.

The existing taxation system under VAT and the Central Excise Act will continue for both of the commodities listed above.

Why this exclusion

VAT or sales tax on petroleum products contributes to nearly 33 percent of state revenues, and Centre also earns significant excise duty income on the generation of petroleum products from crude oil. To protect these significant revenue interests, both the Governments want

GST to first stabilize before they allow the GST Council to consider their inclusion.

Similarly, for alcohol, states don't want to lose the significant revenue currently earned from state excise duty. In many states, the revenue from state excise taxes imposed on alcohol brings in 25 percent of total revenue. For this reason, the state excise tax on alcohol has been kept out of the constitutional mandate for levying GST.

This decision was made to provide fiscal security to states and ensure that there is a minimum guaranteed income under the proposed GST regime.

Impact of such exclusions

Any planning for GST has to take into consideration the non-availability of credits for taxes paid on petroleum products, though these products are inputs for most business activities. Major taxes paid on inputs won't be eligible for ITC, so they will remain part of the cost of production and sales, as they are now.

Such exclusions negate, to some extent, the pros of unification, giving rise to one more layer of complexity when it comes to tax compliance for business organizations. Manual handling of these transactions can lead to wasted time and manpower, and these calculations are prone to errors. Using automated solutions for indirect tax compliance — including GST and all other products outside GST — is the fastest and most cost-effective way to solve this problem.

2.4 TAX STRUCTURE

The GST was carefully crafted to keep both the burden of the common man and inflation rates in mind.

The four-tier tax structure contains four separate rates: a zero rate, a lower rate, a standard rate, and a higher rate. This article is aimed at providing a brief overview of each GST rate.

Zero rate

The zero rate tax is a nil tax rate that is applied on goods and services. This is equivalent to tax exemption and does not have any effect on the price of the product. Items that are eligible for zero rate tax are decided by the government.

The zero rate tax is applied on 50% of the items of the consumer price index (CPI) basket -

an index that constantly measures prices of commonly purchased consumer goods and services to measure inflation. The zero rate items includes items such as, food grains, milk, curd, and other food items like eggs, cereal and meat. Also, metro travel, education and healthcare are exempted from GST.

The zero rate of the GST structure will keep the prices of basic items in check, regardless of whether the government decides to increase tax rates in the future.

Lower rate

A lower rate of 5% is applied on the rest of the items in the CPI basket and other items of mass consumption. This includes food items like sugar, tea, coffee, oil, and other essentials like PDS kerosene and LPG. Since the taxation on coal has reduced from 11.69% to 5% under the GST regime, electricity generation has said to be less expensive. The GST council had placed transport services in the 5% sector, which is applicable to Ola and Uber aggregators. Air-conditioned train tickets are taxed at a rate of 5%, while non-AC train tickets are exempt from GST. This, along with the zero rate tax, helps prevent inflation from having much of an impact on zero rate and lower rate items, keeping the prices of all essential items in check.

Standard rate

There are two standard rates: 12% and 18%. Finance Minister Arun Jaitley, in his address to the press, said that the Council had finalized two standard rates in order to keep inflation in check.

Imagine a product, which was previously taxed at 13%, charged a rate of 18% GST. This would increase the price of the product by 5%, leading to inflation. To avoid this, the GST council decided to tax all goods and services that were taxed at 9-15% at a standard rate of 12%. Processed foods are taxed at 12%. The rest of the goods and services are taxed the second standard rate of 18%. Toiletries like hair oil, soap, and toothpaste are taxed at 18%. Also, capital goods, industrial intermediaries, iron and steel, financial and telecom services are included under this sector.

Higher rate

A higher rate of 28% is levied on white goods such as washing machines, air conditioners, refrigerators, small cars, etc. Aerated drinks and cement are also included in this tier.

Previously, the tax on white goods was around 27% (including an excise of 12.5% and VAT

of 14.5%), but the cascading effect elevated the tax as high as 30-31%. This is minimized by the new higher rate of 28%.

Additional cess

People worried that demerit goods (such as tobacco products and aerated drinks), which were previously taxed at 65% and 40%, would become cheaper and too easily accessible with the new higher rate of GST set at 28%. Keeping this in mind, the GST structure collects an additional cess on top of 28% GST. The cess will only be applied on certain demerit goods. The percentage of additional cess has been fixed by the government as 15% for luxury vehicles, 1% for petrol powered small cars and 3% for diesel powered small cars. Motorcycles with an engine capacity of over 350 cc are liable for an additional cess of 3%.

The idea of the GST structure is to lower the burden of the common man by taxing items of mass consumption at 0-5%, followed by taxing most major goods and services at a standard rate of 18%.

2.5 COMPUTATION ADMINISTRATION OF TAX ON ITEMS CONTAINING ALCOHOL, PETROLEUM PRODUCTS AND TOBACCO PRODUCTS

Governments across the globe tax liquor and related products. They also control and regulate sales. Owing to the local licensing fees and a range of state controls on the trade of liquor, the consumers often end up paying four or five times more than the price at a distillery. In this article we will briefly discuss:

The 29 states along with seven union territories in India have adopted different approaches when it comes to taxing and regulating liquor. For instance, the state of Gujarat has entirely banned trade and consumption of liquor since 1961. By contrast, Puducherry, the territory on the Coromandel Coast, earns most of its revenue from alcohol trade. Some of the states auction retail and wholesale licenses, while others have their own monopolies. Tamil Nadu is one state that has a monopoly on the alcohol trade and employs more than 30,000 people with over 6,000 outlets.

Taxation of Liquor

Even though liquor hasn't been brought under the purview of Goods and Services Tax, it still

falls under other taxes that contribute to its rising prices. These taxes are:

- Excise Duty
- VAT (Value Added Tax)

Alcohol was not brought under the purview of GST regime primarily due to two reasons:

- To ensure that the State Governments continue to have a strong inflow of revenue (other than what they get from GST). It's estimated that taxes on liquor and beer fetch the state governments nearly INR 90,000 crores annually.
- To keep the prices of liquor and beer high to limit consumption.

Costing of Liquor

In spite of GST not being levied on liquor, the prices of liquor continue to rise after the rollout of Goods and Services Tax. This is because the inputs used to manufacture liquor were taxed at 12-15% under the VAT regime before GST. However, after the introduction of GST, most of the input raw material now attract 18% GST resulting in increased input cost. This rise in taxes on the inputs is passed on to the end customers. The other reason for the sharp increase in the cost of liquor is the applicability of GST on transportation and freight charges. Previously, transportation and freight attracted a service tax of around 15%. However, post-GST, they are taxed at 18%. Hence, even with no major changes in the VAT rates charged on beer or liquor, the cost of beer and liquor had increased due to the increase in input taxes.

Industry Analysis

The liquor industry isn't much supportive of the government's decision to exempt liquor from the ambit of GST. Exempting liquor from GST has led to a rise in the overall cost due to the increased taxes on the inputs. Further, as the output is a tax-exempt product for the manufacturers they need to pay input taxes on inputs and then claim the refund of ITC (input tax credit) accumulated. This is a long process, which leads to the lengthening of the working capital cycle. Most of the liquor manufacturers believe that there's no point in excluding beer from the purview of GST as the alcohol content by volume is only 5%. Most of the industry insiders wish that beer is brought under the GST regime This will have a remarkable impact on the flourishing tourism industry.

Impact of GST Rate on the Tobacco Industry

The tobacco industry is booming as evident by the balance sheet of ITC. Many reports have been released by WHO claiming that India is harboring the world’s highest incidence of mouth cancer. We are the second largest consumers of tobacco, having an astonishing 275 million users! But how will GST affect this multi-million dollar industry?

Let us see the impact of GST rates on the tobacco industry in India. In the past decade, excise duty rates have been revised for cigarettes and other tobacco products, but locally manufactured bidi was exempted. GST tax rate on tobacco and tobacco-related products was declared on 18th May by the GST council.

Impact of GST Rate on the Tobacco Industry

Excise duty is charged on the manufacturing of cigarettes, bidi, and other chewing tobacco products at different rates.

- Cigarette – 64%
- Bidi – 22%
- Chewing products – 81%

A lot of revenue is generated from the sale of tobacco for the Indian government. Although the tax burden levied on the Indian tobacco industry is not enough as per the recommendation of the WHO for a tax burden of 75% on all tobacco-related products. There has been an increasing demand for a higher tax burden on the tobacco manufacturers. Under GST, there will be an additional cess charged on the tobacco-related products, over and above the GST charged at the rate of 28%.

Let’s Understand the Pricing of 1 Cigarette Under GST With an Example

ITC manufactures cigarette, chewing tobacco and pan masala.

Particulars	Cigarettes under 65mm	Cigarettes between 65mm to 70mm	Cigarettes between 70mm and 75mm	Cigarettes above 75mm	Pan masala	Pan masala with gutkha (tobacco)
Value per	Rs 5	Rs 10	Rs 15	Rs 15	Rs 5	Rs 10

unit (A)						
Probable maximum cess of the value of goods or transactions . (B)	Rs 0.25 (5%)	Rs 0.50 (5%)	Rs 0.75 (5%)	Rs 0.75 (5%)	Rs 3 (60%)	Rs 20.40
Probable cess per 1000 sticks (C)	Rs 1.591	Rs 2.876 (non-filter) and Rs 2.126 (filter)	Rs 2.876 (both filter and non-filter)	Rs 4.170 (both filter and non-filter)	Not applicable	Not applicable
GST rate @28% (D)	Rs 1.40	Rs 2.80	Rs 4.20	Rs 4.20	Rs 1.40	Rs 2.80
Probable price that can be charged on products (A + B+C+D)	Rs 8.016	Rs 16.176 (non-filter) Rs 15.426(filter)	Rs 21.502 (both filter and non-filter)	Rs 24.12	Rs 9.40	Rs 33.20

Cigars and cigarillos will be charged at the rate of 28% and an additional cess up to 21% or Rs 4.170 per stick would be levied. Chewing tobacco has also been kept under the 28% category and an additional cess of 142% would be levied upon chewing tobacco (with lime tube) and 160% on chewing tobacco (without lime tube).

Conclusion

Impact on the tobacco industry is going to be largely neutral since the 5% cess declared by the Indian government was less than the expected rate by the tobacco industry. There will be

an increase in the expense of smokers due to the rise in the price of a cigarette in the initial period. Although, it is expected that the tobacco industry, irrespective of the tax rate, would have a neutral effect due to the implementation of GST.

2.6 TAXATION OF SERVICES

The GST Council, on the second day of its 2-day meeting in Srinagar, has considered and finalised GST to be applicable for different types of services. Some key aspects related to services of the meeting have been captured below:

- As against expectations, the government has finalised four tax rates that will apply to services, namely 5%, 12%, 18% and 28%.
- Education and Healthcare services to be exempt under GST
- Transportation services to be taxed at 5%
- Aggregators like Ola and Uber to be taxed at 5%
- Economy class air travel to attract 5% GST and business class 12%
- Complications which currently exist at the time of charging tax on Works Contract should be eased with Works Contract set to be taxed at 12%.

5 Star and AC restaurants to attract higher taxes:

- Restaurants with a turnover of INR 5 million or less will levy 5% GST
- Restaurants without a liquor license and with a turnover higher than INR 5 million will be charged 12% GST.
- AC restaurants and restaurants with a liquor license to fall under the 18% tax slab.
- 5 Star hotels to levy 28% GST
- Hotels with tariff below INR 1000 to be exempt
- Hotels with tariff of INR 1000-2500 will levy 12% GST
- Hotels with tariff above INR 2500 but below INR 5000 would attract 18% GST.
- Hotels with tariff above INR 5000 to charge 28% GST.
- Telecom and Financial services to attract 18% GST

- The highest tax slab i.e. 28% would be reserved for luxury services like cinemas, betting, etc.
- No consensus on the fixation of rate on gold
- List of exemptions which are in existence as per the current legislation being grandfathered are likely to continue in the GST regime.

2.7 INTER-STATE GOODS AND SERVICES TAX

Under **GST**, the supply of goods or services from one state to another would be called interstate supply. The GST Act defines interstate supply as when the location of the supplier and the place of supply for the customer are in:

- Two different States; or
- Two different Union territories; or
- State and a Union territory.

In addition to the above, the supply of goods imported into India, till they cross the customs station is also classified as interstate supply. Also, the supply of goods or services to or by a Special Economic Zone developer or a Special Economic Zone unit is classified as interstate supply.

- Under GST, inter-state supply will be named the procurement of goods or services from one state to another.
- The GST Act specifies domestic supply as when the supplier 's position and the place of supply are:
 - Two distinctive states;
 - Two regions under a single Union Territory; or
 - State and a Union territory.
- Moreover, the supply of goods imported into India is often known as an inter-state supply before they reach the customs station.
- Also, supplies of goods or services are known as interstate supplies from or to a particular development zone or an exclusive economic zone.

- **For example**, if you have a company ABC in the State of Karnataka and you supply products to Company XYZ in Madhya Pradesh, then it comes under the category of inter-state supply.
- It ensures that the trade would become an inter-state supply if the supplier 's position and the delivery place are in separate countries.

2.8 TRANSACTIONS WITHIN A STATE UNDER GST

Unlike earlier when there were multiple taxes such as Central Excise, Service Tax, State VAT, etc., the GST introduces just one tax with three components- CGST, SGST and IGST.

When the supply of goods or services happens within a state called intra-state transactions, then both the CGST and SGST will be collected. Whereas if the supply of goods or services happens between the states called inter-state transactions, then only IGST will be collected.

The use of correct GSTIN becomes important to identify the applicability of taxes. Hence, validate with the help of the GST search tool before using the GST number in the sales invoice.

It is to be noted that the GST is a destination-based tax, which is received by a State in which the goods are consumed but not by a state in which such goods are manufactured.

IGST full form and when IGST is applicable

The full form of IGST is Integrated Goods and Services Tax. Under GST, IGST is a tax levied on all interstate supplies of goods and/or services or across two or more states/Union Territories. Further, IGST levy and collection will be governed by the IGST Act, 2017, as amended from time to time.

IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India.

Note: Under IGST,

- Exports would be zero-rated.
- Tax will be shared between the Central and State governments.

Example for IGST with calculation

Consider that a businessman M/s Rajesh Ltd from Chandigarh in India had sold goods to Annand Ltd from Dadra & Nagar Haveli & Daman & Diu in India worth Rs. 1,00,000. The GST rate is 18% referring particularly to the 18% IGST. In such a case, the dealer has to charge Rs. 18,000 as IGST. This IGST will go to the Centre, later split between the Centre and Dadra & Nagar Haveli & Daman & Diu (if this is ultimate consuming state).

CGST full form and when CGST is applicable

Many seek an answer for 'what is the full form of CGST'. The full form of CGST is Central Goods and Services Tax. Under GST, CGST is a tax levied on intrastate supplies of both goods and services by the Central Government and collected by it for its coffers. Accordingly, the levy and collection of CGST are governed by the provisions of the CGST Act, 2017 as amended from time to time.

Together with CGST, an equal value of SGST will also be levied on the same intrastate supply but will be governed by the particular state government.

In other words, if a seller sells a product to a buyer within the same state, say Telangana, then CGST and SGST will apply.

This implies that both the Central and state governments will agree on combining their levies with an appropriate proportion for revenue sharing between them.

It is clearly mentioned in Section 8 of the CGST Act that the taxes be levied on all intrastate supplies of goods and/or services but the rate of tax shall not be exceeding 14%, each.

Note: Any tax liability obtained under CGST can be set off against CGST or IGST input tax credit only and not any SGST.

SGST Full form and when SGST is applicable

SGST means State Goods and Services Tax. Under GST, an equivalent amount of SGST is a tax levied on intrastate supplies of both goods and services by the particular state government where the product sold is consumed.

Therefore, levy and collection of SGST are governed by the respective state's SGST Act, 2017 as amended from time to time, for instance, Telangana GST Act. After the introduction of the SGST, all the state taxes such as the value-added tax, entertainment tax, luxury tax, entry tax, etc. were merged under SGST.

As explained above, CGST will also be levied on the same intrastate supply but will be governed by the Central Government.

Note: Any tax liability obtained under SGST can be set off against SGST or IGST input tax credit only and not CGST.

Example for CGST and SGST with calculation

Let's suppose M/s Rajesh Ltd is a dealer in Chattisgarh who sold goods to Vijay Ltd in Chattisgarh worth Rs. 10,000. The GST rate is 18% comprising of a CGST rate of 9% and an SGST rate of 9%.

In such a case, the dealer collects a total of Rs. 1,800 and deposits over the GST portal, out of which Rs. 900 will be apportioned to the Central Government and Rs. 900 will go to the Chattisgarh Government.

UTGST full form and when UTGST is applicable

UTGST stands for the Union Territory Goods and Services Tax. Similar to how SGST is levied by the state governments on the intra-state supply of goods and services, UTGST is levied by the handful of Union Territory governments.

It refers to the tax levied on the intra-Union Territory supply of goods and services. It is governed by the UTGST Act, 2017 as amended from time to time and is levied together with CGST.

UTGST is similar to SGST and is levied in Union Territories which do not have their own legislature. UTGST is applicable to the supplies that take place in the Union Territories of Jammu & Kashmir, Ladakh, Andaman and Nicobar Islands, Chandigarh, Dadra & Nagar Haveli and Daman & Diu, and Lakshadweep. Please note that the Union Territories of Delhi and Puducherry will fall under SGST law as they have their own legislature.

Note: The order of ITC utilisation of UTGST is similar to SGST. ITC of UTGST should first be set off against UTGST. Any balance remaining may be used to set off any IGST liability.

Why there is split into SGST, CGST, and IGST?

India is a federal country where both the Centre and states have been assigned the powers to levy and collect taxes by our Constitution. Both governments have distinct responsibilities to perform for which they need to raise tax revenue, in the form of GST.

The Centre and states are simultaneously levying GST. The three-type tax structure is

implemented to help taxpayers take the credit against each other, thus ensuring “One Nation, One Tax”.

What determines if CGST, SGST or IGST is applicable?

To determine whether Central Goods & Services Tax (CGST), State Goods & Services Tax (SGST) or Integrated Goods & Services Tax (IGST) applies in a taxable transaction, find if the transaction is intrastate or an interstate supply.

- **Intrastate supply of goods or services** is when the location of the supplier and the place of supply i.e., the location of the buyer are in the same state. In Intrastate transactions, a seller has to collect **both CGST and SGST** from the buyer. The CGST gets deposited with the Central Government and SGST gets deposited with the State Government.
- **Interstate supply of goods or services** is when the location of the supplier and the place of supply are in different states. Also, in cases of export or import of goods or services or when the supply of goods or services is made to or by an SEZ unit, the transaction is assumed to be interstate. In an interstate transaction, a seller has to collect **IGST** from the buyer.

How are input tax credits adjusted? Offset liability in GST

The CGST Rules define the logic of adjusting CGST, SGST and IGST input tax credit with the tax liabilities of CGST, SGST and IGST. One must follow the rules since accurate ITC utilisation is crucial to avoid fines later on.

Let us consider that goods worth Rs. 10,000 are sold by manufacturer A from Maharashtra to Dealer B in Maharashtra.

Dealer B resells them to Trader C in Rajasthan for Rs. 17,500.

Trader C finally sells to end-user D in Rajasthan for Rs. 30,000.

Suppose the applicable tax rates for the goods sold are CGST= 9%, SGST=9%, and IGST=9+9=18%

Since A is selling this to B in Maharashtra itself, it is an intra-state sale and so, CGST@9% and SGST@9% will apply.

Dealer B (Maharashtra) is selling to Trader C (Rajasthan). Hence, this is an interstate sale, with IGST@18%.

Trader C (Rajasthan) is selling to end user D also in Rajasthan. Once again it is an intra-state sale and hence, CGST@9% and SGST@9% will apply.

How is SGST, CGST and IGST collected?

Any IGST credit will first be applied to set off in this order:

- First set off against IGST liability.
- Then either set off with CGST or SGST liability, at your preference.

GST is a consumption-based tax the state where the goods were consumed(Rajasthan) will receive GST. By that logic, Maharashtra (where goods were sold) should not get any taxes. State Rajasthan and Central Government should have got $(30,000 \times 9\%) = 2,700$ each.

Thus, Maharashtra (exporting state) will have to transfer credit of SGST of Rs. 900 (used in payment of IGST) to the Centre.

In turn, Central Government will transfer to the state Rajasthan (importing state) Rs. 450 IGST.

The above example shows the need for 3 taxes: SGST, CGST, and IGST. All 3 together will serve the two purposes of GST :

- One Nation, One Tax – so all taxes on all purchases are available as credits.
- Dual tax system – both the Centre and states have their revenue.

GST is a completely new tax with new concepts like the place of supply and new tax structures. This creates confusion among taxpayers who may end up paying the wrong type of GST.

2.9 MAJOR ADVANTAGES OF IGST MODEL

IGST is the provision under GST to monitor the Inter-state movement of Goods and Services. IGST will not replace the existing Central Sales Tax and is also not an extra added tax. It basically is the sum of Central GST (CGST) and State GST (SGST).

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

IGST will help in ensuring that the ultimate SGST is received by the state in which the goods and services are consumed since GST is a destination-based tax. It helps in achieving two

main objectives - Prevent cascading effect, by allowing inter set off of state and central GST.
Helps in fulfilling the principal of destination-based consumption tax.

Features of IGST Model

- The sum of CGST and SGST.
- Levied on the Inter-state and the cross-border transactions of Goods and Services.
- There will be a uniform IGST rate across the country.
- Will be shared by the Centre and State.
- Interstate trader will pay IGST after adjusting the available input IGST, SGST and CGST on the transactions.

Advantages of IGST Model

- A simple, transparent and self-monitoring model.
- Maintenance of tax neutrality in the country.
- The overall tax paying process will be quick with no additional burdens on the taxpayer.
- No requirement for the physical verification of documents and claims as all the relevant data will be available on the GSTN server.
- As payment of tax will be on an online platform, the process will be easy and invulnerable to disputes and manipulations.
- Ensuring that the Input Tax Credit chain for the Interstate transactions is continuous.
- There will be no significant blockage of funds or an upfront payment of tax for the Interstate sellers and buyers.
- There will be no requirement of claiming refunds in the exporting State, as Input Tax Credit will be used up while paying the tax.
- Efficient management of 'Business to Business' (B2B) as well as 'Business to Consumer' (B2C) transactions.
- The uniformity in tax rates and simplified procedures in the country will also help in minimizing the cost of compliance.

2.10 ILLUSTRATIONS

Maharashtra seller selling to Karnataka buyer for Rs.1,00,000/-. IGST payable assuming an 8% rate is Rs.8,000/-. 8,000/- can be paid by adjusting Inter-State purchases (IGST) Rs.3,000/- Local purchases (CGST) Rs.1,500/- Local purchases (SGST) Rs.1,500/- Since dealer has used SGST of Maharashtra to the extent of Rs.1,500/-, Centre has to transfer Rs.1,500/- to Maharashtra Government. IGST of Rs.8,000/- is availed as credit by Karnataka buyer. Karnataka dealer sells the goods at Rs.2,00,000/- attracting CGST of say Rs.16,000/- and SGST of Rs.16,000/-. If IGST of Rs.8,000/- is used to pay the SGST then Karnataka Government has to transfer Rs.8,000/- to the Centre.

I. X Ltd. is a registered GST dealer. It gives the following information pertaining to January 2021 –

Outward supply – During January 2021, GST on outward supply made by X Ltd. is Rs. 54,90,000 (it is aggregate GST liability of 59 invoices issued by X Ltd. during January 2021).

Inward supply – During January 2021, X Ltd. receives 30 tax invoices (pertaining to taxable inward supply of inputs, input services and input capital goods). Input tax credit pertaining to these invoices is as follows –

- **Eligible input tax credit (29 invoices)** – Quantum of eligible input tax credit for January 2021 as per records of X Ltd. is Rs. 46,20,000.
- **Ineligible input tax credit (1 invoice)** – X Ltd. has purchased a car during January 2021 for its executives (GST paid is Rs. 7,80,000).

Inward supply subject to reverse charge – X Ltd. is also eligible for input tax credit of Rs. 60,000 pertaining to GST of January 2021 (it is paid by X Ltd. on inputs which are under reverse charge mechanism).

Credit reflected in Form GSTR-2A – Eligible input credit reflected in Form GSTR-2A for January 2021 is –

Situation 1 – Rs. 36,00,000 (total invoices : 24).

Situation 2 – Rs. 44,00,000 (total invoices : 26).

Situation 3 – Rs. 45,00,000 (total invoices : 27).

Situation 4 – Rs. 46,00,000 (total invoices: 28).

Moreover, GSTR-2A of January 2021 of X Ltd. shows input tax credit pertaining to the car purchased by X Ltd. for its executives (amount of input tax as per GSTR-2A is Rs. 7,80,000).

Input tax credit as per rule 36(4) – Number of invoices (given in above data) is not relevant for calculating input tax credit. Input tax credit (pertaining to car) is not considered, as it is blocked by section 17(5)(a). It is not eligible for input tax credit even if it is reflected in GSTR-2A. Quantum of input tax credit available as per rule 36(4) to X Ltd. is as follows –

		Situat ion 1	Situat ion 2	Situat ion 3	Situation 4
		Rs.	Rs.	Rs.	Rs.
Eligible input tax credit as per records of X Ltd.	(a)	46,20 ,000	46,20 ,000	46,20 ,000	46,20,00 0
Eligible input tax credit as reflected in GS TR-2A	(b)	36,00 ,000	44,00 ,000	45,00 ,000	46,00,00 0
105% of (b)	(c)	37,80 ,000	46,20 ,000	47,25 ,000	48,30,00 0
Eligible input tax credit available for Janu ary 2021 after insertion of rule 36(4) [(a) o r (c), whichever is lower]	(d)	37,80 ,000	46,20 ,000	46,20 ,000	46,20,00 0

Amount restricted or blocked for January 2021 [after insertion of rule 36(4)] [(a) – (d)]	(e)	8,40, 000	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
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Amount payable by X Ltd. for January 2021 in cash – It is as follows –

- Under forward charge – X Ltd. will have to pay in cash Rs. 54,90,000 *minus* eligible input tax credit as per rule 36(4) [*i.e.* (d)] *minus* input tax credit pertaining to amount paid under reverse charge (*i.e.*, Rs. 60,000).
- Under reverse charge – Rs. 60,000 is payable in cash under reverse charge.

II. X Ltd. can claim the blocked input tax credit [*i.e.*, (e)] in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers in their GSTR-1 and subsequent reflection (*i.e.*, auto-populated) of the same in GSTR-2A of X Ltd. Suppose, in *Situation 1*, data submitted by the suppliers of X Ltd. (pertaining to January 2021 supplies) in their GSTR-1 for February 2021 which is auto-populated in GSTR-2A of X Ltd. (for February 2021) shows eligible input tax credit of Rs. 4,00,000 (*Case 1*) or Rs. 9,00,000 (*Case 2*). Amount available as eligible input tax credit to X Ltd. for the month of February 2021 (pertaining to January 2021 input supplies) will be as follows –

		<i>Case 1</i>	<i>Case 2</i>
		<i>Rs.</i>	<i>Rs.</i>
Eligible input tax credit as reflected in GSTR-2A of February 2021 (pertaining input supplies of January 2021)	(<i>f</i>)	4,00,000	9,00,000
105% of (<i>f</i>)	(<i>g</i>)	4,20,000	9,45,000

Input tax credit available in February 2021 [pertaining to amount restricted or blocked for January 2021 under rule 36(4)] [<i>i.e.</i> , (<i>g</i>) or (<i>e</i>), whichever is lower]	(<i>h</i>)	4,20,000	8,40,000
Amount restricted or blocked even after GSTR-2A of February 2021 [<i>(e) – (h)</i>]	(<i>I</i>)	4,20,000	<i>Nil</i>

Note – Amount, as shown in (*I*) above, can be claimed as input tax credit in March 2021 (or any subsequent month) provided relevant data of invoices/debit notes is uploaded by the suppliers of X Ltd. in their GSTR-1. As and when, invoices/debit notes are uploaded by suppliers to the extent of GST of Rs. 4,00,000 (*i.e.*, Rs. 4,20,000 ÷ 1.05), X Ltd. will be able to claim full credit of Rs. 4,20,000.

3. X Ltd. is a registered person under GST. It has received goods/services on November 12, 2020 (eligible input tax credit is Rs. 1,12,500). Credit of this input tax can be availed at any time after November 12, 2020. However, it cannot be claimed after –

- a. October 20, 2021 (*i.e.*, due date of furnishing of return of GST for September 2021); or
 - b. date of filing of annual return for the financial year 2020-21 (due date is December 31, 2021),
- whichever is earlier.

If annual return for 2020-21 is uploaded on December 31, 2021, aforesaid tax credit can be claimed on or before October 20, 2021. Conversely, if annual return is uploaded on October 15, 2021, the aforesaid tax credit can be claimed on or before October 15, 2021.

4. X Ltd. is a registered person under GST. It has received goods/services from A Ltd. *vide* invoice dated July 20, 2019 [value of input taxable supply : Rs. 1,00,000, GST on input (*i.e.*, IGST or CGST + SGST) : Rs. 18,000]. This input tax is credited in electronic credit ledger. X Ltd. avails the benefit of credit for payment of tax for September 2019. Law requires that X Ltd. should make payment of Rs. 1,18,000 to A Ltd. on or before January 16, 2020 (*i.e.*, within 180 days from July 20, 2019). The following consequences should be noted if X Ltd. makes payment after January 16, 2020 (suppose, actual payment is made on May 18, 2020) –

1. X Ltd. will have to show Rs. 18,000 as output tax for February 2020 (this information will have to be uploaded in the return of February 2020).
2. X Ltd. will have to pay interest at the rate of 18 per cent per annum from July 20, 2019 till the date of payment of tax of Rs. 18,000.
3. X Ltd. can re-avail Rs. 18,000 as input credit on May 18, 2020 (*i.e.*, the date of payment of Rs. 1,18,000 to A Ltd.). Time-limit discussed in para 493.6 is not applicable for utilisation of this re-availed input tax credit.

5. Query 1

A Ltd, Chennai raises invoice for supply of cloth to B Ltd, Chennai for Rs. 100/- and charges Rs. 10/- (Rs.5 CGST and Rs.5 SGST) Whether Rs. 110/- is chargeable to further GST.

Solution 1 No. (Refer 2(a)) as CGST and SGST are GST Laws

Query 2 A Ltd raises invoice for supply of electricity to B Ltd for Rs. 100/- and charges 1% tax on electricity of Rs. 10/-.

Solution 2 Whether GST @ 10 % is applicable on Rs. 110/- Yes. (Refer 2(a)) as tax on electricity is covered by any taxes covered by any other law.

Query 3 A Ltd order supply of one motor cycle to B Ltd for Rs. 10,000/-. The name plate was not included in the order specification. But B supplies motor cycle with name plate worth Rs. 100/- Whether the value of supply is Rs. 10,000/- or 10,100/-

Solution 3 The value of supply is Rs. 10,100/- as the name plate is mandatory part for the vehicle to get registered by A ltd. Had B Ltd not fixed, the name plate, A had to incur the expense of Rs.100/- before registration. Rs.100/- is an incidental expense and incurred on behalf of A Ltd. [(Ref 2(b) and 2(c)].

Query 4 A Ltd, a farming company received a subsidy of Rs. 10,000/- under the Government sponsored subsidy scheme. Whether Rs. 10,000/- is taxable.

Solution

4

No, it is not taxable as it is a Government subsidy. (Ref 2(e))

Query 5 X bank Ltd gives one percent (under favorable terms) interest investment loan of Rs. 50 Lakhs to A ltd for building factory in a backward district. Whether Rs. 50 Lakhs is a taxable supply

Solution 5

Yes. Taxable as the subsidized interest loan is not given by the Government.

Query 6 A Ltd orders 100 mobile phones @ Rs. 1000/- each on B Ltd; both are in Chennai, vide order dot 1st September 2017 with discount term of 1 %. B supplies 100 mobiles on 10th September 2017 and raise invoice as given below: Value of 100 mobiles – Rs.1,00,000 Less: Discount 10 % – 10,000 Balance Rs. 90,000/- CGST @ 5% – Rs. 4,500/- SGST @ 5 % – Rs. 4,500/- Total – Rs. 99,000/- Whether discount not included in the taxable value is correct?

Solution 6 Yes. Correct. As discount allowed is in order. Since it is given at the time of supply and also recorded in invoice.

Query 7 Ø A Ltd, Chennai released first order A-222 dot 1st September 2017 for supply of 100 mobile phones @ Rs. 1000/- each on B Ltd, Chennai, B supplies 100 mobiles on 10th September 2017, raises invoice on A Ltd; as given below: Date 10th September 2017 To A Ltd PO No A-222 dot 1st September 2017 Rs. Value of 100 mobiles – 1,00,000/- CGST @ 5% – 5,000/- SGST @ 5 % – 5,000/- Total – 1,10,000/- Ø A Ltd released second order A-223 dot 1st October 2017 with the same terms for supply of another 100 mobiles to B Ltd. B supplies 100 mobiles on 10th October 2017, raises invoice on A Ltd; as given below: Date 10th October 2017 To A Ltd PO No A-223 dot 1st October 2017 Rs. Value of 100 mobiles – 1,00,000/- CGST @ 5% – 5,000/- SGST @ 5 % – 5,000/- Total – 1,10,000/- Ø A Ltd issued third order A-224 dot 15th December 2017 with discount amount of Rs. 1000/- towards the supplies received. Based on the order, an issued credit note no 1 dot 15th December 2017 to B Ltd as given below: Date 15th December 2017 to B Ltd Discount to-wards supply of mobiles against order A-222 and A-223 -Rs.1000/- Less CGST @ 5% – 50/- SGST @ 5 % – 50/- Total – 900/- Whether the value of Rs. 1000/- claimed is a supply? and tax is refundable

Solution 7 No, it is not a supply and tax credit of Rs. 100/- will not be refunded as

- a) The agreement for discount is dated 15th November 2017, which is after the supplies and
- b) The invoice was not linked to the discount terms.

2.11 UNIT END QUESTIONS

A. Descriptive Questions

Long Answer Questions

1. Whether Input tax credit on Inputs and Capital Goods is allowed in one installment?

2. How would a particular transaction of goods and services be taxed simultaneously under Central GST (CGST) and State GST (SGST)?
3. What Are the Various Invoices Under GST?
4. How Do Frauds Make Use of Fake GST Invoices?
5. What Are the Disadvantages of GST?

Short Answer Questions

1. What are the conditions to be fulfilled for entitlement of input tax credit?
2. What are the major features of the proposed registration procedures under GST?
3. What are the major features of the proposed payment procedures under GST?
4. What are the differences between the UPA's GST and the NDA's GST?
5. How will be Inter-State Transactions of Goods and Services be taxed under GST in terms of IGST method?

B. Multiple Choice Questions

1. How many structures does Indian GST System have?
 - a. 4
 - b. 5
 - c. 6
 - d. 1
2. What is the GST rate slab for Goods & Services?
 - a. 0% 5% 12% 16% 28%
 - b. 0% 5% 12% 18% 28%
 - c. 0% 6% 12% 18% 28%
 - d. 0% 5% 12% 18% 26%
3. Under what conditions actual check of business premises is obligatory?
 - a. When asked information is not provided in time by the firm.
 - b. If the facts are irrelevant.

- c. It is the sole discretionary power of the officer.
 - d. None of these
4. Goods & Service Tax replaced which tax?
- a. VAT
 - b. Excise Duty
 - c. Central Sales Tax
 - d. All of these
5. The IGST Act,2017 extends to the
- a. Whole of India
 - b. Whole of India except the state of Jammu & Kashmir
 - c. Whole of India except the state of Jammu & Kashmir & Pondicherry
 - d. None of these

Answers: 1-a, 2-b, 3-c, 4-d ,5-a

2.12 REFERENCES

Reference Books:

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UNIT – 3 TIME OF SUPPLY OF GOODS & SERVICES

STRUCUTRE

- 3.0 Objectives
- 3.1 Introduction
- 3.2 Scope of Supply
- 3.3 Place and Value of Supply
- 3.4 GST Rate Structure
- 3.5 Input Tax Credit
- 3.6 Tax Invoice
- 3.7 Distribution of Credit
- 3.8 Procedures and Records for Input Tax Credits
- 3.9 Utilization, Recovery of Input Tax Credit
- 3.10 Levy and Collection
- 3.11 Tax Liability
- 3.12 Reserve Charge

- 3.13 Composite and Mixed Supplies
- 3.14 Exemptions and Non-Taxable Supplies
- 3.15 Unit End Questions
- 3.16 References

3.0 OBJECTIVES

After completing this Students will be able to

- Explain the meaning of place and value of supply
- Describe Input tax credit
- Discuss Tax liability
- Assess Exemptions and Non-Taxable supplies

3.1 INTRODUCTION

Time of supply is a relevant measure under the GST law for every transaction entered into by the supplier of goods and services. It means the point in time when goods have been deemed to be supplied or services have been deemed to be provided for determining when the taxpayer is liable to pay taxes. While this article dwells upon the time of supply for goods, there is a separate article for time of supply for services.

Under GST, liability to remit **GST** to Government arises at the time of supply. Time of supply is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. However, in some circumstances, the time of supply could be different based on the nature of the transaction. In this article, we look at GST time of supply for goods, services and reverse charge transactions.

3.2 SCOPE OF SUPPLY

The term 'supply' is wide in its import covers all forms of supply of goods or services or both

that includes sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It also includes import of service. The model GST law also provides for including certain transactions made without consideration within the scope of supply.

Section	Clause	Provision of law
1		For the purposes of this Act, the expression “supply” includes —
	(a)	All forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
	(aa)	<p>“(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.</p> <p>Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”. –</p> <p>Inserted vide clause 99 of Finance Bill, 2021 dated 1-2-2021 updated as section 108 of Finance Act, 2021</p> <p>It has been made effective from 1-1-2022 as notified vide Notification No. 39/2021 – CT dated 21-12-2021.</p> <p>A new clause (aa) in sub-section (1) of Section 7 of the CGST Act is being inserted, retrospectively with effect from the 1st July, 2017, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its</p>

Section	Clause	Provision of law
		members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
	(b)	<p>Import of services for a consideration whether or not in the course or furtherance of business; and</p> <p>Note: Though the term ‘supply’ may prima facie appear to levy a tax on outward supply, however, it is pertinent to note that ‘supply’ is a ‘taxable event’ i.e. a tax shall be levied on the occurrence of an ‘event’ as defined under the term ‘supply’. Therefore, import of service which is an inward supply is also a taxable event as per Section 7(1)(b). Hence, the term supply has a much wider scope. Generally, it is seen that the GST is levied on the supply of goods and/or services for a consideration in the course or furtherance of business. However, in the instant case, it is significant to note that even though the import of service (please note – this section does not deals with import of goods) is done in the personal capacity (and not in the course or furtherance of business) shall be a taxable event for the purpose of GST and accordingly GST shall be levied. Let us not forget that GST is the destination-based consumption tax. In the instant transaction, the destination as well as consumption is taking place in India, therefore, in order to levy a tax on such transaction, clause (b) appears to find space in the section 7. For this purpose, even though such a person is not carrying on the business, still he has to take registration compulsorily under section 24 in GST and pay the tax under reverse charge basis on import of service along-with meeting all other set of compliances. However, services received from a provider of service located in a non-taxable territory (import of service) by an individual in relation to any purpose other than commerce, industry or any other business or profession is exempted vide Notification No. 9/2017-Integrated Tax</p>

Section	Clause	Provision of law
		(Rate), dated 28th June, 2017 and while in the case of online information and database access and retrieval (OIDAR) service, supplier has been showered with the responsibility to meet the statutory compliance.
	(c)	The activities specified in Schedule I, made or agreed to be made without a consideration;
	(d)	The activities to be treated as supply of goods or supply of services as referred to in Schedule II. However, this has been Omitted by the CGST (Amendment) Act, 2018, w.r.e.f. 1st July, 2017.
1A		Where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II. This provision has been inserted by the CGST (Amendment) Act, 2018, w.r.e.f. 1st July, 2017.
2		Notwithstanding anything contained in sub-section (1), —
	(a)	Activities or transactions specified in Schedule III, shall be treated neither as a supply of goods nor a supply of services.; or
	(b)	Such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the

Section	Clause	Provision of law
		recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.
3		Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as —
	(a)	A supply of goods and not as a supply of services; or
	(b)	A supply of services and not as a supply of goods.

Where, merely because petitioner felt that GST rate applied on masks and sanitizers was excessive, this could not be a reason for issuing a writ of mandamus and directing respondents to reduce tax on said commodities as nothing had been argued about how present GST rate applied on masks and sanitizers was confiscatory in law. – Gaurav Yadav v. Union of India – [2020] 119 taxmann.com 384/42 GSTL 38 (Delhi) [13-08-2020]

Where applicant's holding company (Prettl GmbH), desires to join 'develoPPP.de programme' run by German Federal Ministry for Economic Cooperation and Development and Prettl GmbH has proposed to enter into a Service Contract with applicant to provide financial assistance and funding under said program for carrying out some activities by applicant, namely, construction of training room, implementation of training measures for trainers, apprentices, unskilled workers, etc. Since said agreement is for provision of services and as per agreement, applicant has consented/agreed to do some acts and as per clause 5 of Schedule II appended to GST Act, an agreement to do an act' will be considered as supply of services, financial assistance to be received by applicant are covered as 'consideration for supply and activity is covered under meaning of supply of services in terms of section 7. – Prettl Automotive India (P.) Ltd., In re [2020] 122 taxmann.com 288/[2021] 85 GST 148/46 GSTL 319 (AAR – Maharashtra) [15-12-2020]

Where applicant is supplying digital goods i.e., online gaming, it is held that e-goods (online

gaming) will be covered under services under GST Act which are classified under Heading No. 998439 and are taxable at 18% GST. – Amogh Ramesh Bhatawadekar, In re [2020] 122 taxmann.com 251 [2021] 84 GST 486/47 GSTL 76 (AAR – Maharashtra) [15-12-2020]

Applicant trust extends legal, medical and financial services to women surviving sexual violence and abuse. Applicant seeks advance ruling on question as to whether it is liable to pay tax on its activities. It is noted that applicant does not charge any consideration for facilitating legal aid and other assistance. Such activities of applicant, thus, do not result in ‘supply’ of service as defined under section 7(1). Moreover, applicant is not a recipient of any services for which it often provides financial assistance to women survivors of sexual and other violence. On facts, applicant is not liable to pay tax on its activities. – Swayam, In re [2020] 117 taxmann.com 499/80 GST 461/38 GSTL 628 (AAR – West Bengal)

3.3 PLACE AND VALUE OF SUPPLY

Place of Supply of Goods

GST is a destination-based tax, i.e., the goods/services will be taxed at the place where they are consumed and not at the origin. So, the state where they are consumed will have the right to collect GST.

Therefore, place of supply is crucial under GST as all the provisions of GST revolve around it. Place of supply of goods under GST defines whether the transaction will be counted as intrastate or interstate, and accordingly, levy of SGST, CGST & IGST will be determined. Hence, it is recommended to cross-check the place of the supplier, using the GST search tool.

Place of Supply When There is Movement of Goods

Supply Type	Place of supply
Involves movement of goods, whether by supplier, or buyer or by any other person	Location of the goods when the movement of goods terminates for delivery to the recipient.
Goods are delivered by the seller to the buyer on the	It is assumed that the third person has

directions of a third party (whether or not an agent), before or during the movement of goods, by the way of transfer of title in goods or the documents or some other way

received the goods and therefore, the place of supply of the goods will be the principal place of business of the third party.

Example 1- Intra-state sales Mr. Raj of Mumbai, Maharashtra sells 10 TV sets to Mr. Vijay of Nagpur, Maharashtra

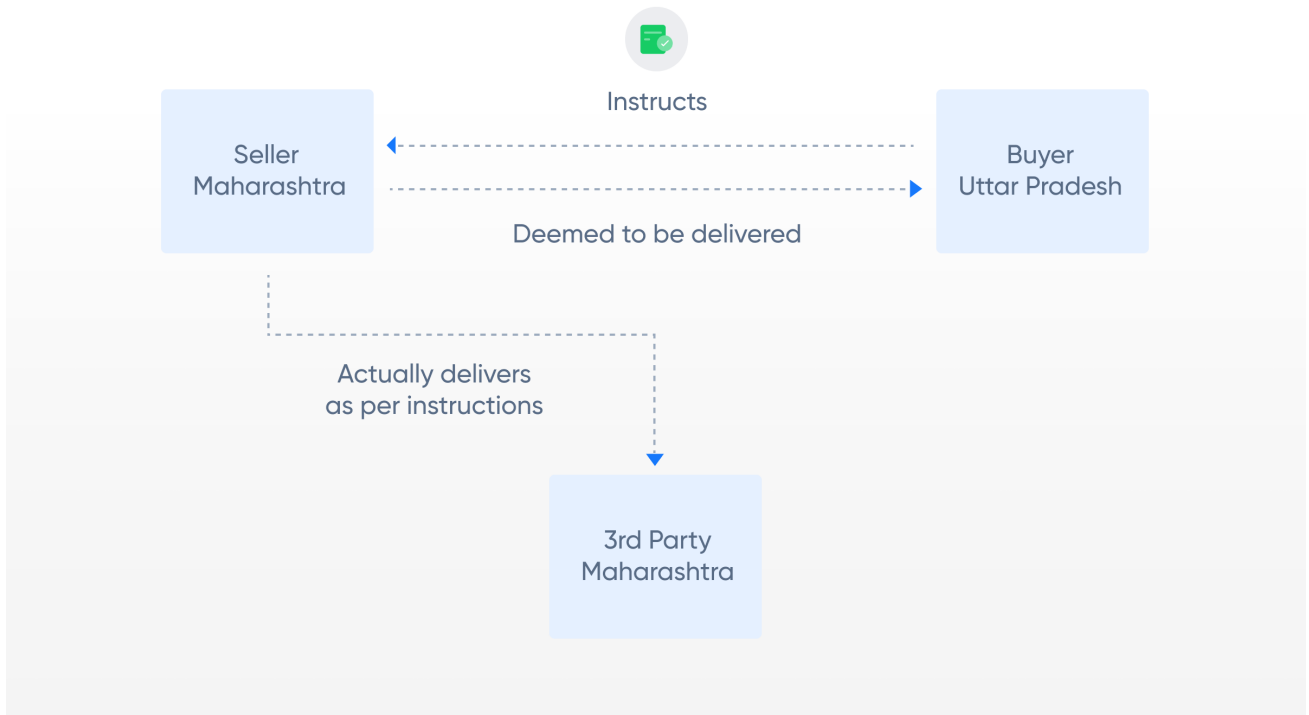
The place of supply is Nagpur in Maharashtra. Since it is the same state CGST & SGST will be charged.

Example 2-Inter-State sales Mr. Raj of Mumbai, Maharashtra sells 30 TV sets to Mr. Vinod of Bangalore, Karnataka

The place of supply is Bangalore in Karnataka. Since it is a different state IGST will be charged.

Example 3- Deliver to a 3rd party as per instructions Annand in Lucknow buys goods from Mr. Raj in Mumbai (Maharashtra). The buyer requests the seller to send the goods to Nagpur (Maharashtra)

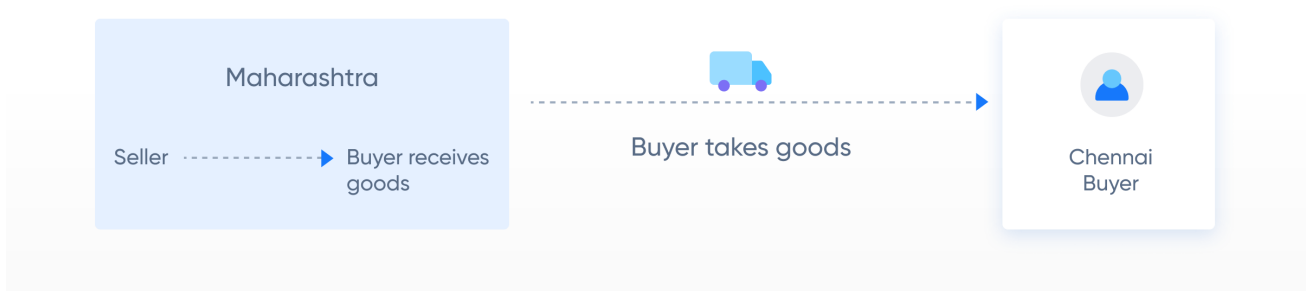
In this case, it will be assumed that the buyer in Lucknow has received the goods & IGST will be charged. Place of supply: Lucknow (UP) GST: IGST



Example 4- Receiver takes the goods from the ex-factory. Mr. Raj of Mumbai, Maharashtra gets an order of 100 TV sets from Sales Heaven Ltd. of Chennai, Tamil Nadu. Sales Heaven mentions that it will arrange its own transportation and take TV sets from Mr. Raj ex-factory

Place of supply: Chennai, Tamil Nadu GST: IGST Although the goods are received ex-factory i.e. in Maharashtra by the recipient, the movement of the goods terminates for delivery to the recipient only at Chennai, Tamil Nadu.

Irrespective of whether the supplier or the recipient is actually undertaking the movement of goods, the place of supply is the location of goods where movement of goods terminates for delivery to the recipient which is at Chennai. Hence, IGST is applicable.



Example 5 – E-commerce sale Mr. Raj of Mumbai, Maharashtra orders a mobile from Amazon to be delivered to his mother in Lucknow (UP) as a gift. M/s ABC (online seller

registered in Gujarat) processes the order and sends the mobile accordingly and Mr. Raj is billed by Amazon.

Similar to example 3, it will be assumed that the buyer in Mumbai has received the goods & IGST will be charged. Place of supply: Mumbai, Maharashtra GST: IGST

Place of Supply – No Movement of Goods

Supply Type	Place of Supply
No movement of goods, either by the supplier or by the recipient	Location of those goods at the time of delivery to the recipient (at the time of ownership transfer)
Goods are assembled or installed at site	Place of installation or assembly

Example 1- No movement of goods Sales Heaven Ltd. (Chennai) opens a new showroom in Bangalore. It purchases a building for showroom from ABC Realtors (Bangalore) along with pre-installed workstations

Place of supply: Bangalore GST: CGST & SGST There is no movement of goods (work stations), so the place of supply will be the location of such goods at the time of delivery (handing over) to the receiver.

Note: There is no GST on purchase of building or part thereof. RENT of commercial space attracts GST

Example 2- Installing goods Strong Iron & Steel Ltd. (Jharkhand) asks M/s SAAS Constructions (West Bengal) to build a blast furnace in their Jharkhand steel plant

Place of supply: Jharkhand GST: CGST & SGST Although M/s SAAS is in West Bengal, the goods (blast furnace) is being installed at site in Jharkhand which will be the place of supply.

Note: M/s SAAS will have to be registered in Jharkhand to take up this contract. They can opt to register as a casual taxable person which will be valid for 90 days (extendable by 90 days more, on the basis of a reasonable cause).

Particulars	Location of the supplier	Location of the recipient (Registered office)	Site of the assembly /installation	Place of supply	GST
Goods are assembled or installed at site	West Bengal	Orissa	Jharkhand	Jharkhand	CGST+SGST (Jharkhand)
	Jharkhand	Jharkhand	Jharkhand	Jharkhand	CGST+SGST (Jharkhand)
	Jharkhand	Jharkhand	Orissa	Orissa	CGST+SGST (Orissa)
	Jharkhand	Jharkhand	Tamil Nadu	Tamil Nadu	CGST+SGST (Tamil Nadu)
	Jharkhand	Tamil Nadu	Jharkhand	Jharkhand	CGST+SGST (Jharkhand)

Place of Supply- Goods Supplied on a Vessel/Conveyance

Supply Type	Place of Supply
Goods are on board of a conveyance or vessel or train or aircraft or a motor vehicle	Location at which such goods are taken on board.

Example 1- Plane Mr. Ajay is travelling from Mumbai to Delhi by air. He purchases coffee and snacks while on the plane. The airline is registered in both Mumbai and Delhi.

Place of supply: Mumbai GST: CGST & SGST The food items were loaded into the plane at Mumbai. So, the place of supply becomes Mumbai.

Example 2- Plane- Business travel Mr. Ajay is travelling from Mumbai to Chennai by air on behalf of his company Ram Gopal and Sons (registered in Bangalore). In the plane he purchases lunch. The airline is registered in Mumbai & Chennai.

Place of supply: Mumbai GST: CGST & SGST The food items were loaded into the plane at Mumbai. So, the place of supply becomes Mumbai. It does not matter where the buyer is registered.

In most cases CGST & SGST is charged because most airlines have a pan-India presence and will be registered in all states.

Example 3- Train Mr. Vinod is travelling to Mumbai via train. The train starts at Delhi and stops at certain stations before Mumbai. Vinod boards the train at Vadodara (Gujarat) and promptly purchases lunch on board. The lunch had been boarded in Delhi.

Place of supply: Delhi GST: CGST & UTGST The food items were loaded into the train at Delhi. So, the place of supply becomes Delhi.

CGST & SGST is charged because Indian railways has a pan-India presence and will be registered in all states. It does not matter where the buyer is registered.

Where the place of supply cannot be determined for any reason, the place of supply shall be determined by the Parliament rules based on the recommendations made by the GST Council.

Place of Supply – Imports and Exports

The place of supply of goods:

- imported into India will be the location of the importer.
- exported from India shall be the location outside India.

Supply Type	Place of Supply	GST
Goods imported into India	Location of the importer	Always IGST is charged for imports

Exported from India	Location outside India	GST on exports are eligible for refund
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Also, whenever an Indian entity raises an invoice in foreign currency, it can charge GST in foreign currency. However, you have to show the INR conversion rate and the INR values. Suppose you have raised in US Dollars (USD), then you can charge GST in USD. Also, you have to show the USD to INR conversion ratio and invoice values in INR.

Example 1- Import

Ms. Malini imports school bags from China for her shop (registered in Mumbai)

Place of supply: Mumbai GST: IGST

Example 2- Export

Ms. Anita (Kolkata) exports Indian perfumes to UK

Place of supply: Kolkata GST: Exempted

3.4 GST RATE STRUCTURE

The GST rate slabs are decided by the GST Council. The GST Council revises the rate slab of goods and services periodically. The GST rates are usually high for luxury supplies and low for essential needs. In India GST rate for various goods and services is divided into four slabs: they are 5% GST, 12% GST, 18% GST, & 28% GST.

The GST rates for various products have been revised several times by the GST council since the inception of the Goods and Services Tax (GST). The latest rate revision was brought into effect in the 41st GST Council Meeting which was held on Aug 27, 2020. Before that, there have been many GST Council Meetings in which certain rate revisions were introduced.

The Union Budget 2022 was announced by the Finance Minister Nirmala Sitharaman on 1 February 2022. As per the latest budget, no proposal has been made to change the GST rates in the country.

Revision of GST Rates announced in the 45th GST Council Meeting

On 17 September 2021, the 45th GST Council meeting was held. GST rates across certain categories were changed. The new GST rates will come into effect from 1 October 2021.

Some of the changes that were made are mentioned below:

Category	New Rate	Old Rate
Railway goods, locomotives, and parts under Chapter 86	18%	12%
Pens	18%	12%/18%
Metal concentrates and ores	18%	5%
Certain Renewable Energy Devices	12%	5%

Increase in GST

Category	New Rate	Old Rate
Recorded media reproduction and printing for the purposes of publisher's content	18%	12%
Showing, broadcasting, and licensing of sound recordings, Radio Television Programmes, and original films	18%	12%
Printed material, catalogue, and cards under Chapter 49	18%	12%
Packing containers, boxes, and cartons that are made from paper	18%	12%/18%
Scrap, plastic waste, and Polyurethanes	18%	5%

Decrease in GST rates

Category	New Rate	Old Rate
In case vehicles are attached with retro fitment kits for disabled individuals	5%	Applicable rate
'Keytruda' for cancer treatment	5%	12%I
IGST that is levied in case goods are sold at the Indo-Bangladesh border	Nil	Applicable rate

The details in respect to these rate revisions and other major things are being discussed below:

Revision of GST Rates announced in the 44th GST Council Meeting

GST rates on Covid-related essentials

Covid-related essentials	Present GST rate	Revised GST rate
Pulse oximeters	12%	5%
Hand sanitisers	18%	5%
Equipment to check body temperature	18%	5%
Furnaces for cremation and their installation	18%	5%
Ambulances	28%	12%

GST rates on Covid medicines and testing kits

Covid-related medicines and testing kits	Present GST rate	Revised GST rate
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Covid-related medicines and testing kits	Present GST rate	Revised GST rate
Testing kits	12%	5%
Specified inflammatory diagnostic kits	12%	5%

GST rates on oxygen and oxygen-related medical devices

Oxygen and oxygen-related medical devices	Present GST rate	Revised GST rate
Medical grade oxygen	12%	5%
Oxygen concentrator or generator	12%	5%
Ventilators	12%	5%
Mak, canula, or helmet	12%	5%
BiPAP machine	12%	5%
High flow nasal canula device	12%	5%

GST rates on Covid-related drugs

Covid-related drugs	Present rate	GST	Revised rate	GST
Tocilizumab	5%		NIL	
Amphotericin B	5%		NIL	

Covid-related drugs	Present rate	GST	Revised rate	GST
Heparin and other anti-coagulants	12%		5%	
Remdesevir	12%		5%	
Any other drugs recommended by ministry of health	NA		5%	

Revision of GST Rates announced in the 43rd GST Council Meeting

- GST on the export of relief goods to be exempted and will stay in effect until 31 August 2021.
- GST on import of medicine for black fungus, that is Amphotericin B is also placed under the exemption list.
- Any Covid-related relief item if imported even with the intention of donating to the government or any relief organization will be exempted from IGST till 31 August 2021.
- Amnesty Scheme was announced by the finance minister to reduce late fee returns. Small taxpayers can file returns under this scheme.
- A group of ministers will be formed who will submit a report by 8 June 2021 to determine whether the rates are to be increased or decreased.

Revision of GST Rates announced in the 42nd GST Council Meeting

Highlights of the meeting held on 5 October 2020

- Small taxpayers with turnover of less than Rs.5 crore can now file quarterly GSTR-3B and GSTR-1 where the due date for GSTR-1 will be the 13th day of the month succeeding the quarter. This new rule came into effect on 1 January 2021. Due to the implementation of this rule, the number of returns has reduced to 8 from 24.
- The quarterly taxpayers have the option of paying 35% of the net tax liability of the previous quarter, using an auto-generated challan for the first two months of the quarter.

- For the auto-generation of GSTR-3B, a roadmap is prepared, where the details of the supplier's GSTR-1 will help in auto-populating the ITC. GSTR-1 will help in auto-populating the tax liability as well. Hence, it is important to mandatorily file GSTR-1 before filing GSTR-3B. This rule came into effect on 1 April 2021.
- Taxpayers will pay their GST through a simple challan.
- Taxpayers with a turnover of Rs.5 crore and above will have to mention a 6-digit HSN code. A 4-digit HSN code is to be mentioned by taxpayers with a turnover of less than Rs.5 crore. This rule came into effect on 1 April 2021.
- Bank accounts which have their PAN linked with Aadhaar will be able to receive refunds.
- ISRO, Antrix Corporation, and New Space India Limite (NSIL) will receive GST exemptions to encourage the space launching services in India.
- Sanitisers that are non-alcoholic will be continued to be taxed at 18% GST.
- The compensation cess collected till date amounts to Rs.20,000 crore. This amount was disbursed to specific states in India by 5 October 2020.
- Rs.25,000 crore towards IGST 2017-18 was distributed to specific Indian states.

Highlights of the meeting held on 12 October 2020

- The meeting ended with no unanimity on the issue of borrowing. The states may avail of the options previously provided to borrow funds.
- The compensation cess will be levied will beyond the 5-year tenure.
- The center cannot borrow in case of shortage of compensation cess fund as it will create an increase in the yield of G-sec bonds.
- A borrowing calendar has been issued where if the borrowing goes beyond the sanctioned limit, the G-Sec deals used as a benchmark for every other borrowing will increase.
- Cess collected from July 2022 will not be disbursed to states in India and will be used for the payment of principal and interest. This will help in exempting the state from the burden of repaying the borrowed amount.

Revision of GST Rates announced in the 41st GST Council Meeting

The 41st GST Council meeting was chaired by the Union Finance Minister Nirmala Sitharaman and was held on 27 August 2020. The government will provide an additional

0.5% relaxation in states where the borrowing limit is under the FRBM Act. States can borrow more due to the injury that has been caused by the coronavirus outbreak. Two options have been provided to the states to meet the compensation cess shortfall.

Revision of GST Rates announced in the 40th GST Council Meeting

The 40th GST Council meeting was chaired by the Union Finance Minister Nirmala Sitharaman and was held on 12 June 2020. As per the meeting, no late fee will be levied for taxpayers that come under nil tax liability. In case taxpayers file the returns between 1 July 2020 and 30 September 2020, the maximum late fee that can be charged is Rs.500. In the case of small taxpayers (aggregate turnover of up to Rs.5 crore), the rate of interest has been reduced to 9% from 18% p.a. for GST returns that are filed for February, March, and April 2020. However, the returns must be filed before 30 September 2020.

Revision of GST Rates announced in the 39th GST Council Meeting

The following table reflects the changes in the rates applicable to the goods and services:

Goods or commodities	New rate	Old rate
Handmade matches	12%	5%
Mobile phones	18%	12%
Other handmade matches	12%	18%
Aircraft MRO services	5% along with full ITC	18%

Announced on 14 March 2020, the rates mentioned above are applicable w.e.f. 1 April 2020.

Revision of GST Rates announced in the 38th GST Council Meeting

The following table reflects the changes in the rates applicable to the goods and services:

Goods or commodities	New rate	Old rate
Sacks of polythene and polypropylene	18%	12%

Goods or commodities	New rate	Old rate
State owned lotteries	28%	12%
State authorised lotteries	28%	28%
Woven and non-woven fabrics	18%	12%

Announced on 18 December 2019, the rates mentioned above are applicable w.e.f. 1 January 2020. Rates for the lotteries are applicable w.e.f. 1 March 2020.

Revision of GST Rates announced in the 37th GST Council Meeting

Announced on September 20th, 2019, the following table reflects the changes introduced in the rates applicable to the goods and services. These changes are applicable w.e.f. from 1 October 2019.

Goods or commodities	New rate	Old rate
Plates and cups made of tree products	Nil	5%
Caffeinated Beverages	28% + 12% cess	18%
Supplies of Railways wagons & coaches (without the refund of accumulated ITC)	12%	5%
Outdoor Catering (without the ITC)	5%	18%
Diamond Job work	1.50%	5%
Other Job work	12%	18%

Goods or commodities	New rate	Old rate
Hotels with Room Tariff of Rs.7501 and above	18%	28%
Hotels with Room Tariff from Rs 1,001 to Rs 7,500	12%	18%
Woven or non-woven Polyethylene Packaging bags	12%	18%
Marine fuel	5%	18%
Almond Milk	18%	-
Slide fasteners	12%	18%
Wet grinders (consisting of stone as a grinder)	5%	12%
Dried Tamarind	Nil	5%
Semi-precious stones- cut & polished	0.25%	3%
Specified goods for petroleum operation under Hydrocarbon Exploration Licensing Policy	5%	Applicable rate
Cess on Petrol Motor Vehicles (Capacity of 10-13 passengers)	15%	1%
Cess on Diesel Motor Vehicles (Capacity of 10-13 passengers)	15%	3%

Revision of GST Rates announced in the 36th GST Council Meeting

The following table reflects the changes in the rates applicable to the goods and services:

Goods or commodities	New rate	Old rate
Electric chargers	5%	18%
Electric vehicles	5%	12%

These rates were revised on July 27th, 2019 and is applicable w.e.f. August 1st, 2019.

Revision of GST Rates announced in the 31st GST Council Meeting

The following table reflects the changes in the rates applicable to the goods and services:

Goods or commodities	New rate	Old rate
Vegetables which are preserved provisionally but are not suitable for immediate consumption	5%	Nil
Cooked or uncooked vegetables which are steamed, frozen or boiled (branded)	5%	Nil
Music Books	12%	Nil
Parts for manufacturing renewable energy devices falling under chapter 84, 85 or 94 of Tariff	-	5%
Natural cork	12%	5%
Fly ash blocks	12%	5%
Walking sticks	12%	5%
Marble rubble	18%	5%

Goods or commodities	New rate	Old rate
Agglomerated cork	18%	12%
Cork roughly squared or debugged	18%	12%
Articles of Natural cork	18%	12%
Movie Tickets worth Rs.100 or less	18%	12%
Premium on Third party insurance on Vehicles	18%	12%
Accessories for Handicapped Mobility Vehicles	28%	5%
Power banks	28%	18%
Movie Tickets worth more than Rs.100	28%	18%
Video game consoles, equipments used for Billiards and Snooker and other sport related items of HSN code 9504	28%	18%
Retreated & used pneumatic Rubber Tyres	28%	18%
Colour Television Sets & monitors up to “32 Inches”	28%	18%
Digital & Video Camera recorders	28%	18%
Pulleys, transmission shafts, cranks and gear boxes under HSN 8483	28%	18%

Goods or commodities	New rate	Old rate
Reduction of tax rates on Air travel of pilgrims	28%	18%

Commodities and Services GST rates

The GST Council has proposed a four-tier tax structure wherein rates are either nil or very low so far as essential food items are concerned. The reason for this is that these food items constitute around 50% of the consumer basket, and contributes significantly towards ensuring that widespread inflation is kept in check even after the revised tax slabs under GST have been implemented. Negative items and luxury goods, however, are expected to be taxed at a considerably higher rate to maintain revenue neutrality for state and central governments following the implementation of the new GST rates. Other precious metals are likely to see the implementation of an extra concessional GST tax slab as these metals are currently taxed at just 1% under VAT.

Following is a table of commodities and services and the GST rates applicable to them:

Commodities / Services	GST Rate
Items that are not listed in any other category, such as electrical appliances, oil, soaps, etc.	18%
All services like professional charges, fees, insurance, banking, restaurants, telecom, etc.	18%
Essential farm produced mass consumption items such as wheat, rice, food grains, etc.	NIL
Mass consumption and common use food items like mustard oil, tea, spices, etc., but not including processed foods	5%

Commodities / Services	GST Rate
Processed foods	12%
Cars and white goods	28%
De-merits and luxury goods and items that fall under the sin category, such as aerated drinks, tobacco, luxury cars, pan masala, etc.	28% + CESS

GST Council implements rate cuts leaving 35 goods in the highest tax bracket

By July 2018, the GST Council reduced tax rates on 191 goods, leaving only 35 items in the 28% tax category. Some of these include:

- AC
- Dishwashing machines
- Digital cameras
- Cement
- Video recorders
- Parts of automobiles
 - Motor vehicles
 - Tyres
 - Yachts
 - Aircrafts
 - Aerated drinks
- Sin items such as tobacco, cigarette, and pan masala

At the time of GST rollout, there were 226 goods in the highest tax slab. Over a period of 1 year, the GST Council has slashed the taxation rates for 191 items in total. The highest tax

slab may be further rationalised to ensure that only sin goods and super luxury goods are taxed at 28%

3.5 INPUT TAX CREDIT

Input Tax Credit refers to the tax already paid by a person at time of purchase of goods or services and which is available as deduction from tax payable .

For egg- A trader purchases good worth Rs 100 and pay tax of 10% on it. And now this trader sold such goods at Rs. 150 and collect tax of Rs. 15 from buyer. Now the trader has to pay Rs. 15 to government but he had already paid Rs. 10, so this Rs. 10 is ITC of the trader and will be allowed as deduction from tax payable and he has to pay net Rs. 5 as tax. Although availment of ITC is subject to certain conditions as covered in this article.

SGST, UTGST, CGST And IGST – How ITC Allowed

Amount of Input Tax Credit on account of IGST shall first be utilized for the payment of IGST then for payment of CGST and then for payment of SGST or UTGST.

Amount of Input Tax Credit on account of CGST shall first be utilized for the payment of CGST then for payment of IGST. Such amount can not be used for payment of SGST or UTGST.

Amount of Input Tax Credit on account of SGST or UTGST shall first be utilized for the payment of SGST or UTGST then for payment of IGST. Such amount cannot be used for payment of CGST.

SGST/UTGST payable or Input tax credit of SGST/UTGST will be calculated state wise i.e. ITC of SGST in one state can not be utilized for payment of SGST of another state.

Input tax credit can not be used for payment of interest, penalty, fees or any amount payable under the act other than the GST in manner mentioned above.

Example

	IGST	CGST	SGST
Tax Payable	10,000	8,000	5,000
Input Tax Credit	12,000	7,500	1,200

	IGST	CGST	SGST
Tax Payable	10,000	8,000	5,000
Less: Input Tax Credit of IGST from IGST CGST from CGST and SGST from SGST (up to maximum of tax payable)	10,000	7,500	1,200
Gross Tax Payable	NIL	500	3,800
Less: Input Tax Credit of Remaining IGST of Rs. 2,000 from CGST first and then SGST	–	500	1,500
Net Tax Payable	–	–	2,300

Persons Who Are Allowed to Take Input Tax Credit

- All registered person are allowed to take input tax credit other than person who are paying tax under composition scheme.
- A person who has applied for registration within 30 days from the date on which he is liable for registration is allowed to take input tax credit in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax.
- A person who hast taken voluntarily registration is allowed to take input tax credit in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration.
- A person who has ceased to pay tax under composition scheme is entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he ceases to pay tax under composition scheme.

Under the points 2, 3 and 4 above, the input tax credit is allowed only for the stock which is purchased in last one year from the aforementioned date. Such person needs to file Form GST ITC-01 within 30 days of his becoming eligible for availing input tax credit. Details furnished in the form is to be certified by a practicing chartered accountant or cost accountant if the input tax credit claimed is more than Rs. 2 lakhs.

Persons NOT Allowed to Take Input Tax Credit

- Persons who are not registered in GST
- Persons who are registered under composition scheme

Time Limit for Taking ITC

ITC is not allowed after any of the following happens

- due date of return for month of September of next financial year
- annual return filed for relevant year (Filing date, not due date)

Conditions for Taking ITC

Input Tax Credit is allowed to a person only if following conditions are satisfied

- he is in possession of a tax invoice or debit note issued by a supplier registered under GST

- he has received the goods and/or services
- the tax charged in respect of such supply has been actually paid to the account of the appropriate Government
- he has furnished the return under section 39
- ITC is not allowed after any of the following
 - due date of return for month of September of next financial year
 - annual return filed for relevant year (Filing date, not due date)
- The person who obtains voluntary registration is entitled to take the input tax credit of input tax on inputs in stock, inputs in semi finished goods and finished goods in stock, held on the day immediately preceding the date of registration.
- Input tax credit is allowed only on purchases made for selling taxable or zero rated goods or services. ITC is not allowed for purchases made for exempted supplies.
- **The input tax credit of goods and / or service attributable to only taxable supplies can be taken by registered taxable person. The amount of eligible credit would be calculated in a manner to be prescribed in terms of section 16(7) of the MGL read with GST ITC Rules (yet to be issued). It is important to note that credit on capital goods also would now be permitted on proportionate basis.**
- Where the goods against an invoice are received in lots or instalments, the registered taxable person shall be entitled to take credit upon receipt of the last lot or instalment.
- Input tax credit of GST component of capital goods is not allowed if the person has claimed depreciation in income tax act for GST component. In other words ,a person can either take input tax credit of GST on capital goods or claim depreciation on tax component.

Input Tax Credit Shall Not Be Available For

Input tax credit shall not be available in respect of the following:

(a) motor vehicles and other conveyances except when they are used

(I) for making the following taxable supplies, namely

a. further supply of such vehicles or conveyances ; or

- b. transportation of passengers; or
- c. imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods.

(b) supply of goods and services, namely,

(I) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where such inward supply of goods or services of a particular category is used by a registered taxable person for making an outward taxable supply of the same category of goods or services;

(ii) membership of a club, health and fitness centre,

(iii) rent-a-cab, life insurance, health insurance except where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force or such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply

(iv) travel benefits extended to employees on vacation such as leave or home travel concession.

(c) works contract services when supplied for construction of immovable property, other than plant and machinery, except where it is an input service for further supply of works contract service;

(d) goods or services received by a taxable person for construction of an immovable property on his own account, other than plant and machinery, even when used in course or furtherance of business;

Explanation 1.- For the purpose of this clause, the word “construction” includes reconstruction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Explanation 2.- ‘Plant and Machinery’ means apparatus, equipment, machinery, pipelines, telecommunication tower fixed to earth by foundation or structural support that are used for making outward supply and includes such foundation and structural supports but excludes land, building or any other civil structures.

(e) goods and/or services on which tax has been paid under composition scheme;

(f) goods and/or services used for personal consumption;

(g) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(h) any tax paid in terms of sections 74, 129 or 130.

Reversal of Input Tax Credit

If a person who is paying tax in normal scheme and wants to shift to Composition scheme or where goods or services supplied by him become wholly exempt, he has to pay credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption. After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Where a recipient fail to pay to the supplier of goods or services, the amount towards the value of supply of goods/services along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon. This rule doesn't apply where the recipient is liable to pay tax on reverse charge basis. Such person has to furnish such details in from GSTR-2 for the month in which such period of 180 days' lapse.

ITC For GST Paid On Reverse Charge

GST paid on reverse charge is also allowed as Input Tax Credit subject to the condition that it is allowed according to all other provisions. But note that reverse charge has to paid through cash only.

ITC On Capital Goods and Reversal On Its Sale

Credit of tax paid on capital goods is also permitted to be availed in one instalment.

Input tax credit of tax component of capital goods is not allowed if the person has claimed depreciation in income tax act for GST component. In other words ,a person can either take input tax credit of GST on capital goods or claim depreciation on tax component.

If the taxable person sells such capital goods on which ITC had been taken then such person is liable to pay GST of higher amount from the following

- ITC taken on such capital goods less 5 percentage points per quarter of a year or part thereof from the date of invoice
- Sale price of capital goods multiplied by GST rate

Where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined.

ITC in Respect of Inputs Sent for Job Work

Principal is allowed to take ITC of the goods or capital goods sent to a job worker for job work. Input is allowed even if the inputs are directly sent to a job worker for job-work without their being first brought to his place of business.

If such goods are not received back by principal or supplied from place of job worker within one year from the date of sending goods to job worker, then it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out. This limit of one year is increased to three years in case of capital goods.

Where the inputs are sent directly to a job worker, the period of one year or three year shall be counted from the date of receipt of inputs by the job worker.

This rule of deemed supply shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job-worker for job-work.

Manner of Distribution of Credit by Input Service Distributor

(1) The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

(a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

(d) the credit of tax paid on input services attributable to more than one recipient of credit

shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation.—For the purposes of this section,—

(a) the “relevant period” shall be—

(I) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(b) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(c) the term ‘turnover’, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

ITC in Special Cases

Banks and Financial Institutions

Banks, financial institutions and non-banking financial companies (NBFC) engaged in business of deposits, extending loans or advances have an option to avail an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month or to take Input tax credit only on purchases made for selling taxable or zero rated goods or services and leave out the tax paid on purchases made for exempted supplies.

Option once exercised can not be changes during the financial year. Also restriction of 50% doesn't apply where the tax is paid on supply from one registered person to another registered person having the same Permanent Account Number.

Pipelines and Telecommunication Tower

PROVIDED that credit of input tax in respect of pipelines and telecommunication tower fixed to earth by foundation or structural support including foundation and structural support thereto shall not exceed—

- (a) one-third of the total input tax in the financial year in which the said goods are received,
- (b) two-third of the total input tax, including the credit availed in the first financial year, in the financial year immediately succeeding the year referred to in clause (a) in which the said goods are received, and
- (c) the balance of the amount of credit in any subsequent financial year.

3.6 TAX INVOICE

Under GST, the value of a **supply of goods** and/or services would be the price actually paid or payable for the said supply of goods and/or services. It is important for the the supplier and the recipient of the supply to be independent of each other, the price is the sole consideration for the supply and is the fair market value for such goods and/or service.

Issuing Invoice

A registered taxable person under **GST** supplying goods or service is required to issue a tax invoice at the time of supply of goods and/or service. Tax invoice under GST must mention the details of the supplier and recipient, the description, quantity and value of goods, the tax charged and any other particulars as may be required. Further, where any supply is made for a consideration, every person who is liable to pay tax for such supply is required to prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which will form part of the price at which such supply is made.

After issue of invoice at the time of supply, a registered taxable person can issue a revised tax invoice against the invoice already issued.

Bill of Supply

In case a registered taxable person is supplying non-taxable goods and/or services. then a bill

of supply containing details like description and quantity of goods can be provided instead of a tax invoice.

Credit Note

In case a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to exceed the taxable value and/or tax payable, then the taxable person, who has supplied such goods and/or services, can issue to the recipient a credit note before the 30th of September following the end of the financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier.

Debit Note

If a tax invoice has been issued for supply of any goods and/or services and the taxable value and/or tax charged in that tax invoice is found to be less than the taxable value and/or tax payable, then the taxable person, who has supplied such goods and/or services, can issue to the recipient a debit note. Debit note must be issued on or before the 30th of September following the end of the financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier.

Adjustment for Credit and Debit Note

A registered taxable person who issues or receives a credit or debit note in relation to a supply of goods and/or services should declare the details of such credit or debit note, in the return for the month during which such credit or debit note has been issued or received or in the return for any subsequent month but not later than September following the end of financial year in which such supply was made, or the date of filing of the relevant annual return, whichever is earlier. Based on the declaration of all credit and debit notes, the tax liability would be adjusted.

3.7 DISTRIBUTION OF CREDIT

ISD or an Input Service Distributor is a type of taxpayer under GST who needs to distribute the GST input tax credits that pertain to its GSTIN to its units or branches having different GSTIN but registered under the same PAN.

Who is an Input service distributor (ISD) under GST?

An Input Service Distributor (ISD) is a taxpayer that receives invoices for services used by its branches. It distributes the tax paid known as the Input Tax Credit (ITC), to such branches on a proportional basis by issuing ISD invoices. The branches can have different GSTINs but must have the same PAN as that of ISD.

Let's understand with an example. The head office of M/s ABC Limited is located in Bangalore having branches in Chennai, Mumbai and Kolkata. The head office incurred annual software maintenance expense (service received) on behalf of all its branches and received the invoice for the same. Since the software is used by all its branches, the input tax credit of entire services cannot be claimed in Bangalore. The same has to be distributed to all three locations. Here, the head office at Bangalore is the Input Service Distributor.

Situations where ISD is not applicable

ISD cannot distribute the input tax credit in the following cases:

- Where ITC is paid on inputs and capital goods. For instance, raw materials and machinery purchased.
- ITC cannot be distributed to outsourced manufacturers or service providers.

Purpose of registering as ISD

The concept of ISD is a facility made available to business having a large share of common expenditure and billing or payment is done from a centralized location. The mechanism is meant to simplify the credit taking process for entities and the facility will strengthen the seamless flow of credit under GST.

Insight on ISD under Earlier regime and GST regime

Point of Difference	Earlier Regime	GST Regime
1. Who can be an Input service distributor?	An office of the manufacturer or producer of final products or provider of output service	An office of the supplier of goods and/or services
2. Document	Receives invoices issued	Receives tax invoices issued by

based on which credit can be distributed	under rule 4A of Service Tax Rules, 1994 towards the purchase of input services	supplier towards receipt of input services
3. How to distribute credit?	By issuing invoice, bill or challan for the purposes of distributing to such manufacturer or producer or provider.	By issuing an ISD invoice for the purposes of distributing to a supplier of taxable goods and/or services having the same PAN as that of the office referred to above
4. Type of tax credit that can be distributed	The credit of service tax paid on the said services	The credit of CGST (or SGST) and/or IGST paid on the said services
5. To whom can it be distributed?	To its units and outsourced manufacturers	To supplier having the same PAN. i.e. credit cannot be distributed to outsourced manufacturers or service providers.

Thus, on looking into the highlighted differences between the two regimes, distribution of credit is restricted to the office having the same PAN. The reason could be due to the shift of taxable event from manufacture to supply. The tax liability would arise at the time of supply which would be ultimately paid by ISD on the utilisation of available input tax credit.

Conditions to be fulfilled by ISD

- **Registration:** Input Service Distributor has to compulsorily register as “ISD” apart from its registration under GST as a normal taxpayer. Such taxpayer has to specify under serial number 14 of the REG-01 form as an ISD. They shall be able to distribute the credit to the recipients only after this declaration.
- **Invoicing:** ISD can distribute the amount of tax credit to recipients as earlier stated by issuing an ISD invoice.
- **Returns:** Amount of tax credit distributed should not exceed the amount of tax credit available with the ISD as at the end of a relevant month to be filed in GSTR-6 by the

13th* of succeeding month by ISD. The ISD can get the information of the ITC from the GSTR-2B return.

The recipient of the tax credit can view the tax credit so distributed by ISD in GSTR-6A that is auto-populated from the supplier's return. In turn, the recipient branch can claim the same by declaring it in GSTR-3B. An ISD need not file annual returns in form GSTR-9.

- **Restriction in the distribution of Input Tax credit:** The credit of tax paid under the reverse charge mechanism is not available for distribution to the recipients. So, the ISD has to utilise such credit only as a normal taxpayer.
- The tax credit available against any specific input services used entirely by one of the recipients can be allocated only to that recipient for utilisation of such credit and not to other recipients.
- The tax credit available against the input services used commonly by more than one recipients of the ISD shall be allocated to those recipients on a proportionate basis in the ratio of the turnover of all such recipients that are operational during the year.
- The tax credit available against the input services used commonly by all the recipients of the ISD shall be allocated to all the recipients on a proportionate basis in the ratio of the turnover of all the recipients that are operational during the year.

Recovery procedure for wrongful distribution of credit by ISD

GST Act provides that the following shall be deemed to be an inappropriate distribution of tax credit by Input Service Distributor:

- Credit distributed to all or any recipient in excess of the amount available for distribution
- Distributed in an inappropriate ratio to all or any recipient
- Distributed in excess to what a supplier is entitled to and shall be recovered from such recipient(s) along with interest and the provisions of 'Demand and Recovery' shall apply for effecting such recovery.

3.8 PROCEDURES AND RECORDS FOR INPUT TAX CREDITS

'Input Tax Credit' or 'ITC' means the Goods and Services Tax (GST) paid by a taxable

person on any purchase of goods and/or services that are used or will be used for business.

ITC value can be reduced from the GST payable on the sales by the taxable person only after fulfilling some conditions. These conditions given under the GST law are more or less in line with the pre-GST regime, except for a few additional ones such as GSTR-2B. These rules are direct and maybe stringent in nature.

Conditions to claim an input tax credit under GST

Section 16 of the CGST Act lays down the conditions to be fulfilled by GST registered buyers to claim ITC. The conditions are summarised as follows-

1. Such input tax credit is eligible for claims if the goods or services purchased are further used for business purposes and not personal use.
2. Buyer must hold such tax invoice or debit note or document evidencing payment towards the purchase. **For example**, Mr Manoj wants to claim an ITC of Rs.5,600 as he found the ITC entry in GSTR-2B of January 2022 as of 10th February 2022 but he has not received the invoice till 20th February 2022, being the date of filing the returns. He cannot claim Rs.5,600 as ITC while filing GSTR-3B of January 2022 due to the absence of the invoice.
3. Such tax invoice or debit note is filed by the supplier in Form GSTR-1 and it appears in the buyer's Form GSTR-2B. **For example**, Mr Manoj received a tax invoice dated 13th January 2022 for purchases and wants to claim an ITC of Rs.5,600 but has not found the ITC entry in GSTR-2B of January 2022 as of 20th February 2022. He cannot claim Rs.5,600 as ITC while filing GSTR-3B of January 2022.
4. From 1st January 2022, the benefit of provisional ITC claims is no longer available as per Section 16(2)(aa). It means the amount of ITC reported in GSTR-3B will be a total of actual ITC in GSTR-2B. The provisional ITC of 5% of actual ITC in GSTR-2B will no longer be allowed. Hence, a regular matching of the purchase register or expense ledger with GSTR-2B is crucial. Until 31st December 2021, a regular taxpayer could have claimed provisional ITC in GSTR-3B to the extent of 5% of the ITC available in GSTR-2B, in addition to ITC in GSTR-2B.
5. The buyer has received the goods and/or services. The goods are said to be received if it is delivered by the supplier to the buyer or his representative or agent or another person as directed, against a document of transfer of title of goods. On the other hand,

the services are said to be received if it is rendered by the supplier to the buyer or another person as directed. **For instance**, Mr Manoj received a tax invoice for purchases dated 10th January 2022 but has not yet received goods until 20th February 2022. The taxpayer cannot report ITC on that tax invoice in GSTR-3B for January 2022 and may claim it in future once goods are delivered.

6. The buyer must furnish the GST returns in Form GSTR-3B.
7. Where the goods are received in lots or instalments, ITC will be allowed to be availed when the last lot or instalment is received.
8. The buyer must pay towards the supply of goods and/or services within 180 days from the invoice date. If they fail to, then the ITC already claimed will be added back to output tax liability and interest must be paid on such tax. ITC claim will be reinstated once the payment is made to the supplier.
9. No ITC will be allowed if depreciation has been claimed on the tax component of a capital good purchased.
10. ITC on a tax invoice or debit note belonging to a financial year must be claimed within the time limit given by the GST provisions, explained in the next section.
11. Common credit of ITC must be identified and split as it is used together for selling both exempt and taxable supplies, and/or business and non-business activity.
12. There are certain items listed down that are not eligible for ITC claims under Section 17(5) of the CGST Act, known as blocked credits under Section 17(5) of the CGST Act.

Time limit to claim an input tax credit under GST

The time limit to claim ITC against an invoice or debit note is **earlier of two dates, given below**:

- The due date for filing GST returns for September of the next financial year.
- The date of filing the annual returns in form GSTR-9 relating to that financial year.

For instance, XY Corp, a buyer with a purchase invoice dated 8th December 2021 (FY 2021-22), wants to claim GST paid on that purchase. As per the criteria laid down to find out the time limit, the two dates are as follows:

- The due date of filing GST return for September 2022 (belonging to FY

2022-23) is 20th October 2022**.

- The date of filing GST annual return for FY 2021-22 is 31st December 2022.

The earlier of the two is the date up till when the XY Corp can claim ITC of FY 2021-22. Therefore, the last date is 20th October 2022 and XY Corp can claim this ITC in any of the tax periods between April 2021 to September 2022.

Note: For debit notes, the above condition must be considered with respect to the debit note itself and not the original invoice that it is linked to.

**The last date is changed to 30th November of the year following the financial year, vide Budget 2022, but yet to be notified by the CBIC. Until then, the due date of September return shall be the last date.

Items on which ITC is not allowed

The input tax credit is not available for claims in the following cases-

1. **Motor vehicles**, with a seating capacity of less than or equal to 13 persons (including the driver), **goods transport agencies, vessels and aircraft**, except for a few cases. So as an exception, ITC is allowed in the below cases:
 - Such motor vehicles and conveyances are further supplied i.e. sold.
 - Transport of passengers and goods.
 - Conveyance is used for imparting training on driving, flying, and navigating such vehicles or conveyances.
2. **Services of general insurance, servicing, repair and maintenance** relating to motor vehicles, vessels or aircraft in Sl. no.1.
3. **Food and beverages**, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery.
But if the goods and/or services are taken to deliver the same category of services or as a part of a composite supply, the input tax credit will be available
Example: Mr Dev purchases cosmetic creams to supply it to a customer, then ITC on purchases will be allowed.
4. **Membership in a club**, health, and fitness centre.
5. **Rent-a-cab, health insurance and life insurance** except in the following cases

where it is allowed:

- Government makes it obligatory for employers to provide it to their employees by law. **For example**, the mandatory cab services for female staff in night shifts.
 - Goods and/or services are taken to deliver the same category of services or as a part of a composite supply, input tax credit will be available. **For example**, if Mr Dev takes the service of rent-a-cab to supply to Mr Manoj, a customer, then the ITC on purchases will be allowed.
 - Leasing, renting or hiring motor vehicles, vessels or aircraft, except cases in Sl.no. 1.
6. **Travel benefits** are extended to employees on vacation such as leave or home travel concessions.
 7. **Works contract** service for construction of an immovable property (except plant & machinery or for providing a further supply of works contract service).
 8. Goods and/or services for the **construction of an immovable property** whether to be used for personal or business use.
 9. Goods and/or services where tax has been paid under the **composition scheme**.
 10. Goods and/or services used for **personal use**.
 11. Goods or services or both are received by a **non-resident taxable person** except for any of the goods imported by him.
 12. **Goods lost, stolen, destroyed, written off or disposed of** by way of gift or free samples.
 13. ITC will not be available in the case of any tax paid due to non-payment or short tax payment, excessive refund or ITC utilised or availed by the reason of **fraud or willful misstatements or suppression of facts** or confiscation and seizure of goods.
 14. **Special cases:** Standalone restaurants will charge only 5% GST but cannot enjoy any ITC on the inputs.

For further explanation of ineligible ITC claims, read our article on 'Ineligible ITC under GST'.

Clear Solutions to claim accurate and 100% ITC

Many conditions are there to claim ITC before the last date passes. An Indian enterprise must verify the ITC details before claiming it in Form GSTR-3B for a tax period. It involves regular reconciliation of GSTR-2B with books of accounts. Further, it requires frequent follow-ups with suppliers who have not reported tax invoices or debit notes.

All these require a robust and smart solution that requires the least manual effort!

Clear GST ensures that your GSTR-2B data is fetched without manual intervention. Our advanced reconciliation engine matches data between books and GSTR-2B to identify gaps, with the option to define custom matching logic and claim 100% ITC in GSTR-3B.

Clear GST also allows users to annually reconcile ITC across financial years for accurate preparation of GSTR-9 and GSTR-9C.

Clear Max ITC is India's first end-to-end enterprise solution for maximising the claims of the input tax credit. Clear Max ITC platform has exclusive features to improve your input tax credit claims with value additions such as the following-

1. It hosts the fastest AI-based reconciliations to match invoices without any errors and help you identify 100% ITC.
2. Automated data reconciliations take place by direct data pulls from the GSTN and the ERP at regular intervals.
3. Automated vendor communication helps you to keep follow-up efforts at a bare minimum.
4. Smart payment decisions are synced to a business's ERP based on automated vendor categorisation through an intelligent vendor scoring mechanism.
5. Advanced user access management helps you define access rights for each team and keeps data absolutely secure.

The platform firstly sets up a two-way connection between it and your ERP/accounting system. It schedules automatic reconciliations of the GST details at regular time intervals and also syncs vendor payment decisions.

Your team can fix the vendor payment terms to automatically hold the GST value or the entire invoice due if your vendor has not filed GST returns. It further syncs this decision with the ERP for all future payments. If any invoice is missing and identified so, communication is auto-sent to the concerned vendor via email, WhatsApp, etc.

With passing time, you will notice that the Clear Max ITC solution has helped you reduce the number of defaulting vendors, optimise input tax credit, and unblock your working capital. We've seen that the solution has helped many of our clients reduce their GST cash outflows and Increase profits by up to 7% just by way of ITC maximisation.

3.9 UTILIZATION, RECOVERY OF INPUT TAX CREDIT

Optimising Credits in the Amended Rules for Input Tax Credit Utilisation

Just when we were settling with the existing return related procedures, the government changed the procedure for the order of set-off of the same with effect from 29th March 2019. However, the functionality of the portal continued to be the old mechanism. The new rules were laid down to reduce the balance lying under IGST Credits to optimise the distribution between the Center and the state. However, if the mechanism is not understood and off-set is not optimised, then the businesses might end up on higher working capital requirements. Thus, it becomes imperative to understand what is the change and how it will impact businesses.

The Amended Law on Order of ITC Set-Off

CGST Circular No. 98/17/2019 was issued on 23 April 2019 has clarified the order of ITC utilisation for each tax head. It further stated that until the Rule 88A of the CGST Rules was implemented on the GST portal, taxpayers had to follow the facility available on the GST portal up to July 2019. The facility was made available from July 2019 returns onwards.

Firstly, let's take a look at the two sections inserted in the CGST Act-

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

Section 49B: Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as

the case may be, towards payment of any such tax.”.

Subsequently, the rule 88A has been inserted to notify the above new provision via CT notification no. 16/2019 dated 29th March 2019.

Rule 88A: Order of utilization of input tax credit:- Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order. Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.

As per the Circular No: 98/17/2019 dated 23 April 2019, it has been clarified that- As per the provisions of Section 49 of the CGST Act, credit of integrated tax has to be utilised first for payment of integrated tax, then Central tax and then State tax, 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 State tax) through electronic cash ledger, while the input tax credit on account of other types of tax (say Central tax) remains unutilised in electronic credit ledger.

The newly inserted rule 88A in the CGST Rules allows utilisation of input tax credit of integrated tax towards the payment of Central tax and State tax, or as the case may be, Union Territory tax, in any order subject to the condition that the entire input tax credit on account of integrated tax is completely exhausted first before the input tax credit on account of Central tax or State/Union Territory tax can be utilised.

It is clarified that after the insertion of the said rule, the order of utilisation of input tax credit will be as per the order (of numerals) given below:

	Output liability on	Output liability on	
Input tax credit	account of Integrated	account of Central	Output liability on
on account of	tax	tax	account of State tax

Integrated tax	(I)	(II) – In any order in any proportion
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Output liability on account of Integrated tax Output liability on account of Central tax Output liability on account of State tax

(III) Input tax credit on account of Integrated tax to be completely exhausted mandatorily			
Central tax	(V)	(IV)	Not permitted
State tax/Union Territory tax	(VII)	Not permitted	(VI)

With the new rules in place, it is mandatory to utilise the entire IGST available in electronic credit ledger before utilising ITC on CGST or SGST. The order of setting off ITC of IGST can be done in any proportion and any order towards setting off the CGST or SGST output after utilising the same for IGST output.

What is the Maximum ITC that can be utilised to pay GST liability?

From 1st January 2021, certain taxpayers cannot utilise the ITC balance available in the electronic credit ledger to discharge more than 99% of the tax liability for a tax period. It means atleast 1% of tax liability must be paid by cash.

It applies to such taxpayers who have monthly value of taxable supplies more than Rs.50 lakh (not being exempt or zero-rated supplies). The following taxpayers are exempted from this restriction:

- A registered taxpayer where more than Rs.1 lakh is paid as income tax in the last two FY in belated IT returns of himself or his proprietor or any two partners or managing director, trustee or board, etc.
- A registered taxpayer who has received more than Rs.1 lakh as refund of unutilised input tax credit under GST, on account of zero-rated supplies without payment of tax or inverted tax structure.
- A registered taxpayer paid more than 1% of his GST liability using only his electronic cash ledger, for all the tax periods in the current FY so far.

- Government departments, PSU, local authorities, statutory bodies, etc.

For information about implications, read our article on ‘All about Rule 86B‘.

Recovery of Input Tax Credit

While paying taxes to the Government, businesses can use the credit of GST paid on the purchases like raw materials/services used for manufacturing or selling products. It is known as an Input tax credit (ITC). If the input tax credit is wrongly claimed, then it should be reversed by making the payment to that extent next month.

The article dives into the meaning, purpose, and cases under which ITC reversal is required.

What does the reversal of ITC mean?

In certain situations, even if the basic conditions for claiming ITC are satisfied, ITC claims must be reversed. Reversal of ITC means the credit of inputs utilised earlier would now be added to the output tax liability, effectively nullifying the credit claimed earlier. Depending upon when such reversal is done, payment of interest may also be required.

Specific conditions for ITC reversal

The ITC is required to be reversed under various scenarios defined in the Act. Some of those scenarios are summarised below:

Circumstances	When is ITC reversal required
The recipient fails to pay consideration to the supplier (whether fully or partly) for a particular supply	Within 180 days from the date of issue of the invoice.
Depreciation under the Income Tax Act has been claimed on the GST component of capital goods purchased	Reversal is required at the time of closing books of accounts for that financial year.
Inputs have been used to make	On a periodic basis (monthly/yearly) using a formula

an exempt supply	given below for common credits if inputs are exclusively used for making exempt supply, then reverse it as and when identified to have been claimed.
Inputs have been used for manufacturing supplies some of which were used for non-business or personal purposes	On a periodic basis (monthly/yearly) using a formula given below for common credits (if inputs used are exclusively attributable to a supply used for consumption, reverse such ITC upon identifying as having been claimed).
Cancellation of GST registration	While filing form REG-16 under various situations explained in detail in our article on the cancellation of GST registration.
Reversal of 50% of ITC by banking and other financial companies under special rules	At the time of filing regular returns.
Reversal of 5/6th of the ITC taken on gold doers in stock as on 1st July 2017	At the time of supply of either the gold doer bar or the gold/gold jewellery.
ITC has been availed on 'blocked credits'	At the time of filing regular returns up to the date of filing annual returns.
Inputs used in goods that were lost, destroyed, stolen, etc.	At the time of filing the regular returns in relation to the month in which such loss had occurred.
Inputs used in goods that were given out as free samples	At the time of filing the regular returns in relation to the month in which such free samples were given out.

Calculation of ITC under various rules

Let's check out the different rules prescribed for calculating the amount of ITC to be reversed:

Before we proceed to discuss each rule, the total ITC can be divided into the following parts:

Before we proceed to discuss each rule, the total ITC can be divided into the following parts:

Before we proceed to discuss each rule, the total ITC can be divided into the following parts:

Specific credit: ITC that can specifically be attributable to a supply – either taxable, non-taxable, or supply consumed for personal use.

Treatment: Separate such ITC amount from the total ITC since it can be easily identified.

- The amount of ITC that is only directly attributable to a particular taxable supply can be utilised. It is available in the electronic credit ledger.
- Taxpayers must reverse the amount of ITC directly attributable to a particular supply that is non-taxable/used for personal consumption, only when wrongly availed.

Common credit: ITC amount that cannot be attributable to a specific supply but is used for partly making both the taxable and non-taxable supplies/supplies used for personal consumption.

Treatment:

- Taxpayers must identify and reverse the proportionate ITC amount to the extent of supplies that are non-taxable/used for personal consumption.
- The remaining ITC left is eligible for the claim.

Rule 42 and 43: ITC reversal on the supplies that are exempt or used for personal consumption

The calculation of ITC to be reversed differs for:

- Inputs or input services- covered by rule 42
- Capital goods- covered by rule 43

Rule 42: Reversal of ITC on inputs/input services

Step-1: Businesses must first segregate the specific credits that are ineligible for the claim, from the total ITC as follows:

Variable	Formulae/ Explanation
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used	
T	Total input tax paid credit on inputs and input services
T1	Out of 'T', the specific credit attributable to inputs/input services intended to be used for non-business purposes
T2	Out of 'T', the amount of input tax attributable to inputs/input services intended to be used exclusively for effecting exempt supplies
T3	Out of 'T', the amount of input tax deemed as 'blocked credits' under section 17(5)

Note: T1, T2, and T3 must be reported in GSTR 3B at a summary level for every tax head

Step-2: Reduce T1, T2 and T3 from the total ITC and derive the common credit as follows:

C1	ITC credited to electronic credit ledger $T - (T1 + T2 + T3)$
T4	Specific credit on inputs/input services attributable exclusively for making taxable supplies. This would also include zero-rated supplies like exports and supplies to SEZ.
C2	Common credit $C1 - T4$ ITC on the inputs that is assumed to have been used partly in making taxable supplies and partly in making exempt supplies or used for a non-business purpose.

Step-3: Compute the amount of ITC to be reversed out of the common credit as follows:

D1	The ITC attributable towards exempt supplies out of common credit: $(E \div F) \times C2$ Where:
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	<p>E: Aggregate value of exempt supplies during the tax period</p> <p>F: Total turnover in the State of the registered person during the tax period</p> <p>Note: For building construction services, $(E \div F)$ will be calculated on a project basis</p> <p>where:</p> <ul style="list-style-type: none"> – E stands for aggregate carpet area of exempt construction project or apartments sold after construction is over – F stands for aggregate carpet area of the apartments in the project
D2	Deemed to be ITC attributable for non-business purposes out of common credit: 5% of C2
C3	Remaining eligible ITC out of common credit: $C2 - (D1 + D2)$

Based on the above calculations, D1 and D2 will be the ITC that needs to be reversed.

Illustration:

Consider the following scenario for the month of July 2020 in relation to supplies made in Karnataka:

Particulars	Amount (in Rs)
Total ITC available (T)	1,50,000
ITC on inputs attributable to supply used by Director for personal use (T1)	7,500
ITC on inputs to be used exclusively for making exempt supply (T2)	15,000

Blocked credits (for example, GST portion paid in respect of taxi service obtained) (T3)	4,500
ITC on inputs used exclusively for making taxable supplies (T4)	1,05,000
The aggregate value of exempt supplies made in July (E)	2,25,000
Total turnover in Karnataka (F)	30,00,000

Solution:

$C1 = T - (T1+T2+T3)$; $C1 = 1,50,000 - (7,500+15,000+4,500)$, therefore, $C1 = 1,23,000$.

The common credit $C2 = C1 - T4$, i.e., $C2 = 1,23,000-1,05,000$, i.e., $C2 = 18,000$.

$D1 = (E \div F) \times C2$, i.e., $D1 = (2,25,000 \div 30,00,000) \times 18,000$, i.e., $D1 = 1,350$.

$D2 = 5\%$ of $C2$, i.e., $D2 = 900$.

$C3 = C2 - (D1 + D2)$, i.e., $C3 = 15,750$.

So, out of the originally available ITC of Rs. 1,50,000, only $C3$ (Rs. 15,750) and $T4$ (Rs. 1,05,000) were credited ultimately to the electronic credit ledger and $D1$ (Rs. 1,350) and $D2$ (Rs. 900) were required to be reversed.

Rule 43: Reversal of ITC on capital goods

The first step is to find out if the ITC falls under the following criteria:

- The ITC is in relation to capital goods that have been used exclusively for non-business purposes or for making exempt outward supplies. OR
- The ITC is in relation to capital goods that have been used exclusively for making supplies other than exempt supplies. Note that this would include zero-rated supplies too.

In case the ITC falls under category ‘A’ above, then credit will not be allowed in respect of the same. In case the ITC falls under category ‘B’ above, then credit will be allowed and taken to the electronic credit ledger. The useful life of capital goods is taken to be five years from the date of invoice.

This is done so that in case the capital goods were covered in category ‘A’ or ‘B’ as mentioned earlier and are now not covered under either category, then the ITC would be called ‘common credit’ or ‘Tc’ and 5% would have to be deducted from this common credit for every quarter or part quarter for the time it was covered in the category ‘A’ or ‘B’.

The useful life of the capital goods has been taken as 5 years, but our filing period relates to the supplies made/received in a particular month, so we will first find the ITC attributable to a month by dividing the credit by 60.

Variable used	Formulae / Explanation
Tm	$Tc \div 60$ Amount of ITC attributable to a tax period (a month) on common capital goods during their useful life
Try	Aggregate Tm of all those capital goods which have useful life remaining at the beginning of the tax period
The	<p>This is the common credit attributable towards exempted supplies, which is calculated as follows: $(E \div F) \times Try$</p> <p>Where:</p> <ul style="list-style-type: none"> -E: Aggregate value of exempt supplies made during the tax period -F: Total turnover in the State of the registered person during the tax period <p>Note: For building construction services, $(E \div F)$ will be calculated on a project basis</p> <p>where:</p> <ul style="list-style-type: none"> -E stands for aggregate carpet area of exempt construction project or apartments sold after construction is over -F stands for aggregate carpet area of the apartments in the project

Thus, the ___14 calculated above will be the ITC in respect of capital goods that are required to be reserved or added to the output tax liability. Note that the above calculations would slightly differ if the supply is in the nature of services covered under Paragraph 5(b) of Schedule II of the CGST Act.

Illustration:

A company operating in Karnataka had availed the following ITC on various capital goods purchased in the month of July 2020:

Particulars	Amount (in Rs)
ITC on Machine A (used exclusively in the supply of exempt goods)	1,50,000
ITC on Machine B (used exclusively in the supply of taxable goods)	9,00,000
ITC on Machine C (used exclusively for non-business purposes)	20,000
ITC on Machine D (used partly in the supply of taxable and exempt goods)	4,50,000

The company had also made the following type of output supplies in Karnataka in the month of July:

Turnover in relation to exempt supplies: Rs. 20,00,000

Turnover in relation to taxable supplies: Rs. 80,00,000

Solution:

ITC on machine A and C will not be credited to the electronic credit ledger (1,50,000+20,000 = 1,70,000).

ITC on machine B will be credited to the electronic ledger: Rs. 9,00,000

ITC on machine D will also be credited to the electronic credit ledger:

$$T_c = 4,50,000$$

$T_m = T_c \div 60 = 7,500$ which is also T_{ry} in this case.

The amount of ITC to be reversed for the month of July, 2020 would be: $= (E \div F) \times T_{ry} = (20,00,000 \div 80,00,000) \times 7,500 = 1,875$

Thus, the total ITC credited to the electronic ledger for the month of July 2020 = Rs. 10,70,000 and total ITC reversed for July, 2020 = Rs. 1,875

Rule 44: Reversal of ITC in case of cancellation of GST registration or switches to composition scheme

The aim of this rule is to reverse all the ITC that has been availed by a registered person in the event that he chooses to pay tax under the composition scheme or his registration gets cancelled for any reason.

The calculation is done as follows:

- For inputs held in stock or contained in semi-finished goods and finished goods in stock, the ITC must be reversed is calculated proportionate to corresponding invoices on which credit was taken. Thus ITC will be allowed only up to the time the registered person switches to the composition scheme or on cancellation of registration.
- In the case of capital goods, ITC availed will be based on the useful life (in months) and shall be computed on a pro-rata basis. Thus ITC for the remaining useful life of the asset must be reversed while switching over to the composition scheme or on cancellation of registration.

Rule 44A: Balance transitional ITC to be reversed on 1st July 2017 for gold doer bars

This rule relates to ITC taken under the transitional provisions of the CGST Act.

It is based on CENVAT credit available under the earlier scheme of taxation in respect of additional duty of customs (section 3(1) of the Customs Tariff Act, 1975) paid for importation of gold doer bars.

Where stock of such gold doer bar (raw material) or gold jewellery (final product) lies with the taxpayer on 1 July, 2017, the ITC will be restricted to 1/6th of the credit availed in respect of such gold doer bar.

Hence, 5/6th of the credit availed must be reversed at the time of supply of either the gold doer bar or the gold/gold jewellery made out of it.

Reporting of ITC reversal in GSTR-3B

The amount of ITC reversal needs to be calculated by the taxpayer himself and filled up in Table 4B of GSTR-3B. The ITC reversed that needs to be reported is of two types –

- ‘As per rules 42 & 43 of CGST/SGST Rules’, where the ITC attributable to exempt or non-business supply is required to be calculated by us using the formula mentioned

earlier and entered in this field – thus this field will not be auto-populated; and

- ‘Others’, where ITC reversal due to other circumstances will have to be reported;

Reporting of ITC reversal in GSTR-9

GSTR-9 (annual return) will also need to be filled up with details regarding ITC reversed for the whole year. Wherever possible, the details will be auto-filled on the basis of the data entered in the monthly form GSTR-3B but changes can be made by the taxpayer wherever required.

Table 7 contains the details of ITC reversed and ineligible ITC for the financial year. The relevant details need to be provided for the whole year accordingly.

3.10 LEVY AND COLLECTION

Relevant Notifications

1.1 Notified supplies which shall be treated neither as a supply of goods nor as a supply of services

In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the Central Government or State Government [or Union territory] or any local authority in which they are engaged as public authority, shall be treated neither as a supply of goods nor a supply of service, namely:—

“Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution [or to a Municipality under article 243W of the Constitution].”

This notification shall come into force with effect from the 1st day of July, 2017.—

Notification No. 14/2017-Central Tax (Rate), dated 28-6-2017, as amended by, Notification No. 16/2018-Central Tax (Rate), dated 26-7-2018.

Notified supplies which shall be treated neither as a supply of goods nor a supply of services

In exercise of the powers conferred by sub-section (2) of section 7 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council hereby notifies that the following activities or transactions undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service, namely:—

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

—Notification No. 25/2019-Central Tax (Rate), dated 30-9-2019.

Supplies which shall be treated neither as supply of goods nor supply of services

Notification No. 11/2017-Integrated Tax (Rate), dated 28-6-2017—For details see **section 20 of Integrated Goods and Services Tax Act, 2017.**

Notified supplies which shall be treated neither as a supply of goods nor a supply of services

Notification No. 24/2019-Integrated Tax (Rate), dated 30-9-2019—For details see **section 20 of Integrated Goods and Services Tax Act, 2017.**

Relevant Circulars

Taxability of inter-State movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

The inter-State movement of goods like movement of various modes of conveyance, not involving further supply of such conveyance between distinct persons as specified in section 25(4) of the CGST Act, 2017, may not be treated as supply and consequently IGST will not be payable on such supply.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.—Circular No. 1/1/2017-IGST, dated 7-7-2017.

GST on Inter-State Transfer of Aircraft Engines, Parts and Accessories for use by their own Airlines

1. Under Schedule I of the **CGST Act**, supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST.
2. The credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-State supply of such aircraft engines, parts & accessories by way of inter-State stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.—Circular No. 16/16/2017-GST, dated 15-11-2017.

Inter-State movement of rigs, tools and spares and all goods on wheels (like cranes)

Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes] shall be treated ‘neither as a supply of goods or supply of service, (except in cases where movement of such goods is for further supply of the same goods)’ and consequently no IGST would be applicable on such movements.

In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case may be, is leviable on repairs and maintenance done for such goods.—Circular No. 21/21/2017-GST, dated 22-11-2017.

Sending of art works to gallery not a supply

In case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.—Circular No. 22/22/2017-GST, dated 21-12-2017.

Taxability of tenancy rights under GST

The activity of transfer of ‘tenancy rights’ is squarely covered under the scope of supply and taxable per se. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, renting of residential dwelling for use as a residence is exempt [Sl. No. 12 of Notification No. 12/2017-Central Tax (Rate)]. Hence, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt. As regards services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy

premium is liable to GST.—Circular No. 44/18/2018-CGST, dated 2-5-2018.

Taxability of servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately

The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.

Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately be.—Circular No. 47/21/2018-GST, dated 8-6-2018.

Taxability moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer and reversal Input Tax Credit

Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.

Further while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the CGST Act.

However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business be.—Circular No. 47/21/2018-GST, dated 8-6-2018.

Del Credere Agent (DCA) as agent under Para 3 of Schedule I of the CGST Act

Whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:

- In case where the invoice for supply of goods is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of agent.
- In case where the invoice for supply of goods is issued by the DCA in his own name, the DCA would fall under the ambit of agent.—Circular No. 73/47/2018-GST, dated 5-11-2018.

Scope of Principal-agent relationship in the context of Schedule I of CGST Act

The two limbs of any supply under GST are “consideration” and “in the course or furtherance of business”. Where the consideration is not extant in a transaction, such a transaction does not fall within the ambit of supply. But, in certain scenarios, as elucidated in Schedule I of the CGST Act, the key element of consideration is not required to be present for treating certain activities as supply. One such activity which has been detailed in para 3 of Schedule I (hereinafter referred to as “**the said entry**”) is reproduced hereunder:

Supply of goods

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Here also, it is worth noticing that all the activities between the principal and the agent and vice versa do not fall within the scope of the said entry. Firstly, the supply of services between the principal and the agent and vice versa is outside the ambit of the said entry, and would therefore require “consideration” to consider it as supply and thus, be liable to GST. Secondly, the element identified in the definition of “agent”, i.e., “**supply or receipt of goods on behalf of the principal**” has been retained in this entry.

The key ingredient for determining relationship under GST would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry.

However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered by the said entry. In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.—Circular No. 57/31/2018-GST, dated 4-9-2018, as amended by Circular No. Cbec/20/16/04/2018-GST, dated 5-11-2018.

GST on supply of cranes, rigs, tools and Spares and other machinery, when moved from one state to another by a person on his account for there, use for supply of service

Any inter-State movement of goods for provision of service on own account by a service provider, where no transfer of title in such goods or transfer of goods to the distinct person by way of stock transfer is not involved, does not constitute a supply of such goods. Hence, any such movement on own account (not involving distinct person in terms of section 25), where such movement is not intended for further supply of such goods does not constitute a supply and would not be liable to GST.—Circular No. 80/54/2018-GST, dated 31-12-2018.

Taxability in case of Buy one get one free offer

As per of section 7(1)(a) of the CGST Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as ‘supply’ under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like ‘Buy One, Get One Free’, one item is being ‘supplied free of cost’ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.—Circular No. 92/11/2019-GST, dated 7-3-2019.

Applicability of GST on additional/penal interest

The transaction of levy of additional/penal interest does not fall within the ambit of entry 5(e) of Schedule II of the CGST Act i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act”, as this levy of additional/penal interest satisfies the definition of “interest” as contained in Notification No. 12/2017-Central Tax (Rate), dated

28-6-2017. However any service fee/charge or any other charges that are levied by lender in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017, and accordingly will not be exempt.

Further as per the provisions of section 15(2)(d) of the CGST Act, the amount of penal interest is to be included in the value of supply where such interest is charged by supplier of taxable goods/services. In such cases, the penal interest would be taxable as it would be included in the value of the taxable supply, irrespective of the manner of invoicing.—Circular No. 102/21/2019-GST, dated 28-6-2019, as amended by, Corrigendum No. CBEC/20/16/4/2018-GST, dated 15-7-2019.

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

(a) The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of six months from the date of removal as per the provisions contained in section 31(7) of the CGST Act.

(b) The supply would be deemed to have taken place, on the expiry of six months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.

(c) If the specified goods are sold abroad, fully or partially, within the specified period of six months, the supply is effected, in respect of quantity so sold, on the date of such sale.—Circular No. 108/27/2019-GST, dated 18-7-2019.

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

The activity of sending/taking the goods out of India for exhibition or on consignment basis for export promotion, except when such activity satisfy the tests laid down in Schedule I of the CGST Act (hereinafter referred to as the “specified goods”), do not constitute supply as the said activity does not fall within the scope of section 7 of the CGST Act as there is no consideration at that point in time. Since such activity is not a supply, the same cannot be considered as ‘Zero rated supply’ as per the provisions contained in section 16 of the IGST Act.—Circular No. 108/27/2019-GST, dated 18-7-2019.

Taxability of supply of securities under Securities Lending Scheme, 1997

The activity of lending of securities is not a transaction in securities as it does not involve

disposal of securities. The clause 4 of para 4 relating to the Scheme under the Securities Lending Scheme, 1997 doesn't treat lending of securities as disposal of securities and therefore is not excluded from the definition of services.

The lender temporarily lends the securities held by him to a borrower and charges lending fee for the same from the borrower. The borrower of securities can further sell or buy these securities and is required to return the lent securities after stipulated period of time. The lending fee charged from the borrowers of securities has the character of consideration and this activity is taxable in GST since 01.07.2017.

Apart from above, the activities of the intermediaries facilitating lending and borrowing of securities for commission or fee are also taxable separately – Circular No. 119/38/2019-GST, dated 11-10-2019.

GST on license fee charged by the States for grant of liquor licences to vendors

Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, by State Government as neither a supply of goods nor a supply of service as per Notification No. 25/2019-Central Tax (Rate) dated 30th September, 2019.

This special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.—Circular No. 121/40/2019-GST, dated 11-10-2019.

Levy of GST on the services of display of name or placing of name plates of the donor in the premises of Charitable Organisation receiving donation or gifts from individual donors

Where all the three conditions namely the gift or donation is made to a charitable organization, the payment has the character of gift or donation and the purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement, are satisfied, GST is not leviable – Circular No. 116/35/2019-GST, dated 11-10-2019.

Levy and collection of tax – Clarification in respect of Levy of Gst on Director's Remuneration

It is clarified that the part of Director's remuneration which are declared as 'Salaries' in the

books of a company and subjected to TDS under section 192 of the IT Act, are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III of the CGST Act, 2017.

It is further clarified that the part of employee Director's remuneration which is declared separately other than 'salaries' in the Company's accounts and subjected to TDS under section 194J of the IT Act as Fees for professional or Technical Services shall be treated as consideration for providing services which are outside the scope of Schedule III of the CGST Act, and is therefore, taxable. Further, in terms of notification No. 13/2017-Central Tax (Rate), dated 28-6-2017, the recipient of the said services i.e. the Company, is liable to discharge the applicable GST on it on reverse charge basis – Circular No. 140/10/2020-GST, dated 10-6-2020.

GST on liquidated damages

The amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

The key in such cases is to consider whether the impugned payments constitute consideration for another independent contract envisaging tolerating an act or situation or refraining from doing any act or situation or simply doing an act. If the answer is yes, then it constitutes a 'supply' within the meaning of the Act, otherwise it is not a "supply".—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on penalty paid by builder to buyers for delayed construction of houses

It is a penalty paid by the builder to the buyers to compensate them for the loss that they suffer due to such delayed construction and not for getting anything in return from the buyers. Thus no GST will apply.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on forfeiture of earnest money

Forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or by Government or local authority in the event of a

successful bidder failing to act after winning the bid, for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Forfeiture of Earnest money is stipulated in such cases not as a consideration for tolerating the breach of contract but as a compensation for the losses suffered and as a penalty for discouraging the non-serious buyers or bidders. Such payments being merely flow of money are not a consideration for any supply and are not taxable.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on pre-payment penalty charged by Bank

Such amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of prepayment of loan. Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply, as discussed in detail in the later paragraphs. Naturally, such payments will not be taxable if the principal supply is exempt.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on compensation for cancellation of coal blocks

There was no agreement between the prior allottees of coal blocks and the Government that the previous allottees shall agree to or tolerate cancellation of the coal blocks allocated to them if the Government pays compensation to them. Therefore, it would be incorrect to say that the prior allottees of the coal blocks supplied a service to the Government by way of agreeing to tolerate the cancellation of the allocations made to them by the Government or that the compensation paid by the Government for such cancellation in pursuance to the order of the Supreme Court was a consideration for such service. Therefore, the compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on penalty imposed for violation of laws

There is no agreement between the Government and the violator specifying that violation

would be allowed or permitted against payment of fine or penalty. There cannot be such an agreement as violation of law is never a lawful object or consideration. It was also clarified vide Circular No. 192/02/2016-Service Tax, dated 13.04.2016 that fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to Service Tax. The same holds true for GST also.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period

The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation. Further, the employee does not get anything in return from the employer against payment of such amounts. Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on Compensation for not collecting toll charges

It has been clarified vide Circular No. 212/2/2019-ST dated 21.05.2019 that the service that is provided by toll operators is that of access to a road or bridge, toll charges being merely a consideration for that service. During the period from 8.11.2016 to 1.12.2016, the service of access to a road or bridge continued to be provided without collection of toll from users. Consideration came from the project authority. The fact that for this period, for the same service, consideration came from a person other than the actual user of service does not mean that the service has changed.—Circular No. 178/10/2022-GST dated 3-8-2022.

GST on Late payment surcharge or fee

Since it is ancillary to and naturally bundled with the principal supply such as of electricity, water, telecommunication, cooking gas, insurance etc. it should be assessed at the same rate as the principal supply.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on Fixed Capacity charges for Power

Both the components of the price, the minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are thus not taxable as electricity is exempt from GST. Power purchase agreements may have provisions that the

power producer shall not supply electricity to a third party without approval of buyer. Such agreements which ensure assured supply of power to State Electricity Boards/DISCOMS are ancillary arrangements; the contract is essentially for supply of electricity.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on Cancellation charges

The amount forfeited in the case of non-refundable ticket for air travel or security deposit or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.—Circular No. 178/10/2022-GST, dated 3-8-2022.

GST on issue of tax invoice without underlying supply

If there is no supply in respect of tax invoice in terms of Section 7 of the CGST Act, no tax liability arises on issuer of such tax invoice.—Circular No. 171/03/2022-GST, dated 6-7-2022.

Perquisites provided by employer to the employees as per contractual agreement

Schedule III to the CGST Act provides that “services by employee to the employer in the course of or in relation to his employment” will not be considered as supply of goods or services and hence GST is not applicable on services rendered by employee to employer provided they are in the course of or in relation to employment.

Any perquisites provided by the employer to its employees in terms of contractual agreement entered into between the employer and the employee are in lieu of the services provided by employee to the employer in relation to his employment. It follows therefrom that perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST when the same are provided in terms of the contract between the employer and employee.—Circular No. 172/04/2022-GST, dated 6-7-2022.

Relevant Case Laws

Advance, forfeiture of

Advance forfeited by applicant received from prospective buyer, on account of non-fulfilment of conditions as stipulated in agreement of purchase of land shall be treated as supply of service and be liable to GST – Fastrack Deal Comm (P.) Ltd., In re [2021] 124

taxmann.com 399 (AAR – Gujarat)

AMC services

Where applicant provides AMC services in respect of equipments supplied to customers across India and these AMC contracts are executed by one JNSIPL, Maharashtra and further, applicant, on request for goods to execute contractual obligation, delivers goods from its account to ultimate consumer and raises invoice on JNSIPL, Maharashtra and charges IGST on invoice, delivery of spares by applicant to ultimate consumer on account of JNSIPL, Maharashtra would not amount to a supply to ultimate consumer – Juniper Networks Solution (P.) Ltd., In re [2019] 110 taxmann.com 350 (AAR – Karnataka)

Answer booklet, printing of

Where applicant received an order from Karnataka State Secondary Education Board for printing of answer booklet, centre pinning and hand numbering and only content of water mark to be printed on each page of answer booklet along with format and design is supplied by Board, whereas printing inputs as well as paper belong to applicant, supply of printed, centre pinned and hand numbered answer booklet to Karnataka State Secondary Education Board constitutes supply of goods – Datacon Technologies, In re [2019] 110 taxmann.com 394 (AAR – Karnataka)

Banking codes and standards, development of

Activities undertaken by applicant such as developing, publishing and publicizing banking codes and standards for its member banks, monitoring its compliance, and, undertaking further research with regard to codes and standards and also training bank employees about these codes would fall under category of ‘supply of services’, and, contribution made by member banks to applicant in form of annual membership fees and registration fees for performing said activities would be eligible to GST – Banking Codes & Standards Board of India, In re [2018] 100 taxmann.com 404 (AAR – Maharashtra)

Bonus

Where applicant is Del Credere Agent of supplier of goods and collection of payment from customers is its responsibility and if a customer makes payment to applicant before 10 days credit period, then he asks applicant for additional bonus towards early payment, additional bonus passed on by applicant to customer is not in nature of a ‘supply’ – *K. K. Polymers*, In re [2018] 100 taxmann.com 17/[2019] 72 GST 41 (AAR – Rajasthan)

Books, sale and purchase outside India

Where applicant is involved in supply of books, purchased from Amazon, USA from a place outside India, to another place outside India, without said goods entering into India, impugned supply of books by applicant is neither supply of goods nor supply of services in terms of Schedule III to section 7 – *Guitar Head Publishing LLP*, In re [2021] 130 taxmann.com 242/87 GST 778 (AAR – Karnataka)

Building, construction for sale

Determining factor as to whether GST liability will be attracted for services of construction of building/apartment intended for sale is receipt of consideration in respect of contract of sale – If any consideration is received in respect of contract, before issuance of completion certificate then activity/transaction shall fall within scope of supply as defined in sub-section (1) of section 7 and consequently would be deemed to be a supply of services as per provisions contained in sub-section (1A) of section 7 read with paragraph 5(b) of Schedule II – Confederation of Real Estate Developers Association of India, In re [2021] 133 taxmann.com 252/[2022] 89 GST 319 (AAR – Kerala)

- Where applicant and one ‘P’ have amalgamated their land parcels to construct a multi-storeyed building on it on condition that legal ownership of land parcels will continue to be vested with applicant and ‘P’ respectively, pooling of land by way of amalgamation of separate parcels would not constitute a supply but activity of construction undertaken by applicant with respect to share belonging to ‘P’ is a supply of service – *Gowra Ventures (P.) Ltd.*, In re [2018] 98 taxmann.com 320 (AAR – Telangana)

Business arrangement

Where applicant-AAI conducted bidding process for undertaking operation, management and development of certain airports of AAI on a public private partnership basis in which concessionaire who is successful bidder formed a Special Purpose Vehicle (SPV) to carry contract, said business arrangement between AAI and SPV is a supply of transfer of going concern service as per section 7(1) – *Airport Authority of India*, In re [2021] 131 taxmann.com 249 /88 GST 670 (AAR – Gujarat)

Business chain, sale of one outlet

Where under ‘Purchase agreement’, an operating outlet is sold to purchaser along with all of

its assets which are necessary for continuing outlet's operations with regularity and permanency, Since only one outlet of business chain is being transferred/sold to recipient, it is not a case of transfer of an ongoing concern as a whole and transfer of business assets is covered under category of 'supply of goods' and transaction becomes a taxable event in terms of provisions of section 7 – *Tea Post (P.) Ltd.*, In re [2021] 123 taxmann.com 281/86 GST 726 (AAR – Gujarat)

Canteen bill payment of employees

Where applicant-society, engaged in processing of milk and milk Products provides lunch and refreshments to its employees, by engaging a contractor and premises is provided to contractor in area of applicant's factory, since applicant merely pays part of value of canteen bill, on behalf of employees, and is not involved in provision of any supply to contractor, instant activity of applicant does not amount to supply in terms of section 7(1) – *Dakshina Kannada Co-op. Milk Producers Union Ltd.*, In re [2021] 131 taxmann.com 8/88 GST 114/55 GSTL 574 (AAR – Karnataka)

Cattle feed, manufacturing of

Where applicant is engaged in manufacturing of Cattle Feed and Poultry Feed on job work basis and total raw material is supplied by principal manufacturer, activity undertaken by applicant is covered under definition of supply – *Gupta Steel Udyog*, In re [2019] 110 taxmann.com 242 (AAR – Punjab)

Central Government, State Government etc., transactions undertaken for

E-procurement transaction fee collected on behalf of ITE&C department as custodian is not liable to GST as amounts so collected are for services rendered by State Government – *Andhra Pradesh Technology Services Ltd.*, In re [2018] 99 taxmann.com 100/[2019] 71 GST 160 (AAR – Andhra Pradesh)

- Where applicant-company has been entrusted with contract for construction of road by Government and funds will be provided to NHPC in form of grants, applicant, being a Government company, is entitled to exemption under Notification No. 12/2017 – Central Tax (Rate) dated 28-6-2017. – *NHPC Ltd.*, In re [2018] 100 taxmann.com 16/[2019] 71 GST 202 (AAR – Uttarakhand)

Cheque dishonour fee

Where applicant is engaged in making supply of Electrical energy to customers and it

recovers electricity charges from customers as per tariff rates fixed by Rajasthan Electricity Regulatory Commission and also recovers cheque dishonour fee from customers in cases where cheques given by them are dishonoured, cheque dishonour fee is a consideration for ‘tolerating an act’, which is supply in terms of clause 5(e) of Schedule II to Central Goods and Services Tax Act and hence leviable to GST – TP Ajmer Distribution Ltd., In re [2019] 103 taxmann.com 227 (AAAR – Rajasthan)

Coaching services through partner

Where applicant intends to provide coaching services to its enrolled students through Network partner and it shall provide study material and student kit which will include test paper, printed material, uniform, bag and other goods and students enrolled with applicant will be charged a consolidate amount which will include supply of goods and/or services, supply made by applicant will be considered a supply of service – *Symmetric Infrastructure (P.) Ltd.*, In re [2021] 130 taxmann.com 136/88 GST 816 (AAR – Rajasthan)

Club

Where entire subscription/membership amount collected by appellant rotary club from its members was not being utilized for providing any facility or benefit to any of its members, it was to be concluded that appellant was not doing any business as envisaged under section 2(17) and therefore, activities carried out by appellant would not come under scope of supply as envisaged under section 7(1) – Rotary Club of Mumbai Queens Necklace, In re [2020] 117 taxmann.com 449 (AAAR – Maharashtra)

- Amount collected from members by club which is used for administrative purpose and meetings, is consideration for supply of goods or services procured from third parties and provided to members; activity being covered under term supply is liable to GST – Rotary Club of Bombay Queen City, In re [2021] 132 taxmann.com 298/[2022] 89 GST 226 (AAR – Maharashtra)
- Where Lions Club collects fee from its members in form of entrance fee and annual membership fee and spends same for meeting administrative expenses and towards organising leadership programme for direct and indirect benefits of members, transaction between Lions Club and its members is nothing but supply and accordingly will attract GST – Assistant Commissioner, Central Tax v. Lions Club of Poona Kothrud [2020] 115 taxmann.com 168 (AAAR – Maharashtra)

- Amount collected as membership subscription and admission fees from members by club which is used for meetings, communication expenses, etc., is consideration for supply of goods or services procured from third parties and provided to members; activity is covered under term supply and is liable to GST – Rotary Club of Nagpur Vision, In re [2021] 133 taxmann.com 25 (AAR – Maharashtra)
- Where applicant-club is collecting GST on subscription fee and infrastructure development fund from its members, applicant is not liable to pay GST on subscription fees and infrastructure development fund collected from members and this ruling is subject to amendment to CGST Act by section 1 of Finance Act, 2021, as and when it is notified – Bowring Institute, In re [2021] 127 taxmann.com 166/86 GST 608/50 GSTL 440 (AAR – Karnataka)

Commission Agent

Where applicant is providing service of a commission agent and has been allowed commission of 2 per cent by NAFED for procurement of oilseeds and pulses, either, through Kray Vikray Sahakari Samiti (KVSS) or by itself, activity undertaken by the applicant, though involves transfer of title of holding goods but since it is not for consideration, it does not fall under sub-section (a) of section 7. However, activity of further supply of goods on direction of NAFED by the applicant is a supply of goods under Schedule-I of CGST/SGST Act, 2017, and attracts GST as applicable – *Rajasthan Rajya Sahakari Kriya Vikraya Sangh Ltd.*, In re [2019] 104 taxmann.com 415/74 GST 61 (AAR – Rajasthan)

Commercial Built-up Area, Sale of

Where Ministry of Housing and Urban Affairs (MoHUA), Government of India, under a MOU, has appointed applicant as executing agent for redevelopment of certain colonies in Delhi by constructing dwelling units, commercial space and supporting infrastructure and maintenance thereof and in terms of MOU, applicant has announced sale of commercial super built-up area on behalf of MoHUA, sale of commercial built-up area is a supply of service – *NBCC (India) Ltd.*, In re [2018] 98 taxmann.com 333/70 GST 662 (AAR – New Delhi)

Compensation to tenant towards alternate accommodation/delayed possession

Amount received by tenant towards alternate accommodation or delayed possession of new premises would be receipt of amounts for doing an act, *i.e.*, vacating premises for

redevelopment as well as tolerating construction cum redevelopment work till possession of new redeveloped premises and further for tolerating an act of not having completed redevelopment period within time, same would be a 'supply' and therefore, GST to be levied on such amount – Zaver Shankarlal Bhanushali, In re [2018] 95 taxmann.com 3/68 GST 730 (AAR – Maharashtra)

Complimentary tickets, free of charge

Activity of applicant of providing complimentary tickets free of charge to certain persons would be considered as supply of service as per provisions of both section 7(1)(a) and 7(1)(d) and would, therefore, be exigible to tax as per provisions of section 9 – *K.P.H. Dream Cricket (P.) Ltd.*, In re [2018] 98 taxmann.com 243 (AAR – Punjab)

- Where petitioner filed a writ petition in nature of PIL seeking direction to respondent No. 1 to pay GST at rate of 18 per cent on complimentary tickets given for four IPL matches held in Usha Raje Holkar Stadium, Indore, since entire petition was based on report published in local newspaper about distribution of free passes worth Rs. 80 lakhs to Collector, writ petition was not liable to be entertained – *Digvijay Singh Bhandari v. Nishant Warwade* [2018] 96 taxmann.com 464/69 GST 271 (MP)

Co-operative societies, in case of

Where applicant, a co-operative educational institute registered under Maharashtra State Co-operative Societies Act, 1960, provides education to members of co-operative societies in State of Maharashtra and charges annual fees/contribution from its member societies, activity undertaken by applicant is covered within scope of supply of services and liable to GST at applicable rates – *Maharashtra Rajya Sahakri Sang Maryadit*, In re [2018] 100 taxmann.com 239 (AAR – Maharashtra)

- Where applicant, a co-operative housing society, provides services to its members in form of facilities or benefits like security, cleaning, repairs, water, common electricity, amounts received by applicant from its members against maintenance charges are nothing but consideration received for supply of goods/services as a separate entity and applicant is liable to pay GST on maintenance charges – *Emerald Court Co-operative Housing Society Ltd.*, In re [2021] 129 taxmann.com 369/87 GST 311/54 GSTL 41 (AAR – Maharashtra)
- Where applicant, a Housing Co-operative Society, is an unincorporated body and a non-profit entity and it collects maintenance charges (repair and maintenance fund

and sinking fund) separately from its members for providing services and goods for common use of its members and issues monthly bill, it is ruled that applicant is engaged in supply of services to its members and GST is applicable on repair and maintenance fund and sinking fund – Forest County Co-operative Housing Society Ltd., In re [2021] 130 taxmann.com 373/87 GST 675 (AAR – Maharashtra)

Crane hiring services

Activity of providing crane on hire is nothing but transfer of right in cranes without transfer of title thereof and is, therefore, a supply of service – *Sanghvi Movers Ltd.*, In re [2018] 98 taxmann.com 332 (AAR – Maharashtra)

De-oiled cake, sale of

The word supply replaces the operative term sale. Thus no scope has been left for any confusion and the definition includes every term which is in any form liable to be termed as sale. Even the supply which is made or agreed to be made without a consideration will also amount to sale. Thus, sale of de-oiled cake is undoubtedly ‘supply’ – *Indo Prosoya Foods (P.) Ltd.*, In re [2019] 111 taxmann.com 116/76 GST 672 (AAAR – Uttar Pradesh)

Developed plot, sale of

Where applicant is engaged in promotion of gated community villas for prospective villa buyers and It buys land in its own name and develops land and after getting lay-out approvals in its name sells plots to various prospective buyers without any construction activities, sale of developed plots/land by applicant without receiving any advance from customers for undertaking development activities is covered by Para 5 of Schedule III of CGST Act and it is neither supply of goods nor a supply of services and such sale is not liable to GST – *Dharmic Living (P.) Ltd.*, In re [2021] 131 taxmann.com 164/53 GSTL 462 (AAR – Kerala)

- Where appellant engaged in business of property development has entered into a joint development agreement with landowners for development of land into residential layout, where cost of development shall be borne by appellant, and revenue accruing from sale of plots is to be shared between landowners and appellant, activities undertaken by appellant amount to supply of service to landowners – *Maarq Spaces (P.) Ltd.*, In re [2020] 116 taxmann.com 702 (AAAR – Karnataka)

Diamonds, supply of

Mere deposit of diamond with safe vaults acknowledged by Electronic Vault Receipts (EVR)

does not constitute of supply of diamonds for purpose of levy of GST but conversion of Electronic Vault Receipts representing diamonds held in Vaults to e-Units would constitute a supply of diamonds liable to tax – *Rajarithnam’s Jewels*, In re [2018] 96 taxmann.com 244/69 GST 434 (AAR – Karnataka)

Donations

Donations received by trust without any instruction would not be taxable, however where donor is clearly receiving identifiable benefits in return either in terms of advertising or publicity, said donation amount received is to be treated as a consideration for supply of goods or services or both and liable to GST – *Students’ Welfare Association*, In re [2019] 103 taxmann.com 449/73 GST 650 (AAR – Maharashtra)

Electricity supply/distribution

Where appellant power company *i.e.* JEL generates power from coal supplied by JSL, a steel company and JEL supplies power to JSL, proposed arrangement of supply of coal or any other inputs by principal JSL to appellant JEL for generation of electricity will be construed as job work chargeable to GST – *JSW Energy Ltd.*, In re [2020] 117 taxmann.com 319 (AAAR – Maharashtra)

E-procurement transaction fee

Where applicant, State public sector undertaking, is providing services to various departments of State Government in field of Information Technology and related services, e-procurement transaction fee collected by applicant on behalf of ITE&C Department of State Government towards online tenders falls within meaning of supply – *Telangana State Technology Services Ltd. (TSTSL)*, In re [2021] 133 taxmann.com 117/[2022] 89 GST 258 (AAR – Telangana)

E-vouchers, buy and sale of

Where applicant receives orders for supply of e-vouchers wherein applicant sources e-vouchers for such customers as per order received and acts as an intermediary for buying and supplying of e-vouchers, applicant is involved in trading of vouchers, for a consideration in course or furtherance of business and thus transaction amounts to supply in terms of section 7(1)(a) – *Premier Sales Promotion (P.) Ltd.*, In re [2021] 130 taxmann.com 404/88 GST 33 (AAR – Karnataka)

Exam fee

Where applicant institute, engaged in providing training to students in medical coding, is also facilitating students (both who are enrolled with assessee and outsiders) to pay examination fee to American Academy of Professional Coders (AAPC) by providing online facility/platform to pay exam fee, since said fee payment service is provided by applicant as a pure agent and without collecting any service charges from students or AAPC, such service is not chargeable to GST – Cigma Medical Coding (P.) Ltd., In re [2021] 128 taxmann.com 191/53 GSTL 51 (AAR – Kerala)

Foods/bottled water, supply in train

A train is a mode of transport and cannot be called as a restaurant, eating joint, mess or canteen, etc., and, hence, supply of goods, *i.e.*, food, bottled water, etc. to passengers in trains or railway platforms, shall be charged to GST on value of goods (excluding service charges) at applicable rates as pure supply of goods, as some have no element of service – *Deepak & Co.*, In re [2018] 93 taxmann.com 94/68 GST 57 (AAR – New Delhi)

Foreign going vessels, supply to

Where applicant supplies foreign going vessels stores like paint, rope, spare parts, electronic equipment, etc. applicant's supplies to foreign going vessels would be treated neither as a supply of goods nor services, if such stores are warehoused goods supplied to recipient before clearance for home consumption – *Shewratan Company (P.) Ltd.*, In re [2019] 111 taxmann.com 230 (AAR – West Bengal)

Home owner association

Where applicant, home owners association, collects annual contributions from its members for maintenance of common areas, applicant is liable to pay CGST and KGST on amount of contribution received from its members as its activity is taxable supply of service – *Vaishnavi Splendour Home Owners Welfare Association*, In re [2019] 110 taxmann.com 249 (AAR – Karnataka)

- Definition of business includes services provided by club or association to members and thus GST is payable on amounts received by housing society from members 107 towards maintenance charges – *Mahindra Splendour CHS Ltd.*, In re [2022] 135 taxmann.com 71/90 GST 231 (AAR – Mah.)
- Amount collected towards sinking/repair fund by housing society from members is nothing but collection of certain amount as maintenance advance for overall

maintenance of society and is liable to tax – *Mahindra Splendour CHS Ltd.*, In re [2022] 135 taxmann.com 71/90 GST 231 (AAR – Mah.)

- Charges collected by society on account of property tax, electricity charges and other statutory levies would be excluded while calculating the exemption limit of Rs. 7,500 – *Mahindra Splendour CHS Ltd.*, In re [2022] 135 taxmann.com 71/90 GST 231 (AAR – Mah.)
- Where applicant (Apartment Owners Association) is engaged in providing maintenance or repair of common area of apartments and surrounding area, activity of procuring goods and services by applicant from third parties for upkeep and maintenance of apartments and collecting monies from its members to pay third parties is an activity liable to GST – *Prestige South Ridge Apartment Owners' Association*, In re [2019] 110 taxmann.com 235 (AAR – Karnataka)

Ice cream supply of

Where applicant is supplying ice creams, chocolates, ice cream cakes and pizza cakes and other items of food made as per orders of customers, supply made by applicant shall be deemed to be a supply of service – *Hatsun Agro Product Ltd.*, In re [2019] 110 taxmann.com 287 (AAR – Karnataka)

Indian made foreign liquor, manufacture of

Where applicant, holding various registered brands in relation to Indian Made Foreign Liquor (IMFL) approached and contracted with various Contract Bottling Units (CBUs) who held requisite licenses under State Excise Laws to undertake manufacture of IMFL for the applicant, in return for payment of bottling charges, in view of facts that CBUs after manufacturing IMFL, deliver said goods to buyers as per applicant's directions and sale price for said goods is received by the applicant from State Corporation or other buyer and moreover the applicant is not receiving any consideration for allowing CBU to use their brand/logo etc. on IMFL, there is no supply of goods or services by the applicant as per definition of 'supply' under section 7 and hence, the applicant cannot be said to be making a taxable supply to CBU [Maharashtra Goods and Services Tax Act, 2017] – *Allied Blenders and Distillers (P.) Ltd.*, In re [2019] 103 taxmann.com 125/74 GST 48 (AAR – Maharashtra)

3.11 TAX LIABILITY

The new concept of Electronic Tax Liability Register which has been introduced by the Goods and Services Tax Law and accounting adjustments for such liability payments. Continuing our discussion further, here we are introducing two more concepts that are the brainchild of our government toward a consolidated digital economy. These are:

- **Electronic Credit Ledger**
- **Electronic Cash Ledger**

Electronic Credit Ledger

Every registered taxable person is required to maintain Electronic Credit Ledger in **FORM GST PMT-2** on GST portal. Every claim of Input Tax Credit under GST law will be credited in this ledger only. Some of the other associated provisions are:

- Electronic Credit Ledger can be debited to the extent of discharge of the liability of GST.
- A Registered taxable person is allowed to debit an amount equivalent to the unutilized amount from electronic credit ledger as a refund of tax.
- In case any refund claimed previously has been rejected by the officer empowered in GST, Electronic Credit Ledger shall be re-credited to the extent of such amount which has been rejected. This order has to be made in FORM GST PMT-2A.

Electronic Cash Ledger

Electronic Cash Ledger is another account that every registered taxable person under GST law is required to maintain on GST common portal. This form is required to be maintained in **FORM GST PMT-3** for crediting the amount deposited and debiting the payment therefrom toward tax, interest, penalty fee or any other amount. In simple words, any amount which is outstanding in Electronic Tax Liability Register even after adjusting the amount lying in Electronic Credit Ledger, such excess amount is required to be deposited in Electronic Cash Ledger and be adjusted thereof. Every registered taxable person is required to generate challan in FORM GST PMT-4 on GST portal and enter the details of the amount to be deposited by him toward tax, interest, penalty, fees or any other amount

This deposit can be made by way of following modes:

- Internet Banking through authorized banks;
- Credit Card or Debit Card after registering it on GST common portal through the

authorized bank.

- National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) from any bank;
- Over the counter payment (OTC) through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.

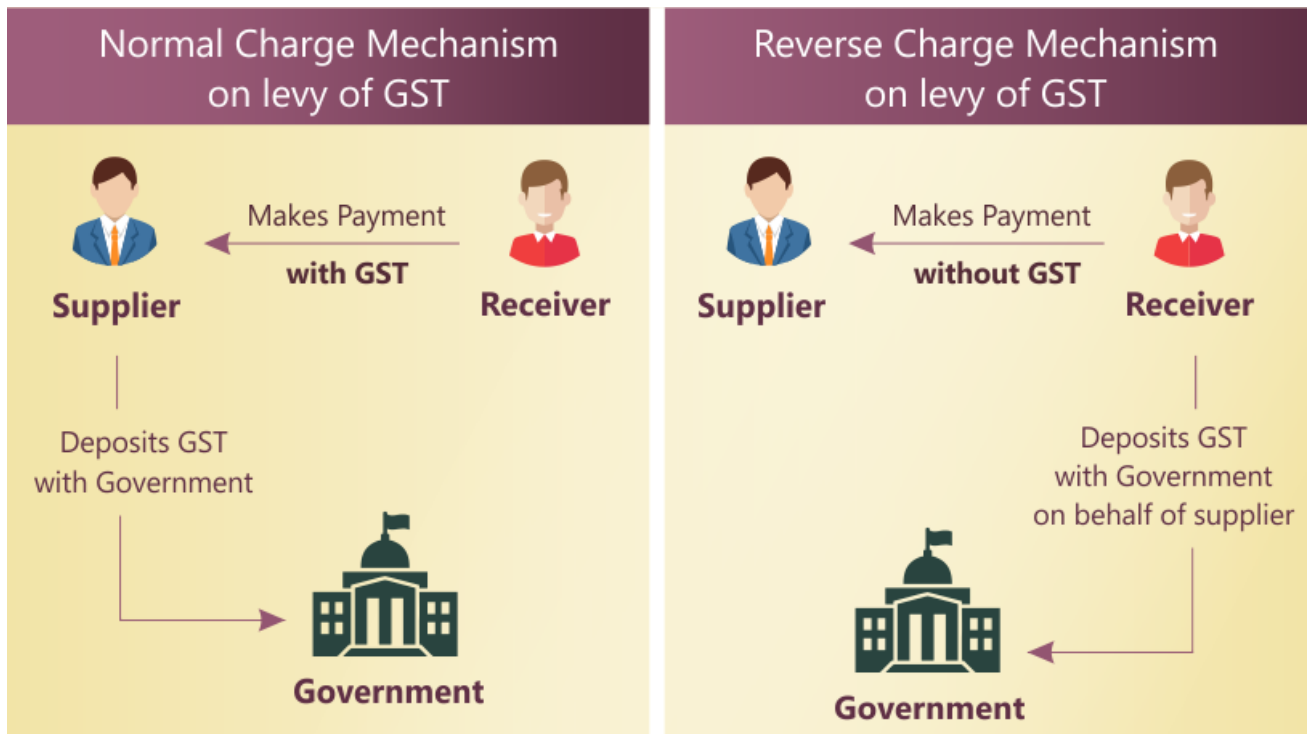
It is important to note that payment by way of cash or cheque or demand draft has been limited to the amount of Rs. 10,000 in a tax period for a registered person. Also, the challan in **FORM GST PMT-4** generated at the common portal shall be valid for a period of **15 days**. Also, all these entries will correspond to a system generated unique identification number for easy reference.

3.12 RESERVE CHARGE

What Is Reverse Charge?

Normally, GST is to be collected by the person who is selling goods and services. But in some cases GST is to be collected by the purchaser of goods/service and not by seller. This is called Reverse Charge Mechanism, RCM in short.

In some cases of sale through E-commerce operator such as Uber, olla etc the tax is not collected and deposited by seller but collected by e-commerce operator. Such cases are not called reverse charge.



In Which Cases RCM Is Applicable?

Reverse charge is applicable in two cases

- Supply of specific goods or services notified by government [section 9(3)]
- When registered person purchase goods services from unregistered person. Also applicable on composition dealers. [section 9(4)]. This section is postponed till 30th September 2019 via notifications as under

Notification No.	Summary
Notification No.8/2017 – Central Tax (Rate)	This notification exempts RCM under section 9(4) up to Rs. 5000 per day.
Notification No. 38/2017 – Central Tax (Rate)	This notification remove limit of Rs. 5,000 up to 31 Mar 2018. i.e no RCM under section 9(4) applicable.

Notification No. 10/2018 – This notification extend date of exemption to 30 June 2018.
Central Tax (Rate)

Notification No. 12/2018 – This notification extend date of exemption to 30 Sep 2018.
Central Tax (Rate)

Notification No. 22/2018 – This notification extend date to exemption to 30 Sep 2019.
Central Tax (Rate)

Purchase From Unregistered Person of Any Goods/Services

When a registered person purchases any goods or services from an unregistered person then such registered person has to pay GST on reverse charge basis. An unregistered dealer can not make inter state sales, therefore such sales is always intra-state sales.

Although the government has given an exemption of Rs. 5,000 per day. Therefore, if a total purchase of less than Rs. 5,000 is made in one day from unregistered person then there is no requirement to pay tax on RCM. This limit is total of Rs. 5,000 from all suppliers and not per supplier. Notification No. 8/2017 Central Tax (Rate).

The registered person has to print a self invoice.

Purchase from Any Person of Specified Product/Services

For some products/services, reverse charge is specifically provided. In such cases reverse charge is payable by the receiver even if the seller is registered person subject to the conditions specified for such product/service.

The person who is required to pay tax under RCM under this head has to register irrespective of threshold limit.

The seller of services/goods on which covered under this point are required to mention in their tax invoices that GST is payable on reverse charge.

Example – A trader who is registered in GST takes services of Goods Transport Agency (GTA) for Rs. 10,000. This service is listed under the reverse charge list therefore trader has

to pay tax @ 18% on Rs. 10,000 on RCM. However such GST paid is also allowed as Input tax credit in same month and therefore net liability of tax will not increase.

A complete list of such goods and services is given at end of this article.

Rate of GST

The **rate of tax** to be used is the rate which is applicable on such goods/service. GST Compensation Cess is also applicable on reverse charge. If the goods/services purchased in **exempted or nil rated**, then no tax is payable under RCM.

Composition dealers are required to pay reverse charge at normal rates (5%,12%,18%,28%) and not at the composition rates (1% or 5%).

Input Tax Credit of GST Paid in RCM

Any amount paid as reverse charge is allowed as **input tax credit** subject to condition that credit is allowed in normal circumstances to such business. For example composition dealers are not allowed to take input tax credit in normal circumstances and therefore they are also not allowed to take input tax credit on gst paid on reverse charge.

Also the amount of GST under Reverse charge is to be paid in cash only and can not be paid from ITC available. The net result is that minimum amount of GST payable in a tax period is the amount of reverse charge in that period.

Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis. (This provision is postponed)

Accounting Entries for Reverse Charge

At time of purchasing such goods/ services:

Purchase A/c Dr

Input SGST A/c Dr

Input CGST Ac Dr

To Creditor A/c

To Output SGST RCM A/c

To Output CGST RCM A/c

In case of purchase of asset or expense, specific account will be debited. Output SGST RCM A/c is used in place of normal Output SGST A/c to differentiate both taxes as taxes under RCM cannot be adjusted against input taxes and has to be paid in cash.

At time of payment of gst

Output SGST RCM A/c

Output CGST RCM A/c

To Cash/Bank A/c

Invoicing Under RCM

A registered person liable to pay tax under reverse charge (both for supplies on which the tax is payable under reverse charge mechanism and supplies received from unregistered persons) has to issue an invoice in respect of goods or service or both received by him. Such a registered person in respect of such supplies also has to issue a payment voucher at the time of making payment to the supplier.

There is no specific format for such self invoicing. The same format which the person is using for invoicing can be used only heading is to be changed.

Registration Requirement

If a person only supplies goods and services on which GST is paid on reverse charge basis then such person is not required to take registration even if the turnover exceeds the specified limits. For example a farmer sells cashew nuts to a trader, trader is liable to pay gst on rcm basis. If farmer is not engaged in trading of other taxable goods then he is not liable to take registration under gst. (Notification No. 5/2017 – Central Tax)

Time of Supply (Date On Which RCM Tax Is Payable)

For the levy of Reverse Charge under GST, it is very important to ascertain the time of supply as GST would be required to be deposited with the Govt within 20 days from the end of the month in which the services were provided.

Time of supply in case of supply of Goods

In case of Reverse Charge, the time of supply would be the earliest of the following

- The date of receipt of goods, or
- The date of payment, or
- The date immediately after 30 days from the date of issue of invoice by the supplier.

If it is not possible to determine the time of supply under (a), (b) or (c) above, the time of

supply shall be the date of entry in the books of accounts of the recipient.

Time of supply in case of supply of Services

In case of Reverse Charge, the time of supply would be the earliest of the following

- The date of payment, or
- The date immediately after 60 days from the date of issue of invoice by the supplier.

If it is not possible to determine the time of supply under (a) or (b) above, the time of supply shall be the date of entry in the books of accounts of the recipient.

Date of Payment

For the purpose of computation of Date of Supply, the Date of Payment shall be earlier of the following:-

- The date on which the payment is debited from his bank account or
- The date on which the recipient entered the payment in his books

List of Services On Which GST Is Payable On Reverse Charge

Sl. No.	Service	Provider of service	Percentage of service tax payable by service provider	Recipient of Service	Percentage of service tax payable by any person other than the service provider
1	Taxable	Any person	Nil	Any person located	100%

<p>services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory other than non-assessee online recipient (OIDAR)</p>	<p>who is located in a nontaxable territory</p>	<p>in the taxable territory other than non-assessee online recipient (Business Recipient)</p>
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<p>2 Services provided or agreed to be provided by a goods transport agency (GTA) in respect of</p>	<p>Goods Transport Agency (GTA)</p>	<p>Nil</p>	<p>(a) any factory registered under or governed by the Factories Act, 1948; (b) any society registered under the Societies Registration Act,</p>	<p>100%</p>
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transportati
on of goods
by road

1860 or under any
other law for the
time being in force
in any part of India;
(c) any co-operative
society established
by or under any law
(d)**any person
registered under
CGST/SGST/UTG
ST Act;**
(e) anybody
corporate
established, by or
under any law; or
(f) any partnership
firm whether
registered or not
under any law
including
association of
persons.
(g) Casual taxable
person

3	Services provided or agreed to be provided by an individual	An individual advocate or firm of advocates	Nil	Any business entity.	100%
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advocate or
 firm of
 advocates
 by way of
 legal
 services,
 directly or
 indirectly

4	Services provided or agreed to be provided by an arbitral tribunal	An arbitral tribunal	Nil	Any entity.	business	100%
5	Sponsorship services	Any person	Nil	Anybody corporate or partnership firm.		100%
6	Services provided or agreed to be provided by Government or local authority excluding,- (1) renting of	Government or local authority	Nil	Any entity.	business	100%

immovable
property,
and
(2) services
specified
below-
(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
Government
t;
(ii) services
in relation
to an
aircraft or a
vessel,
inside or
outside the
precincts of
a port or

an airport;
 (iii)
 transport of
 goods or
 passengers.

7	<p>Services provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate;</p>	<p>A director of a company or a body corporate</p>	<p>Nil</p>	<p>A company or a body corporate.</p>	<p>100%</p>
8	<p>Services provided or agreed to be provided by an insurance agent to any person carrying on insurance business</p>	<p>An insurance agent</p>	<p>Nil</p>	<p>Any person carrying on insurance business.</p>	<p>100%</p>

9	Services provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non-banking financial company	A recovery agent	Nil	A banking company or a financial institution or a non-banking financial company.	100%
10	Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory to a person located in non-taxable territory	Nil	Importer as defined under clause (26) of section 2 of the Customs Act, 1962.	100%

11	Transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works	Author or music composer, photographer, artist, etc	Nil	Publisher, Music company, Producer	100%
12	Radio taxi or Passenger Transport Services provided through electronic	Taxi driver or Rent a cab operator	Nil	Any person	100% by Electronic Commerce Operator

commerce
operator

List of Goods On Which Reverse Charge Is Applicable

S. No	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to	Silk yarn	Any person who	Any registered person

5006 manufactures
silk yarn
from
raw silk or
silk
worm
cocoons
for supply of
silk yarn

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 (17 of 1998).
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3.13 COMPOSITE AND MIXED SUPPLIES

What is composite supply under GST?

A composite supply is two or more goods or services that are only sold as a set and cannot be sold individually.

Every composite supply has a principal supply, which is the main product or service that the buyer primarily wants. The rest of the supply is made up of supporting elements that add value to the principal supply.

A composite supply is taxed at the GST rate of the principal supply.

Example 1: A gift-wrapped box of chocolates. Here, the chocolates are the principal supply, while the box, gift wrapper, message card and gift wrapping service offered by the salesperson are supporting elements that cannot be supplied individually without the chocolates. This is a composite supply, and its GST rate will be same as the rate for the chocolates.

Example 2: A dealer sells a brand-new vehicle along with registration, insurance, a tool kit and first aid kit, and 4 free maintenance services. This is a composite supply, because vehicle insurance, registration and free maintenance services cannot be supplied without the vehicle (which is the principal supply).

Note: Whenever a shopkeeper ships the contents of a composite supply, the tax rate associated with the shipping charge will be equivalent to the tax rate of the principal supply (in case of example 1, the GST on shipping will be equal to the GST on the box of chocolates).

What is mixed supply under GST?

A mixed supply is two or more independent products or services which are offered together as a bundle but can also be sold separately.

In a mixed supply, the item or service with the highest GST rate is treated as the principal supply (whether or not it is the main part of the bundle). The mixed supply is taxed at the GST rate of the principal supply.

Example: A plant nursery sells cut flowers, ornamental plants, and gardening services together as a bundle. When they're sold separately, the plants and flowers incur GST at a rate of 5%, and the gardening services incur GST at a rate of 18%. When they're offered together as a bundle, the whole bundle will incur GST at the 18% rate.

Note: Whenever a shopkeeper ships the contents of a mixed supply, the tax rate associated with the shipping charge will be equivalent to the tax rate applied on the bundle.

Difference between composite supply and mixed supply

At first glance, composite supplies and mixed supplies may look very similar to each other. In both cases, we talk about supplying goods and/or services as a bundle for a single price. But then, why have our tax authorities gone to great lengths to differentiate them? Well, let's see why:

Difference No.1 - Principal supplies — In a composite supply, one item or service is clearly the main part of the supply. In a mixed supply, no one part is necessarily the principal supply (though the part with the highest GST rate is treated as principal).

Difference No.2 - Individually available supplies — In a composite supply, it wouldn't make sense to sell the secondary parts separately from the principal supply (for instance, the towels provided along with a hotel room). In a mixed supply, each piece could be sold separately (for instance, a grocery bundle containing an assortment of snacks and drinks).

3.14 EXEMPTIONS AND NON-TAXABLE SUPPLIES

Exemptions Under GST – Goods

Understanding the taxability also involves knowing whether the item is exempt or not under GST. Due to the scope of taxable supplies being widened under GST, exemptions under GST have clearly been defined. Not just knowing the exemption list, but also understanding the implication of an item being exempt is important as certain conditions are attached to it like reversing the ITC.

Also, what can be nil-rated today may become charged a higher tax rate in the future. Hence, clearly demarking the various terms such as Nil Rated, Exempt, Zero-rated and Non-GST supplies under GST is important. Read through and get the complete list of all the GST exemptions notified on Goods at a click of a button!.

Also, click here to view the complete list of exempted services under GST.

What is Exempt Supply

Exempt supplies comprise the following three types of supplies:

- Supplies taxable at a 'NIL' rate of tax* (0% tax);
- Supplies that are wholly or partially exempted from CGST or IGST, by way of a notification amending Section 11 of CGST Act or Section 6 of IGST Act;
- Non-taxable supplies as defined under Section 2(78) – supplies that are not taxable under the Act (For Example Alcoholic liquor for human consumption).

Tax need not be paid on these supplies. Input tax credit attributable to exempt supplies will not be available for utilization/setoff.

*Zero-rated supplies such as exports would not be treated as supplies taxable at 'NIL' rate of tax;

Central or the State Governments are empowered to grant exemptions from GST. The conditions for granting an exemption are:

- The exemption should be in the public interest
- By way of issue of notification
- Must be recommended by the GST Council
- Absolute exemption or conditional exemption may be for any goods and/or services of any specified description.
- Exemption by way of a special order (not notification) may be granted under exceptional circumstances.
- The registered person supplying the goods and/or services is not entitled to collect tax higher than the effective rate, where the supply enjoys an absolute exemption.

Classification of Exemptions

Supplier may be exempt – Exemption to the person making supplies – .i.e., supplier, regardless of the nature of outward supply.

Ex: Services by Charitable entities.

Certain Supplies may be exempt – Certain supplies due to their nature and type are exempted from GST. All supplies that are notified would be eligible for the exemption. Here, irrespective of who the supplier is, the exemption is allowed. not very much relevant.

Ex: Services by way of sponsorship of sporting events, Services by way of public conveniences.

Types of Exemptions

Absolute exemption: Exemption without any conditions.

Ex: Transmission or distribution of electricity by an electricity transmission or distribution utility.

Conditional Exemption: Exemption subject to certain conditions.

Ex: Health care services by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/ Critical Care Unit(CCU)/ Intensive Cardiac Care Unit (ICCU)/ Neonatal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day.

Conditional or partial exemption: Intra-State supplies of goods and/or services received from an unregistered person by a registered person is exempted from payment of tax under reverse charge provided the aggregate value of such supplies received by a registered person from all or any of the suppliers does not exceed `Rs 5000/- in a day.

Exemption under one GST Law and the effect on another GST Law

Exemption under CGST Act	Deemed to be exempt under SGST / UTGST Act
	No auto-application of exemption under IGST Act
Exemption under IGST Act	No auto-application of exemption under CGST Act

Important Notifications issued for exemption from payment of GST

Notification No.	Particulars
02/2017 Central Tax (Rate) dated 28.06.2017	Exempted supplies of around 149 items of goods in terms of Section 11(1) of the CGST Act, 2017. Ex. Electricity, Salt, fresh fruits, plastic bangles, passenger baggage etc. Amended vide Notification No.28/2017, 35/2017,42/2017, 7/2018, 19/2018 – Central Tax (Rate)
12/2017 Central Tax (Rate) dated 28.06.2017	Exemption to supply specified services under the CGST Act. More or less, all the exemptions were available earlier under the erstwhile service tax law Amended vide Notification No.21/2017, 25/2017, 32/2017 and 47/2017, 2/2018 – Central Tax (Rate)

What goods are exempted from GST? (List of exempted goods)

Click here to view the complete list of exempted goods.

Treatment of ITC if supply is exempt

In the case of exempt supplies, the amount of credit attributable to exempt supplies shall be reversed.

How to determine the credit attributable to exempt supplies?

Credit attributable to exempt supplies = (A/T) x C

Where,

A = Aggregate value of exempt supplies (all supplies other than taxable and zero-rated supplies)

T = Total turnover of the person in the tax period

C= Common Credit

Common Credit	Total input tax in a period
Less:	Tax attributable exclusively for the non-business purpose
Less:	Tax attributable exclusively for exempt supplies
Less:	Ineligible credits as per Section 17(5) Works contract, Rent a cab etc.
Less:	Tax attributable exclusively for taxable supplies (including zero-rated supplies)

What is a non-taxable supply?

“Non-taxable supply” means a supply of goods or services or both which is not leviable to tax under the CGST Act or under the IGST Act. A transaction must be a ‘supply’ as defined under the GST law to qualify as a non-taxable supply under the GST.

Note: Only those supplies that are excluded from the scope of taxation under GST are covered by this definition – i.e., alcoholic liquor for human consumption, articles listed in section 9(2) or in schedule III.

It must also be noted that the following items are not out of the scope of GST. However, the GST rate has not yet been announced or notified to them.

- petroleum crude

- high-speed diesel
- motor spirit (commonly known as petrol)
- natural gas and
- aviation turbine fuel

The negative list under GST

Items that are not covered under GST are called a negative list. Also, these items are notified under Schedule III of the CGST Act. The following items are on the negative list under GST:

- Services by an employee to the employer in the course/ relation to employment
- Services of funeral, burial, crematorium or mortuary
- Sale of land
- Sale of completed buildings
- Actionable claims (other than lottery, betting and gambling)
- Services by any court or Tribunal
- Functions performed by the MPs, MLAs etc.
- Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.

Difference between Exempt, Nil Rated, Zero Rated and Non-GST supplies

Supply Name	Description
Exempt	Supplies are taxable but do not attract GST and for which ITC cannot be claimed. Example: Fresh milk, Fresh fruits, Curd, Bread etc.
Zero-Rated	Exports Supplies made to SEZ or SEZ Developers.

Nil Rated	Supplies that have a declared rate of 0% GST. Example: Salt, grains, jaggery etc.
Non-GST	These supplies do not come under the purview of GST law. Example: Alcohol for human consumption, Petrol etc.

3.15 UNIT END QUESTIONS

A. Descriptive Questions

Long Answer Questions

1. What would be the _due date of issuance of invoice ‘with reference to the provisions relating to time of supply of goods?
2. Time of supply in case of Composite supply?
3. What would be the time of supply where composite supply involves supply of goods as principal supply?
4. Time of supply in case of continuous supply of goods?
5. "What is time of supply with respect to escalation in price after the issuance of invoice

(Egg: Invoice is issued for Rs. 5,000 on June 22, 2017 by the supplier. Subsequently, due to variation in price the recipient pays scenario 1: Rs. 5,500/- and scenario 2: 8,000/-)?"

Short Answer Questions

1. How are the provisions relating to _time of supply ‘relevant under GST Law?
2. What will be the time of supply of goods, generally?
3. What will be the date of payment to ascertain the time of supply of goods?
4. What will be the time of supply where multiple invoices are issued for a single

consignment involving supply of goods?

5. What will be the time of supply where tax is liable to be paid under reverse charge mechanism

B. Multiple Choice Questions

1. What is a Mixed Supply?

- a. A blend of at least two labour and products made together at a solitary cost
- b. At least two labour and products that are just sold as a set and can't be sold independently.
- c. The stock of labour and products starts with one state then onto the next.
- d. The area of the provider and the spot of supply i.e., the area of the purchaser are in a similar state.

2. What is an area of supply in the event of importation of products?

- a. Owner of the Goods
- b. Importer Location
- c. Place where goods are being delivered after customs clearance
- d. Custom Port

3. As far as possible past which assuming products are not returned, the information sent for work will be treated as supply?

- a. One Quarter
- b. Six Months
- c. One Year
- d. Five Years

4. The value of supply should include:

- a. Subsidies directly linked to the price except subsidies provided by the Central and State Governments
- b. Interest, late fee or penalty for delayed payment of any consideration for any

supply

- c. Any non-GST taxes, duties, cesses, fees charged separately by supplier
- d. All of these

5. What deductions are allowed from the transaction value

- a. Discounts offered to customers, subject to conditions
- b. Packing Charges, subject to conditions
- c. Amount paid by customer on behalf of the supplier, subject to conditions
- d. Freight charges incurred by the supplier for CIF terms of supply, subject to conditions

Answers : 1-a, 2-b, 3-c, 4-d, 5-a

3.17 REFERENCES

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UNIT – 4 REGISTRATION AND FILING

STRUCUTRE

- 4.0 Objectives
- 4.1 Introduction
- 4.2 Registration of Assesses Under GST Act
- 4.3 Persons liable for registration
- 4.4 Procedure for Registration and Cancellation
- 4.5 Deemed registration
- 4.6 Credit and Debit Notes
- 4.7 Accounts and Records
- 4.8 Retention of Records
- 4.9 Assessment: Filing of Returns
- 4.10 Self-assessment
- 4.11 Provisional assessment
- 4.12 Assessment of Non-filers of returns
- 4.13 Assessment of Unregistered Persons
- 4.14 Computation of tax liability
- 4.15 TDS
- 4.16 TCS
- 4.17 Demand
- 4.18 Recovery and Adjudication
- 4.19 Refund
- 4.20 Audit by Tax Authorities
- 4.21 Appeals and Revisions
- 4.22 Appellate Authority and its Powers

4.23 Miscellaneous Provisions

4.24 Unit End Questions

4.25 References

4.0 OBJECTIVES

After completing this Students will be able to

- Explain Registration of Assesses Under GST Act
- Describe TDS
- Assess Audit by Tax Authorities
- Discuss Computation of tax liability

4.1 INTRODUCTION

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.

GST Registration process is online based and must be carried out on the government website gst.gov.in. Every dealer whose annual turnover exceeds Rs.20 lakh (Rs.40 lakh or Rs.10 lakh, as may vary depending upon state and kind of supplies) has to register for GST.

Launched on July 1 2017, the Goods & Services Tax (GST) applies to all Indian service providers (including freelancers), traders and manufacturers. A variety of Central taxes like Service Tax, Excise Duty, CST and state taxes like Entertainment Tax, Luxury Tax, Octree, VAT are absorbed in one tax – GST, implemented on 01.07.2017. GST is to be charged at every step of the supply chain, with full set-off benefits available. The procedure for GST is entirely online and requires no manual intervention.

Every product goes through multiple stages along the supply chain, which includes the

purchasing of raw materials, manufacturing, sale to the wholesaler, selling to the retailer and then the final sale to the consumer. Interestingly, GST will be levied on all of these 3 stages. Let's say if a product is produced in West Bengal but is being consumed in Uttar Pradesh, the entire revenue will go to Uttar Pradesh.

Also, taxpayers with a turnover of less than Rs.1.5 crore can choose **composition scheme** to get rid of tedious GST formalities and pay GST at a fixed rate of turnover.

4.2 REGISTRATION OF ASSESSES UNDER GST ACT

Under GST, the term “assessment” means a determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment, and best judgment assessment. Normally, persons having **GST registration** file GST returns and pay GST every month based on self-assessment of GST liability. However, the Government at all times has the right to re-assess or perform an assessment by itself and determine if there is a short payment of GST. In this article, we look at the various types of assessment under GST in detail.

Types of Assessment under GST

The different types of assessment under GST are as under:

- Section 59 – Self-assessment of taxes payable
- Section 60 – Provisional assessment
- Section 61 – Scrutiny of tax returns filed by registered taxable persons
- Section 62 – Assessment of registered taxable person who has failed to file the tax returns
- Section 63 – Assessment of unregistered persons
- Section 64 – Summary assessment in certain special cases

Assessment-under-GST

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Section 64 – Summary assessment in certain special cases

[Click here to read on GST Evasion using Dummy Invoices](#)

Section 59 – Self Assessment

The taxable person is required to pay tax on the basis of self-assessment done by himself. Hence, all GST return filings are based on self-assessment by the taxpayer.

In this regard, provisions of Section 59 of the GST Act is reproduced hereunder:

“Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.”

Section 60 – Provisional Assessment

Provisional assessment can be conducted for a taxable person when the taxpayer is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto.

Procedure for Provisional Assessment

Step 1: The taxable person has to give, the concerned GST officer, a request for provisional assessment in writing.

Step 2: The GST officer on reviewing the application will pass an order within a period not later than ninety days from the date of receipt of the request, allowing payment of tax on a provisional basis or at a GST rate or on such value as specified by him.

Step 3: The taxable person, who is making payment on a provisional basis, has to issue a bond with security promising to pay the difference between a provisionally assessed tax and final assessed tax.

Step 4: The GST officer will pass a final assessment, with a period not exceeding six months from the date of communication of the order of provisional payment.

Interest Payable for Provisional Assessment

In case, after the final assessment, if the taxable person liable to pay more tax than the tax paid at the time of provisional assessment, then the taxable person should pay the interest on such tax payment. Interest would be calculated from the actual due date of tax (please note original due date should be considered and not provisional tax payment date) till the date of actual payment of tax. The interest calculation position will remain the same, even if the payment of tax is made before or after the final assessment.

Refund under Provisional Assessment

In case of refund, interest will be paid on such refund as provided under section 56.

Section 61 – Scrutiny Assessment

GST Officers can scrutinize a GST return and related particulars furnished by the registered person to verify the correctness of the return. This is called a scrutiny assessment. In case of any discrepancies noticed by the officer, he/she would inform the same to the registered person and seek his explanation on the same. On the basis of the explanation received from the registered person, the officer can take the following action:

- If the explanation provided by the individual seems satisfactory, the officer shall inform about the same to the registered person, and no the officer shall take no further action in this regard.
- However, upon unsatisfactory explanation or the registered person failed to take corrective measures after accepting the discrepancies, the proper officer shall initiate appropriate action like conducting an audit of the registered person, conducting a special audit, inspect and search the place of business of the registered person, or initiate demand and recovery provisions.

Section 62 – Failure to File GST Return – Best Judgement Assessment

When a registered person fails to furnish the required returns, even after service of notice under Section 46, an assessment would be conducted by the GST Officer. In such cases, the GST officer would proceed to assess the tax liability of the taxpayer to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date for furnishing of the annual return for the financial year to which the tax not paid relates.

On receipt of the said assessment order, if the registered person furnishes a valid return within a period of 30 days from the date of issuance of the assessment order, then in such case, the assessment order would be deemed to have withdrawn. However, the registered person will be liable to pay interest under Section 50 (1) and/or liable to pay a late fee under Section 47.

Section 63 – Assessment of Unregistered Person – Best Judgement

When a taxable person fails to obtain GST registration even though liable to do so or whose registration has been canceled under section 29 (2) but who was liable to pay tax, the GST officer can proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

Section 64 – Summary Assessment

A GST Officer can on any evidence showing a tax liability of a person coming to his notice, proceed to assess the tax liability of such person 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. In order to undertake assessment under section 64, the proper officer should obtain previous permission of additional commissioner or joint commissioner. Such an assessment is called a summary assessment.

4.3 PERSONS LIABLE FOR REGISTRATION

When is a Person is liable for GST Registration [Section 22(1)]:

Every supplier shall be liable to be registered under the GST 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 Rs. 20,00,000 (Rs. 20 Lakh).

However, where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds Rs. 10,00,000 (Rs. 10 Lakh).

Meaning of Aggregate Turnover’:

“Aggregate Turnover” means the aggregate value of all—

- (I) taxable supplies,
- (ii) exempt supplies,
- (iii) exports of goods or services or both, and
- (iv) inter-State supplies

of persons having the same Permanent Account Number computed on all India basis

but excludes.

- (I) central tax,
- (ii) State tax/Union territory tax,
- (iii) integrated tax, and
- (iv) cess.

Further, it will also exclude the value of inward supplies on which tax is payable by a person (i.e. the recipient) on reverse charge basis.

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.

Special Categories States:

As per the Constitution of India, the following are the special categories States:

States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

In other words, a supplier shall be liable to obtain registration in the State or Union territory from where he makes a taxable supply of goods or services or both, if his aggregate turnover

in a financial year exceeds the following limits:

Rs. 10 Lakh	In case of Supply from any of the Special Category States specified above
Rs. 20 Lakh	In case of Supply from other than Special Category States

If a person has more than one branch whether in the same State / Union Territory or in more than one State or Union Territory, he shall be liable to registration if the turnover of all the branches exceeds Rs. 20,00,000 (Rs. 20 Lakh).

Example :

R is located in Delhi. He provides the following information :

<i>Particulars</i>	<i>Amount (Rs.)</i>
Value of taxable supply of goods in Delhi	12,00,000
Value of supply of Renting of Immovable Property Services in Delhi	9,00,000

Does R require any registration ?

Solution :

In this case, R requires registration under the CGST Act / SGST Act since the ‘aggregate turnover’ shall exceed the threshold limit of Rs. 20,00,000 (Rs. 20 Lakh) by including the value of taxable supply of goods and value of services.

Example:

R is located in Delhi and Haryana. He provides the following information :

<i>Particulars</i>	<i>Amount (Rs.)</i>
Value of supply of goods in Delhi	7,00,000
Value of exempt supply	6,00,000
Value of supply of Renting of Immovable Property Services in Delhi	9,00,000

Does R require any registration ?

Solution :

In this case, R requires registration under the CGST Act / SGST Act of both States, since the 'Aggregate Turnover' including exempt supply shall exceed the threshold limit of Rs. 20,00,000 (Rs. 20 Lakh).

Persons Registered Under any pre-GST Law Liable to be Registered under GST [Section 22(2)]

Every person who, on the date immediately preceding the appointed day was registered or held a license under pre GST regime, was liable to be registered under the CGST Act / SGST Act with effect from the appointed day.

The appointed day was 22.06.2017

Liability of Registration in case of Transfer of Business [Section 22(3) & (4)]

Situation	Date from which the transferee is liable to be registered
(1) Where a business carried on by a taxable person registered under the GST Act is transferred, whether on account of succession or otherwise, to another person as a going concern [Section 22(3)]	The transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
(2) Where there is a transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, dc-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise. [Section 22(4)]	The transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Example :

A business carried on by a taxable person R who is registered under the CGST Act / SGST Act is transferred to G as a going concern by way of a gift.

In this case, the transferee i.e. G shall be liable to take registration under the CGST Act / SGST Act with effect from the date of sucansfer.

4.4 PROCEDURE FOR REGISTRATION AND CANCELLATION

Process of Registration Under GST

Process Of Registration For Resident Persons

Step – 1: Declare PAN, mobile no. and email address in Part A of Form GST REG-01

Step – 2: PAN shall be validated from their database, separate one time passwords (OTP) will be sent to mobile as SMS and to email id. On successful verification a reference number shall be generated and communicated to the applicant on the mobile number and e-mail address.

Step – 3: Using such application reference number, applicant shall electronically submit an application in Part B of FORM GST REG- 01, duly signed, along with documents specified in the said Form.

Step – 4: On receipt of an application an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

Casual Taxable Person and Non resident person shall be given a temporary identification number by the Common Portal for making advance deposit of tax and acknowledgement in Form GST REG-02 shall be issued electronically thereafter.

Step – 5: Officer shall examine the application and documents and if everything is in order then approve the grant of registration within three working days from the date of submission of application in FORM GST REG-06

If application or documents is found deficient or any clarification is sought by the officer then he may so intimate to the applicant electronically in FORM GST REG-03 within 3 common working days from the date of submission of application.

The applicant shall furnish electronically such clarification, information or documents sought, in FORM GST REG-04, within 7 common working days from the date of receipt of such intimation. However, PAN, State, mobile no. and email address given in Step – 1 can not be changed.

If proper officer is satisfied then approve the grant of registration within 7 common working days from the date of submission of application.

Where Form GST REG-04 is not furnished within 7 days or the proper officer is not satisfied

with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG-05.

If the proper officer fails to take any action-

- (a) within 3 common working days from the date of submission of application, or
- (b) within 7 common working days from the date of receipt of clarification, information or documents furnished by the applicant under Step – 5

the application for grant of registration shall be deemed to have been approved. In such case the certificate will be made available to applicant within 3 days after expiry of above period.

Above steps are not applicable to

- Non resident taxable person
- A person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient
- A person required to deduct tax at source under section 51
- A person required to collect tax at source under section 52

If a casual taxable person or non resident taxable person intends to extend period of registration then he has to file form GSTR-11 before the end of validity of registration already granted to him. Also additional advance tax needs to be paid at such time.

Format Of Goods And Services Tax Identification Number (GSTIN)

GSTIN is a 15 digit alphanumeric number comprising of

- (a) two characters for the State code.
- (b) ten characters for the PAN or the Tax Deduction and Collection Account Number.
- (c) two characters for the entity code.
- (d) one checksum character.

Process Of Registration For Person Required To Deduct Tax At Source (TDS) Or Collect Tax At Source (TCS) Under GST

TDS and TCS as mentioned above is only regarding Goods and Service Tax and there is not any link it with Income Tax's TDS or TCS.

- 1) Any person required to deduct tax under section 51 or a person required to collect tax at

source under section 52 shall electronically submit an application, duly signed, in FORM GST REG-07 for grant of registration.

2) The proper officer may grant registration after due verification and issue a registration certificate in FORM GST REG-06 within three common working days from the date of submission of application.

3) Where the proper officer is satisfied that such person is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration and such cancellation shall be communicated to the said person in FORM GST REG-08.

Provided that the proper officer shall not cancel the registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

Process Of Registration For Non Resident Persons

Step – 1: File FORM GST REG-09, at least five days prior to commencement of the business. A valid passport is required for registration by Non resident persons. A person resident in India with a valid PAN shall signed the application as non resident's authorised signatory.

The business entity incorporated or established outside India also has to provide tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

Step – 2: A temporary identification number will be issued by the system for making an advance deposit of tax as required and the acknowledgement in Form GST REG-02 shall be issued thereafter.

Step – 3: This is the same step as mentioned in Step 5 of registration of residents above.

If a casual person or non taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG-11 shall be furnished electronically before the end of the validity of registration granted to him along with additional advance deposit of tax.

Registration Made By The GST Official

If a proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in FORM GST REG 12. Such registration shall be effective from the date of order of

registration.

Every person to whom such temporary registration has been granted required to register with the process as mentioned above within 30 days of such registration. The person can also file an appeal against the grant of temporary registration in Appellate Authority within 90 days. If Appellate Authority issue orders against such person appeal then such person has to register with 30 days of such order.

GSTIN issued after person register himself shall be effective from the date on which officer has registered him in FORM GST REG-11.

Amendment To Registration

Where a change in the constitution of any business results in change of the Permanent Account Number (PAN) of a registered taxable person, the said person shall apply for fresh registration in FORM GST REG-01.

Where there is any change in any of the particulars furnished in the application for registration the registered taxable person shall, within fifteen days of such change, submit an application electronically, duly signed, in FORM GST REG-14 along with documents relating to such change.

Where the change relates to the

- Name of Business or
- Principal Place of Business or any additional place of business
- details of partners or directors, karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business

which does not require cancellation of registration under section 29, the proper officer shall approve the amendment within 15 common working days from the date of receipt of application in FORM GST REG- 14 after due verification and on being satisfied about the need to make amendment and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of occurrence of the event warranting amendment.

The change in any State or Union territory shall be applicable for all registrations of the registered person obtained under the same PAN.

Where the change relates to any particulars other than those specified in above paragraph, the

certificate of registration shall stand amended upon submission of the application in FORM GST REG-14. Any change in the mobile number or the e-mail address shall be done only after verification through One Time Password (OTP).

If officer is not satisfied with the amendment required or documents attached, then he may so intimate to the person seeking amendment electronically in FORM GST REG-03 within 15 common working days from the date of submission of Form GST REG-14.

The person seeking amendment shall furnish electronically such clarification, information or documents sought, in FORM GST REG-04, within 7 common working days from the date of receipt of such intimation.

If no reply is furnished or reply is not satisfactory then the proper officer shall reject the application and pass an order in Form GST REG-05.

If the proper officer fails to take any action-

- (a) within 15 common working days from the date of submission of application, or
- (b) within 7 days from the receipt of the clarification, information or documents furnished by the applicant under Form GST REG-04

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available on the Common Portal.

Voluntarily Cancellation Of Registration

A registered taxable person seeking cancellation of his registration shall electronically submit an application in FORM GST REG-16 including the details of closing stock and liability thereon and may furnish, along with the application, relevant documents in support thereof. Such application is to be filed within 30 days from the date on which cancellation is sought.

A taxable person who has **registered voluntarily** can not cancel his registration before the expiry of a period of one year from the effective date of registration.

Every taxable person, other than a person under composition scheme seeking cancellation of registration shall furnish a final return.

Cancellation Of Registration By GST Officer

(1) Where the proper officer has reasons to believe that the registration of a taxable person is liable to be cancelled under section 29, he may issue a notice to the taxable person in FORM

GST REG-17 to show cause within seven days as to why his registration should not be cancelled. The person has to reply in Form GST REG-18.

No separate notice is required for CGST and SGST/UTGST.

(2) Where the proper officer is satisfied that a taxable person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled under section 21, he may, by issue of an order in FORM GST REG-19, to be passed within thirty days from the date of application under sub-rule (1) of rule 13 or, as the case may be, the date of reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section(5) of section 29.

(3) If the officer finds the reply given by person to be satisfactory then he will drop the proceedings and pass an order in Form GST REG-20.

Physical Verification Of Business Premises In Certain Cases

Where the proper officer is satisfied that the physical verification of the place of business of a registered person is required after grant of registration, he may get such verification done and the verification report along with other documents, including photographs, shall be uploaded in FORM GST REG-30 on the Common Portal within fifteen working days following the date of such verification.

Authentication By Digital Signature Or E-Signature

(1) All applications, including reply, if any, to the notices, returns, appeals or any other document required to be submitted under these rules shall be so submitted electronically at the Common Portal with digital signature certificate or through e-signature as specified under the Information Technology Act, 2000 (21 of 2000) or through any other mode of signature notified by the Board in this behalf.

(2) Each document including the return furnished online shall be signed –

(a) in the case of an individual, by the individual himself or by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of

such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the chief executive officer or authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or authorised signatory;

(f) in the case of any other association, by any member of the association or persons or authorised signatory;

(g) in the case of a trust, by the trustee or any trustee or authorised signatory; or

(h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48.

(3) All notices, certificates and orders under these Rules shall be issued electronically by the proper officer or any other officer authorised to issue any notice or order, through digital signature certificate specified under the Information Technology Act, 2000 (21 of 2000).

4.5 DEEMED REGISTRATION

Section 26 of Central Goods and Services Tax Act 2017 - Deemed Registration

(1) The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.

(2) Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

4.6 CREDIT AND DEBIT NOTES

Credit notes

Credit notes is a document that is issued by a registered person under section 34(1) of CGST Act 2017 when supplies are returned or found deficient, or decrease in taxable value or GST charged in invoice. The tax liability of the supplier will reduce, as and when the Credit Note is issued by the registered person.

Issuance of Credit Note

Supplier who has supplied goods or services or both, shall issue a Credit Note to the recipient in following cases:

- When the value declared in the invoice is more than the value of the actual goods or service
- The tax amount or GST is charged at a higher rate than the applicable rate for the kind of goods or services.
- The recipient received less quantity than mentioned in the tax invoice.
- The recipient returned the goods supplied to him or her.
- Services are found to be deficient by the recipient.

Credit Note under GST

- Credit note cannot be issued with GST on account of renegotiation of prices after supply if prices are reduced. In this case credit note can be issued without showing GST.
- This credit note will not be required to be filed with monthly return.
- Credit note for bad debts cannot be issued with GST.
- Credit note cannot be issued with GST in respect of B2C supply as the tax invoice does not have the GSTIN of the buyer.

Credit note includes the supplementary invoice.

If credit note is issued it should be furnished in GSTR 1 for the month in which it is to be issued. The details will be auto populated in GSTR 2A of the recipient after which it is to be accepted by him or her and submit it in his or her GSTR 2.

A supplier will only be allowed to reduce the tax liability if the recipient accepts the credit note details in his GSTR 2.

Issue of credit note in case of time expired goods

If the time expired goods are returned to the manufacturer or supplier, he or she can issue the credit note. The manufacturer can issue credit note with GST before 30th september of the following year under section (34)2 of CGST Act. after uploading this credit note the tax liability of the recipient will be adjusted.

If the goods are returned after 30th september of the following year, the manufacturer or supplier can issue the credit note without GST.

If such returned goods are destroyed by the manufacturer, he or she has to reverse the ITC attributable to the manufacture of such goods under section 17 (5)(h) of IGST Act.

Reduction in tax liability related to unjust enrichment

If credit note is not accepted by the recipient and if he or she does not reverse the equivalent input tax credit, the supplier will not be allowed to the reduction of tax liability.

Debit notes

Debit note is a document issued by a supplier under Section 34(3) of CGST Act, 2017, when there is a need of increase in taxable value or increase in GST charged in invoice.

The tax liability of the supplier will increase, as and when the Debit Note is issued by the supplier.

It is to be noted that a debit note can be issued by a recipient also when the goods are returned or damaged in transit. But under GST, only supplier can issue the debit note.

Issuance of Debit Note

The person who supplies the goods shall issue a debit note in the following cases:

- When the value of invoice is less than the actual value of goods or services.
- When the taxable amount or GST charged is at a lower rate than what is applicable for such goods or services.

Debit Note under GST

Debit note is to be issued by supplier in following cases:

- When the tax invoice that is issued and the taxable value in that invoice is less than

the actual taxable amount.

- When the tax invoice that is issued and the tax charged in that invoice is less than the actual tax to be paid.

Debit note includes the supplementary invoice.

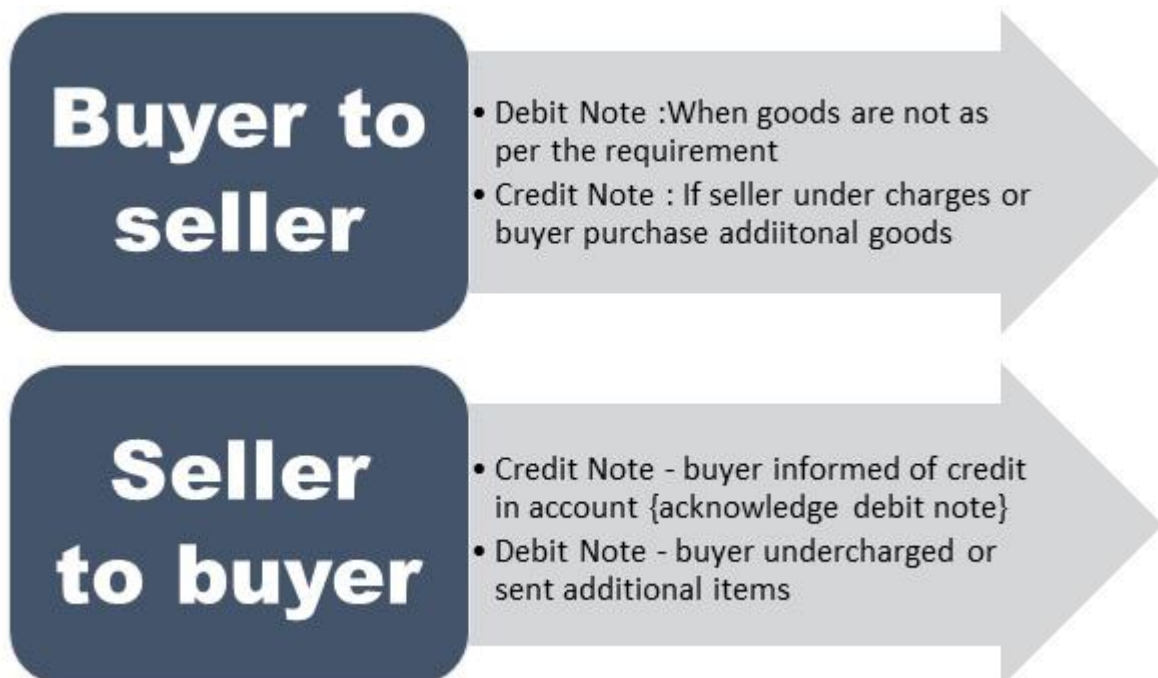
If debit note is issued it should be furnished in GSTR 1 for the month in which it is to be issued. The details will be auto populated in GSTR 2A of the recipient after which it is to be accepted by him or her and submit it in his or her GSTR 2.

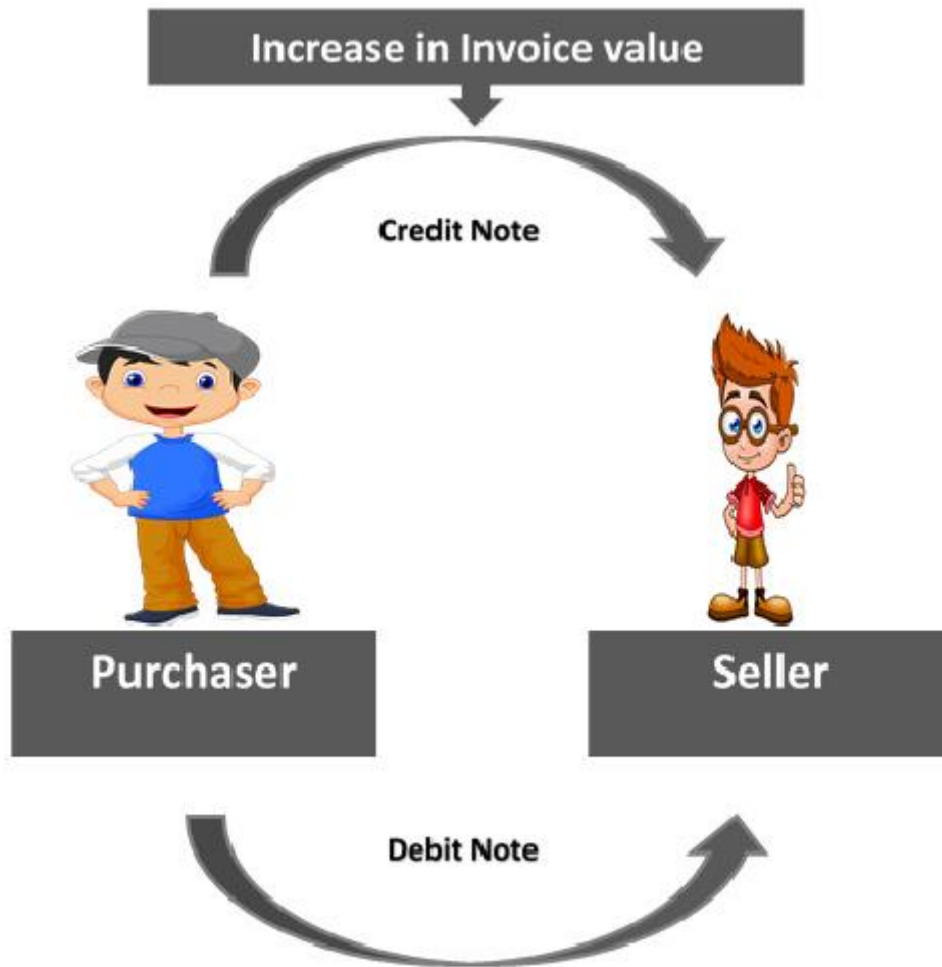
For a corresponding response of the debit note on the tax liability the recipient must accept it in his or her Form GSTR 2.

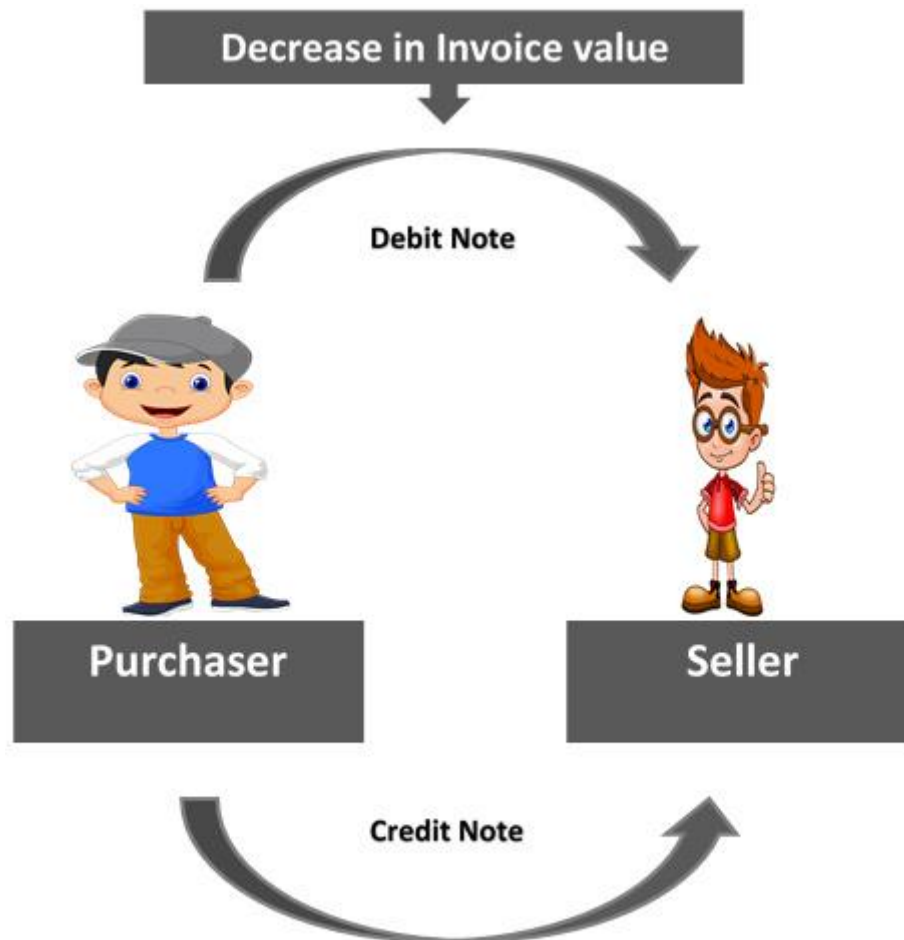
Recipient can issue debit note without GST

As per the act the issue of debit or credit note can only be done by the supplier. Both the notes can be issued with GST for increasing or decreasing the liability of GST of the supplier.

If in any case the recipient does not accept the value that is shown in the invoice of the supplier. The supplier do not issue credit note, the recipient has only option to issue debit note without GST otherwise his purchases will be inflated.







Format of Debit Note and Credit Note

The format for debit note or credit note is not prescribed. However, it must include the following particulars that are prescribed:

- The word “Debit Note” or “Credit Note” should be clearly mentioned
- Details of Name, Address and GSTIN of the Supplier should be included
- Nature of the document
- A consecutive serial number not exceeding 16 characters, containing letters, numbers or special characters for a Financial Year
- Date of issue of the document
- Name, address and GSTIN or UIN of the registered recipient
- Name and address along with the address of delivery of the unregistered recipient
- Serial number and date of the corresponding Tax Invoice

- Value of Taxable supply of goods or services, rate of tax and the amount of tax credited or debited to the recipient
- Signature or Digital signature of the supplier or his or her authorized representative

Time to issue Debit Note and Credit Note

Debit Note or Credit Note can be issued anytime that is there is no prescribed time limit for issuing them. Both the Debit Notes and Credit Notes that are issued should be declared in the returns of GST filed.

Credit Note and debit note is to be furnished in return for the month for which such note has been issued before :

- September following the end of the financial year in which such supply was made or
- the date of furnishing of Annual return

Whichever is earlier, and the liability of the tax should be adjusted in the manner prescribed.

Amendments made in CGST act 2018

The major impacts of amendments are as follows:

- Credit notes and debit notes cannot be issued by recipients with GST. It is a unidirectional flow from supplier.
- Multiple credit or debit notes for one tax invoice is permissible.
- One credit note or debit note for multiple tax invoices are also allowed.
- The credit note or debit note should be financial year wise that is it cannot be used for multiple financial years.

Supplementary invoices and their uses

Any invoice that is issued by a taxable person when any deficiency is found in a tax invoice already issued by him or her is called as supplementary invoice. This document can be in the form of a debit note or a credit note.

Revised Invoice under GST

Under GST, all the taxable dealers have to apply for provisional registration and carry all the formalities to get permanent registration certificate.

For all the invoices that are issued between the date of issue of registration certificate and the

date of implementation of GST, the dealer needs to issue a revised invoice.

This revised invoice have to be issued within one month from the date of issue of the certificate of registration.

Comparison between Revised invoice and Supplementary invoice

The difference between a revised invoice and a supplementary invoice can be enumerated as follows:

- **Concept-** Revised invoice is issued for invoices already issued by a taxable person. While supplementary tax invoice is issued for any deficiency found in tax invoice already issued by taxable person.
- **Time of issue-** Revised invoice should be issued between the effective date of registration till the date of issuance of certificates of registration. While for supplementary invoice it depends on invoice and not on the period.
- **Issued to-** Revised invoice is issued to only registered person. While supplementary invoice can be issued to both registered or unregistered persons.

Conclusion

When there is revision in any of the taxable amount or tax charged, suppliers issues debit notes or credit notes mentioning all the details regarding changes. Under GST act this should be mentioned in the return of the supplier and accepted by the recipient for making the amendments in the tax liability of the supplier.

4.7 ACCOUNTS AND RECORDS

Every taxpayer registered under GST must maintain all records at his principal place of business.

Accounts and Other Records

Every registered person is required to keep and maintain all records at his principal place of business.

Who must maintain accounts under GST?

It is the responsibility of the following persons to maintain specified records-

- The owner
- Operator of warehouse or godown or any other place used for storage of goods
- Every transporter

Every registered person whose turnover during a financial year exceeds the prescribed limit (2 crore) will get his accounts audited by a chartered accountant or a cost accountant.

What records must be maintained under GST?

Every registered person must maintain records of:

- Production or manufacture of goods
- Inward and outward supply of goods or services or both
- Stock of goods
- Input tax credit availed
- Output tax payable and paid and
- Other particulars as may be prescribed

What are the accounts which must be maintained under GST?

In our article, we have listed the various accounts to be maintained that businesses need to keep under GST.

For example, under GST, a trader has to maintain the following a/c/cess (apart from accounts like purchase, sales, stock) –

- Input CGST a/c
- Output CGST a/c
- Input SGST a/c
- Output SGST a/c
- Input IGST a/c
- Output IGST a/c
- Electronic Cash Ledger (to be maintained on Government GST portal to pay GST)

Accounting entries under GST

In spite of initial transition challenges, GST will bring in clarity in many areas of business

including accounting and bookkeeping.

While the number of accounts is more apparently under GST, once you go through the accounting entries you will find it is much easier for record keeping. One of the biggest advantages a trader will have is that he can set off his input tax on service with his output tax on the sale.

Read our discussions on the accounting treatment of various transactions under GST answering queries on how to record and pass entries for the inter-state sale of goods, how to record utilisation of input tax credit etc.

Electronic Cash and Credit Ledger

Every registered taxpayer will have 3 ledgers under GST which will be generated automatically at the time of registration and will be maintained electronically.

- **Electronic Cash Ledger-** This ledger will serve as an electronic wallet. The taxpayer will have to deposit money into his cash ledger (add money to the wallet). The money will be utilized to make the payment.
- **Electronic Credit Ledger-** The input tax credit on purchases will be reflected here under three categories i.e. IGST, CGST & SGST. The taxpayer will be able to utilize the balance shown in this account **only for payment of tax (not for interest, penalty etc.)**
- **E-Liability Ledger:** This ledger will show the total tax liability of a taxpayer after netting off for the particular month. This ledger will be auto-populated.

Period for Retention of Accounts under GST

As per the GST Act, every registered taxable person must maintain the accounts books and records for at least 72 months (**6 years**). The period will be counted from the last date of filing of Annual Return for that year.

The last date of filing the Annual return is 31st December of the following year.

For example:

For the year 2017-2018, the due date of filing the annual return is 31.12.2018. The books & records of 2017-2018 must be maintained for 6 years, i.e., 31.12.2023

If the taxpayer is a part of any proceedings before any authority (First Appellate) or is under investigation then he must maintain the books for 1 year after the order of such

proceedings/appeal has been passed.

Consequences of Not Maintaining Proper Records

If the taxpayer fails to maintain proper records in respect of goods/services, then the proper officer shall treat such unaccounted goods/services as if the taxpayer had supplied them. The officer will determine the tax liability on such unaccounted goods.

The taxable person will be required to pay the tax liability calculated along with penalty

4.8 RETENTION OF RECORDS

Books of account or other records shall be retained by every registered person for a period of 72 months from the due date of furnishing of Annual Return for the year pertaining to such accounts and records.

Period of Preservation of Accounts [Rule 56(16)]

Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for a period of 72 months from the due date of furnishing of Annual Return for the year pertaining to such accounts and records. Further, where such accounts and documents are maintained manually, the said accounts and documents shall be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

Period of Retention in Case Books of Account Etc. Pertain to an Appeal or Revision or Any Other Proceeding before Any Appellate Authority [Proviso to Section 36]

If a registered person is party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court or is under investigation for an offence or penalty under Chapter XIX of the CGST / SGST Act, then it shall be obligatory on its part to retain the books of account and other records pertaining to subject matter of such appeal or revision or proceeding or investigation for Later of the following two periods:

(a) Period of one year after final disposal of such appeal or revision or proceedings or investigation or

(b) Period of 72 months from the due date of filing of Annual Return for the year pertaining to such accounts and records.

4.9 ASSESSMENT: FILING OF RETURNS

Goods and Service Tax or GST will consolidate all indirect taxes under one umbrella and help Indian businesses become globally competitive. To facilitate easy calculation and payment of taxes, GST has provisions for assessments such as self-assessment.

What does Assessment under GST mean

Assessment means determination of tax liability under GST law. Below are the various types of assessment under GST.

Types of Assessment under GST

- Self-assessment
- Provisional assessment
- Scrutiny assessment
- Best judgment assessment
- Assessment of non-filers of returns
- Assessment of unregistered persons
- Summary assessment

Only self-assessment is done by the taxpayer himself. All the other assessments are by tax authorities.

4.10 SELF-ASSESSMENT

Every person who is a registered taxable person can assess his tax liability on his or her own and furnish returns for each taxation period. GST also allows self-assessment just like the other tax liability such as VAT, Excise and Service Tax under current taxation regime. Self assessment is stated under Section 59 of the GST act.

After doing self assessment , the person is required to pay tax based on this assessment.

In this regard Section 59 of the GST Act states

“Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.”

4.11 PROVISIONAL ASSESSMENT

Under section If an assessee is unable to determine his tax liability value or rate he or she can request the officer for provisional assessment. This further gives two conditions under which this assessment is done :

- If the taxpayer is unable to determine value due to difficulty in calculation of the transaction value or confusion regarding inclusion of certain receipts or not.
- If the taxpayer is unable to determine the rate of tax due to difficulty in classification of goods and services or whether any notification is applicable or not.

Procedure for Provisional Assessment

- The assessee has to request the GST officer for provisional assessments in writing.
- Within 90 days of receipt of such request the officer will pass an order after reviewing the application. This order is for allowing a payment of tax on provisional basis or at a GST rate or value specified by him.
- The assessee who is making payment on provisional basis has to issue a bond with a security promising to pay the difference amount between provisionally assessed tax and final assessed tax.
- The GST officer will pass the final assessment within a period of six months from the date of order of provisional payment.
- Provisional assessment will be followed by final assessments.

Interest Payable for Provisional Assessment

If in any case the taxpayer is liable to pay more tax after final assessment than paid at the time of provisional assessment, the person is liable to pay interest at a specified rate on such tax payments.

The interest to be paid by the taxpayer is calculated from the actual due date of tax till the

actual tax payment made. The interest will be charged maximum at the rate of 18%.

Refund under Provisional Assessment

If in any case the taxpayer was liable to pay less after the final assessment than paid at the time of provisional assessment, the person will be refunded back with the same amount as well as interest will be paid on such refund under section 56. The rate of interest paid will be maximum 6%.

Time Limit for Final Assessments

The final assessment will be done within 6 months of the provisional assessment. The time limit can be extended for 6 months by the Joint or Additional Commissioner. The commissioner can even extend this time period to 4 years if required.

4.12 ASSESSMENT OF NON-FILERS OF RETURNS

Under section 62, in case if a taxpayer fails to furnish the returns even after the notice under section 46, a GST officer is required to conduct an assessment. The GST officer in this case assess the tax liability of the taxpayer to the best of his judgement taking into consideration all the relevant materials that are available.

The officer can issue an assessment order within a period of five years from the date of furnishing of annual return for the financial year for which the tax has not been paid. After receiving this order, if the concerned taxpayer furnished a valid return within 30 days from the issue of assessment order, the order can be withdrawn.

In this case the taxpayer will be liable to pay late fee under section 47 and/or interest under section 50(1)

4.13 ASSESSMENT OF UNREGISTERED PERSONS

Under section 63, if in case any taxpayer fails to obtain a GST registration or whose registration has been cancelled under section 29(2) even if he is liable to be registered and pay tax, the GST officer can assess his or her tax liability to the best of his judgement. This has to be done for the relevant period for which the tax is unpaid. The officer can issue an assessment order within five years from the date specified under section 44 for furnishing

annual return for the financial year for which taxes are unpaid.

4.14 COMPUTATION OF TAX LIABILITY

How to Calculate GST?

After implementing Goods and Services Tax (GST), many Entrepreneurs seek assistance on how to calculate GST payment in a transaction. In this article, let us cover all aspects of calculating GST in a business transaction. To calculate GST, the following aspects in a transaction must be considered in a logical, step by step manner.

Step 1: Find the GST Rate Applicable for the Goods or Service

The first step in calculating GST is to find the GST Rate applicable for the Goods or Service under the GST Act. Over the past month, the GST Council has conveyed GST rates for almost all goods and services in India.

Find HSN Code or SAC Code

To find GST Rate, the individual must first make a distinction between the type of supply supplied, i.e., is it a good or service. If the supply is a good, then it's important to interpolate with the HSN Code applicable for the Good. HSN Code is an international system for classifying all types of goods in international transactions.

The concerned individual shall verify the SAC Code, whether the SAC Code relates to the service when a transaction involves the supply of a service. SAC Code stands for Service Accounting Codes and used for classifying all the services under GST.

Determine the GST Rate applicable for the HSN or SAC Code

Once the HSN or SAC Code is determined for the supply, then the GST Rate for the HSN Code or SAC code can be easily interpolated. GST is levied under 5 different slab rates at NIL, 5%, 12%, 18% and 28% for both goods and services. Hence, the GST rate applicable for the Goods or Service would be any of the slab rates.

Step 2: Determine the Applicability of IGST or CGST and SGST

Once the GST rate is determined, then the applicability of IGST or CGST and SGST must be determined. To determine if IGST or CGST and SGST would be applicable, the individuals should have to determine the place of supply. In most cases, the place of supply of goods or services would be the address where the goods were delivered or the service was provided.

For some types of transactions involving e-commerce or OIDAR services, the determination of place of supply is a more complex issue.

Inter-State Supply

If goods or services are provided between two states, i.e., from one state to another, then IGST or Integrated Goods and Services Tax would be applicable on the transaction. Whenever any supplier is involved in providing inter-state supply, GST registration is mandatory.

Intra-State Supply

If the individual provides the goods or service within the same state, then CGST or Central Goods and Services Tax and SGST or State Goods and Service Tax would be applicable.

Calculating IGST, CGST and SGST

If IGST is applicable and the supply is inter-state, then the entire GST applicable for the HSN or SAC code must be accounted for under IGST. If CGST and SGST is applicable and the supply is intra-state, then the GST applicable for the HSN or SAC code must be divided between CGST and SGST. The calculation for IGST, CGST or SGST is only for classification purposes for crediting the tax revenue to the state of consumption. The GST tax rate would remain same and there would be no double-taxation.

Step 3: Determine if GST is Chargeable on Reverse Charge Basis

Normally under GST, the supplier of the goods or service is liable to collect tax from the recipient and remit the same with the Government. However, the recipient shall become liable if the services provided to the user notified as **reverse charge** services. Hence, the user and the service provider should know whether the transaction involves reverse charge under GST.

Step 4: Enrolling under GST Composition Scheme by Suppliers

Typically, GST compliance requires the supplier to maintain extensive accounts, records and file 3 GST filing a month. However, many SMEs in India would find GST compliance tough and would require a simpler mechanism. Such businesses having a turnover of less than Rs.75 lakhs, can enrol under the GST Composition Scheme and pay a flat GST based on their aggregate turnover. Suppliers enrolled under GST composition scheme should provide proper documents detailing the recognition as composition Suppliers and hence not eligible to collect tax. Hence, before the transaction, the user should verify if the supplier had enrolled

under GST Composition Scheme.

Step 5: Determine Type of Transaction

Under GST, transactions can be broadly specified under the following three categories:

- Business to Business,
- For Business to Consumer – Value of supply more than Rs.2.5 lakh,
- Business to Consumer – Value of supply less than Rs.2.5 lakh.

For a supply to be termed as a B2B transaction under GST and made available for GST input tax credit, both the supplier and the recipient of the goods or service must have a GSTIN. GSTIN is provided when a business obtains GST registration. **Do you need GST Registration? Easily find out using this guide.**

In a B2C transaction under GST, the recipient of the goods or service would not be eligible for receiving the input tax credit. However, in a B2C transaction the recipient need not provide details of his/her GSTIN or GST registration. However, if the transaction value is more than Rs.2.5 lakhs, the recipient would have to furnish details like name, address and other details to determine the place of supply.

4.15 TDS

TDS is the amount of tax which is deducted by the employer or deductor from the taxpayer and is deposited to the Income Tax Department on behalf of him/her. The TDS rates are set on the basis of the age bracket and income of different individuals.

What is TDS?

TDS or Tax Deducted at Source is a specific amount that is reduced when a certain payment like salary, commission, rent, interest, professional fees, etc. is made. The person who makes the payment deducts tax at the source, while the person who receives a payment/income has the liability to pay tax. It lowers tax evasion because the tax will be collected at the time of making a payment.

Dividend payments to REITs and InvITs will be exempt from TDS

In the Union Budget for FY22, Finance Minister Nirmala Sitharaman announced that dividend payments to REITs (Real Estate Investment Trusts) and InvITs (Infrastructure

Investment Trusts) will be made exempt from Tax Deduction at Source (TDS). This aims to increase compliance with tax laws. A proposal was also made to take advance tax liability on dividend income after the payment or declaration of a dividend has been made.

When should TDS be deducted and who is liable to deduct?

- If you are making any sort of payment specified under the Income Tax Act, then TDS will be deducted at the time of these payments. However, no TDS will be deducted if you are an individual or Hindu Undivided Family (HUF), and your books are not required to be audited.
- In case of rent payment by an individual or HUF member, where the amount payable exceeds Rs.50,000, then a TDS at 5% will be deducted even if your books are not liable for a tax audit. You will not be required to apply for a Tax Deduction Account Number (TAN) if you are liable to have TDS deducted at 5%.
- If you are a working professional then your employer will deduct TDS as per the applicable income tax slab rates. The bank with whom you hold a working account will deduct TDS at 10%. However, if they do not have your PAN details, then TDS at 20% will be deducted. For the majority of payments, TDS rates are set in the Income Tax Act the payer deducts TDS as per the rates applicable.
- You will not be required to pay any tax if you submit your investment proofs to your employer and your total income that can be taxed is below the total taxable threshold. Thus, no TDS will be deducted in this case. You can also submit Form 15G and Form 15H to the bank if the total taxable income is below the total taxable limit. The bank in this case will not deduct any TDS on your interest income.
- In case you failed to submit the investment proof to your employer and the bank deducted the TDS, you can file a return and claim a refund of it, provided your total taxable income is below the total taxable limit.

Example of TDS

Let's assume that a start-up company pays Rs.90,000 as rent every month to whoever owns the property. The TDS applicable to the amount is 10%, so the company must subtract Rs.9,000 and pay Rs.81,000 to the property owner. In this case, the owner of the property will receive Rs.81,000 following TDS. The owner can add the gross amount of Rs.90,000 to his

income, thereby allowing him to take credit for the Rs.9,000 that has already been deducted by the company.

Types of TDS

Here are some of the income sources that qualify for TDS:

- Salary
- Amount under LIC
- Bank Interest
- Brokerage or Commission
- Commission payments
- Compensation on acquiring immovable property
- Contractor payments
- Deemed Dividend
- Insurance Commission
- Interest apart from interest on securities
- Interest on securities
- Payment of rent
- Remuneration paid to the director of a company, etc
- Transfer of immovable property
- Winning from games like a crossword puzzle, card, lottery, etc.

What is the TDS rate on salary?

TDS rates on salary are the same as the tax slab rates applicable to individuals. If you are less than 60 years of age, your TDS liability will be nil in case your income is less than Rs.2.5 lakh. Individuals who earn between Rs.2.5 lakh and Rs.5 lakh will be subject to TDS at 5%, while those who earn between Rs.5 lakh and Rs.10 lakh will have a TDS liability of 20%, and those who earn more than Rs.10 lakh will be subject to a TDS rate of 30%

Under the new tax regime, no TDS will need to be paid for an annual income of up to Rs.2.5 lakh. In case the annual income is between Rs.2.5 lakh and Rs.5 lakh, the TDS liability is 5%. In case the annual income is between Rs.5 lakh and Rs.7.5 lakh, the TDS liability is 10%. In

case the annual income is between Rs.7.5 lakh and Rs.10 lakh, the TDS liability is 15%. In case the annual income is between Rs.10 lakh and Rs.12.5 lakh, the TDS liability is 20%. In case the annual income is between Rs.12.5 lakh and Rs.15 lakh, the TDS liability is 25%. In case the annual income is above Rs.15 lakh, the TDS liability is 30%.

How to File TDS return online?

In order to file your TDS return, there are few things you must ensure. They are as follows:

- You must have a valid Tax Deduction and Collection Account Number (TAN) and make sure it is registered for e-filing
- Prepare your TDS statements using Return Preparation Utility before validating the same using File Validation Utility
- You must have a valid Digital Signature Certificate that is registered for e-Filing in case you want to upload your returns using DSC
- Provide the demat account or bank account details of your principal contact, or ensure that his/her PAN is linked with his/her Aadhaar in case you want to upload your returns using Electronic Verification Code

TDS Due Dates of FY 2020-21 for Return Filing

Here are the due dates for TDS Payment filing for FY 2020-21:

Quarter	Period	Due Date for filing
Quarter 1	April 2020 to 30 June 2020	31 March 2021
Quarter 2	July 2020 to September 2020	31 March 2021
Quarter 3	October 2020 to December 2020	31 January 2021
Quarter 4	January 2021 to March 2021	30 June 2021

Steps to upload TDS statements

Here is a simple guide to upload your TDS statements on the official website of the Income Tax Department :

1. Visit <https://www.incometaxindiaefiling.gov.in/home>. On the right side of the page, you will see 'Registered User?' followed by the 'Login Here' option.
2. Click on the aforementioned option and fill in your login information before clicking on 'Login'. Your TAN will be your user ID.
3. After you have logged in, locate the 'TDS' drop-down menu where you will have to select 'Upload TDS'.
4. A form will appear, and you will have to choose the right details before clicking on 'Validate'.
5. You will then have to validate your returns using either DSC or EVC.

Challan for TDS Payment

Challan ITNS 281 is the Challan form for online payment of TDS (Tax Deducted at Source) and TCS (Tax Collected at Source). Challan No. 281 is applicable for Tax Deducted at Source / Tax Collected at Source (TDS/TCS) from corporates and non-corporates. TDS exception is essentially a mechanism developed by the Indian Government where in there is a tax deduction at the source of an income, calculated at a specific rate and thereby becomes payable to the department of Income Tax.

Penalty for Late Filing TDS Return

Here are the penalties levied by the Income Tax Department for the failure to submit or defaults in submitting your TDS return/statements:

- **Failure to submit your returns:** Under Section 272A (2) of the Income Tax Act, a penalty of Rs.100 will be levied for each day that the returns remain unsubmitted, subject to a maximum of the TDS amount.
- **Failure to file your returns on time:** Under Section 234E of the Income Tax Act, a penalty of Rs.200 will be levied for each day that the returns remain unfiled, subject to a maximum of the TDS amount.
- **For defaults in the filing of TDS statement:** Under Section 271H of the Income Tax Act, a penalty of Rs.10,000 to Rs.1 lakh will be levied in case the deductor defaults at the time of filing TDS return within the due date.

- **For incorrect details:** Under Section 271H of the Income Tax Act, a penalty of Rs.10,000 to Rs.1 lakh will be charged in case the deductor submits incorrect information pertaining to PAN, challan particulars, TDS amount, etc.
- **For non-payment of TDS:** Under Section 201A of the Income Tax Act, interest will also be levied along with the penalty in case TDS is not paid within the due date. In case a part of the tax amount or the whole of it is not deducted at source, interest will be charged at 1.5% every month starting from the date on which the tax was deductible to the date on which the tax is actually deducted.

Steps to check TDS Deduction Status

one needs to follow the steps mentioned below to check their status of TDS

1. Visit the official website of the Income Tax Department.
2. Provide your details and login to the portal.
3. Under the 'My Accounts' tab, click on 'view Form 26AS (Tax Credit)'.
4. Select the year and PDF format to download the file.
5. Your downloaded PDF file is password protected. The password here will be the date of birth mentioned on your PAN. For example, if your date of birth is 5 March 2000 then the password will be 05032000.
6. You can then view all the details related to the TDS deduction.
7. You can use your bank's net banking facility to check whether your TDS has been deducted provided your PAN is linked to it.

How to Claim TDS Refund?

Individuals can claim TDS refund on the Income Tax website. However, the Income Tax Returns must be filed, and the TDS refund must be shown. Once the ITR is filed, the TDS refund will be processed by the Income Tax Department. The refund might be credited to the bank account within 6 months. Individuals can also check the status of the refund on the official website of the Income Tax Department.

What is a TDS Certificate?

TDS Certificates are of two types: Form 16 and Form 16A. Under Section 203 of the Income Tax Act, 1961, a certificate must be provided to the deductee showing the amount that has

been subtracted as tax. The deductor is liable to provide this form to the deductee.

- **For salaried class:** In case of salaried employees, employers are required to provide them with Form 16 with a mention of the amount that has been deducted as TDS. Form 16 contains a host of details such as the computation of tax, the deduction of tax, and the payment of TDS. Employers must issue this form to their employees before May 31 of the following financial year.
- **For non-salaried class:** The deductor provides the deductee with Form 16A, and it contains all the details regarding the computation of tax, the deduction of TDS, and payments.

Advantages of TDS

Some of the advantages of TDS are:

1. It ensures that people do not evade payment of taxes.
2. TDS acts as a steady source of revenue for the Government.
3. It is much more convenient for the deductee as the tax amount payable is automatically deducted.
4. The burden on Tax Collection Agencies to collect tax significantly reduces.

4.16 TCS

Starting from 1st October 2018, every e-commerce operator has to collect TCS barring a few exceptions. This article will give you information about how TCS works under GST.

What is TCS under GST

Tax Collected at Source (TCS) under GST means the tax collected by an e-commerce operator from the consideration received by it on behalf of the supplier of goods, or services who makes supplies through the operator's online platform. TCS will be charged as a percentage on the net taxable supplies. The provision of TCS under GST is dealt under Section 52 of the CGST Act.

Who is liable to collect TCS under GST

Certain operators who own, operate and manage e-commerce platforms are liable to collect TCS. TCS applies only if the operators collect the consideration from the customers on behalf

of vendors or suppliers. In other words, when the e-commerce operators pay the consideration collected to the vendors they have to deduct an amount as TCS and pay the net amount.

Here are few exceptions to the TCS provisions for the services provided by an e-commerce platform:

- Hotel accommodation/clubs (unregistered suppliers)
- Transportation of passengers – radio taxi, motor cab or motorcycle
- Housekeeping services like plumbing, carpentry etc. (unregistered suppliers)

For example – M/s.XYZ stores (a proprietorship) is selling garments through Flipkart. Flipkart, being an e-commerce operator, before it makes the payment of consideration collected on behalf of XYZ, will be liable to deduct TCS.

When will the liability of collecting TCS arise

TCS will be collected by e-commerce operators while making a payment to the vendor. This payment will be the consideration collected on the vendor's behalf for the supplies made by him via the online portal. This tax will be collected on the net value of taxable supplies.

What is the rate applicable under TCS?

The dealers or traders supplying goods and/or services through e-commerce operators will receive payment after deduction of TCS @ 1%. The rate is notified by the CBIC in Notification no. 52/2018 under CGST Act and 02/2018 under IGST Act.

This means for an intra-state supply TCS at 1% will be collected, i.e. 0.5 % under CGST and 0.5% under SGST. Similarly, for a transaction between the states, the TCS rate will be 1%, i.e. under the IGST Act.

Registration requirements under TCS provisions of GST

The e-commerce operators liable to collect TCS have to compulsorily register under GST and there is no threshold limit exemption for it. Also, the sellers supplying goods through the online portal of e-commerce players are also mandatorily required to get registered under GST except for a few exceptions.

Registration conditions are as follows:

- a. Every e-commerce operator who is required to collect TCS must mandatorily register

under GST

b. Every person who supplies through an e-commerce operator, except those who make supplies notified under section 9 (5) of CGST Act.

Section 9 (5) mentions the following supplies – Transporting passengers by a radio-taxi and motorcycle OR providing accommodation in hotels, guest houses, for residential or lodging purposes (unregistered suppliers) OR services of house-keeping, such as plumber, carpenter etc(unregistered suppliers).

In all three cases, the e-commerce operator shall pay GST, meet the compliances. Therefore, suppliers don't have to register if they provide these services listed in 9 (5), provided they do not cross the Rs.20 lakh (or Rs.40 lakh) threshold for registration.

c. Also, note that suppliers of services making a supply through an e-commerce platform are exempt from registration if their aggregate turnover is less than Rs.20 lakh or Rs.40 lakh (assuming they do not make inter-state supplies).

d. Suppliers of goods selling through an e-commerce platform are not exempt from registration.

e. An e-commerce company must register itself in GST in every state it supplies goods or services to.

Due date for depositing TCS

TCS will be deducted during the month in which the supply is made. It will be deposited within 10 days from the end of the month of supply to the credit of the government.

Payment of the tax collected will be made in the following manner:

- a. IGST & CGST will be paid to the central government
- b. SGST to respective state governments

How to compute taxable value of the supplies for TCS

The value for the collection of the tax will be the 'Net Value Of Taxable Supplies.' This net taxable value will be calculated as under :

The total value of taxable supplies of goods and/or services (other than notified services under GST law by all registered persons) Less: Taxable supplies returned to the suppliers through the e-commerce operator =Net value of Taxable Supplies

For example – M/s.XYZ Ltd, a registered supplier is supplying goods through an e-commerce operator. It has made supplies of Rs.55,00,000 in the month of Sep 2018. The goods returned were worth Rs.5,00,000 to XYZ Ltd. during the month of Sep 2018. Here, the net value of taxable supplies for TCS collection will be Rs.50,00,000 and TCS @ 1%, i.e. Rs. 50,000 will be deducted by the e-commerce operator. Hence, the final payment to be made to the supplier is Rs.49,50,000.

Which form can one use to file TCS returns

e-Commerce operators have to file GSTR-8 by 10th of the next month in which the tax was collected. This return will only be filed once the tax collected has been deposited to the respective credit of the government. For instance, the due date for GSTR-8 for Dec 2021 is on 10th Jan 2022.

Using GSTR-8 data by e-commerce sellers in GSTR-2A

The details submitted by the operators in GSTR 8 will be available to all the suppliers in GSTR 2A. The supplies will be available GSTR 2A after the due date of filing GSTR-8. Note that these credit details will not be available in GSTR-2B return. The tax collected will be reflected in the electronic cash ledger of the respective suppliers. The suppliers can claim the credit accordingly after matching and reconciling their supplies with the details in GSTR 2A.

GSTR 8 cannot be revised once it is filed. Any discrepancy found while matching and reconciling the supply data and GSTR 2A will be communicated to the operator and the supplier. If the discrepancy is not rectified within the given time period, then the tax amount will be added to the liability of the supplier. The supplier will have to pay the difference along with the interest, if any.

e-Invoicing Impact on TCS and e-Commerce Operators

The e-invoicing system is also available to e-commerce operators (ECO) to report invoices to the Invoice Registration Portal (IRP), that were raised by them on behalf of their online suppliers.

The e-commerce operators shall follow a detailed procedure to integrate their ERP system with the sandbox of the IRP. To know more about the details, read our article on “e-Invoicing Impact on TCS and e-commerce operators under GST”.

Impact of the TCS provisions

From the e-commerce operators viewpoint, they must register under GST in every state in which they operate before 1st Oct 2018, which is the effective date of implementing TCS provisions. The ERP systems have to be well integrated to apply these provisions in the day to day businesses smoothly.

Moreover, the working capital of the suppliers selling through an e-commerce operator will be blocked until they file their return and claim the excess taxes paid. This can prevent SMEs vendors from selling goods or supplying services on the online portal.

From the government’s viewpoint, tax evasion will significantly reduce since the tax will be collected at each and every transaction.

4.17 DEMAND

Demand under GST and the recovery provisions will be initiated if there is a failure to pay the tax in compliance with the Goods and Services Tax (GST) laws.

When can a Demand Under GST be Raised by the Tax Authorities?

GST is payable on a self-assessment basis. If the assessee pays the tax on self-assessment correctly then there will not be any problem.

If there is any short payment or wrong utilisation of input tax credit, then the GST authorities will initiate demand and recovery provisions against the assessee. Provisions of demand under the GST Act and the consequent recovery provisions are similar to the provisions of the erstwhile Service Tax and Central Excise laws. Further sections of the article will give you an overview of the demand and recovery provisions.

Particulars	When there is no fraud (Section 73)	When there is a fraud (Section 74)	Comments
Show cause notice	Yes	Yes	—

Max. time limit	3 years	5 years	Time is calculated from the due date of filing the annual return for the year to which the demand relates or date of refund.
The time limit for SCN	3 months before the expiry of 3 years	6 months before the expiry of 5 years	Hence, 3 or 5 years, as the case may be, is the maximum time limit for issuing the order of GST demand payment.
Penalty	10% of tax	25% of tax	—

GST Demand when there is No Fraud (Section 73)

This provision applies to the following cases when for any reason other than fraud, i.e., without any motive to evade tax:

- Tax is unpaid/short paid or,
- Refund is wrongly made or,
- The input tax credit has been wrongly availed/utilised

The proper officer (i.e., GST authorities) will serve a show-cause notice on the taxpayer. They will be required to pay the amount due, along with interest and penalty.

Time Limit

The proper officer is required to issue the show-cause notice **3 months** before the time limit. The maximum time limit for the order of payment is **3 years** from the due date for filing of annual return for the year to which the amount relates.

For Other Tax Periods

Once the above notice has been issued, the proper officer can serve a **statement**, with details of any unpaid tax/wrong refund etc. for other periods not covered in the notice. A separate notice does not have to be issued for each tax period.

Voluntary Tax Payment

A person can pay tax along with interest, based on his own calculations (or the officer's calculations), **before the notice/statement** is issued and inform the officer in writing of the same. The officer will not issue any notice in this case. **However, if the officer finds that there is a short payment, they can issue a notice for the balance amount.**

No Penalty

If the taxpayer pays all their dues **within 30 days from the date of the notice**, then the penalty will not be applicable. All proceedings (**excluding proceedings u/s 132, i.e., prosecution**) regarding the notice will be closed.

Penalty in Other Cases

The tax officer will consider the taxpayer's representation and then calculate interest and penalty. The penalty will be 10% of tax subject to a minimum of Rs. 10,000. The tax officer will issue an order within three years from the due date for filing of relevant annual return.

Paid all dues	Penalty amount
Before notice	No penalty
Within 30 days from notice	No penalty
After 30 days from notice or issue of order	A higher of 10% of the demanded tax or Rs.10,000, is the penalty

Let us understand how the penalty works in non-fraud cases with this instance of a taxpayer who did not deposit their tax for a particular month. For example-

Action/Consequences	Period/Date
Tax period when he did not deposit the tax	Amount relates to October 2020, i.e., FY 2020-21
Due date to file annual returns for the year to	The last date of filing the annual return of

which the amount relates	FY 2020-21 is 31st December 2021
The maximum time limit for an order is 3 years from the due date of annual returns	3 years from the date given above falls on 31st December 2024
Issue the order within three years	The last date for issuing is 31st December 2024
Issue the show cause notice at least 3 months before the time limit	The last date of issuing the show cause notice is 30th September 2024

Illustration for No Fraud Scenario

Mr Gnan received a notice of a shortfall in tax paid via GSTR-3B for January 2021 due to erroneous data entry in the GSTR-1. He received a show-cause notice on 13th January 2022 as to why he should not be subject to tax on the differential amount. The show-cause notice is issued within the given time limit of three months before the expiry of three years from the due date of annual returns filings.

GST Demand when there is a Fraud (Section 74)

This section applies to cases of tax evasion involving:

- Fraud
- Wilful misstatement
- Suppression of facts

This results in:

- Unpaid/short paid tax or,
- Wrong refunds or,
- Wrongly availed/utilised input tax credit

In such cases, the proper officer will **serve a show-cause notice** to the taxpayer. The taxpayers will be required to pay the amount due along with interest and penalty.

Time Limit

For cases of fraud, the proper officer is required to issue the notice **6 months** before the time limit. The maximum time limit is **5 years** from the due date for filing of annual return for the year to which the amount relates.

For Other Tax Periods

Once the above notice has been issued, the proper officer can serve a **statement**, with details of any unpaid tax/wrong refund, etc. for other periods not covered in the notice. A separate notice need not be issued for each tax period.

Voluntary Tax Payment

If the person pays the tax along with interest and a 15% penalty based on their own calculations (or the officer’s calculations) **before** the notice/statement is issued and informs the officer in writing, then the officer will not issue any notice.

However, if the officer finds that there is a short payment, they can issue a notice for the balance amount. If the taxpayer pays all their dues and a penalty of 25% within 30 days from the date of the **notice**, then all proceedings (**excluding proceedings under Section 132, i.e., prosecution**) regarding the notice will be closed.

Issue of Order

The tax officer will consider the taxpayer’s representation and then calculate interest and penalty and issue an order. The order must be issued within **five years** from the due date for filing the relevant annual return. [For wrong refunds the order must be issued within five years from the date of the wrong refund].

If the taxpayer pays all their dues and a penalty of 50% within 30 days from the date of order, then all proceedings (including prosecution) regarding the notice will be closed.

Paid all dues	Penalty amount
Before notice	15% of the demanded tax is the penalty
Within 30 days from notice	25% of the demanded tax is the penalty
After 30 days from the order	50% of the demanded tax is the penalty

For other cases (Section 122)	100% of the demanded tax is the penalty
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For example- Let us understand how the penalty works in fraudulent cases with this instance of a taxpayer who did not deposit their tax for a particular month.

Action/Consequences	Period/Date
Tax period when he did not deposit the tax	Amount relates to October 2020, i.e., FY 2020-21
Due date to file annual returns for the year to which the amount relates	The last date of filing the annual return of FY 2020-21 is 31st December 2021
The maximum time limit for an order is 5 years from the due date of annual returns	5 years from the date given above falls on 31st December 2026
Issue the order within five years	The last date for issuing is 31st December 2026
Issue the show cause notice at least 6 months before the time limit	The last date of issuing the show cause notice is 30th June 2026

Illustration for a Fraud Scenario

Mrs Disha Patil received a notice of a shortfall in tax paid via GSTR-3B for 23rd July 2019 due to fake input tax credit claims noticed by the tax authorities. He received a show-cause notice on 13th April 2021 as to why he should not be subject to tax on the differential amount. The show-cause notice is issued within the given time limit of six months before the expiry of five years from the due date of annual returns filing, i.e., 31st March 2021 for FY 2019-20

General Provisions for Determination of Tax (Section 75)

- If the service of notice or issue of the order has been stayed by a Tribunal/Court order then the stay period will be excluded from the time limits of 3 and 5 years.
- If the Appellate Authority/Tribunal/Court decides that charges of fraud are not sustainable (i.e., it is not a fraud case), then the notice issued earlier will be assumed to be a notice under Section 73 (i.e. non-fraud case). The tax officer will calculate the tax accordingly.
- If the Tribunal/Court directs that an order has to be passed, then it will be issued within two years from the date of the direction.
- An opportunity for a personal hearing will be given to the taxpayer when they request it in writing or a penalty or any adverse decision is proposed against such person.
- The proper officer can adjourn the personal hearing if the person provides sufficient cause in writing. But adjournment will be allowed for a maximum of 3 times.
- The amount of tax, interest and penalty demanded in the order will not exceed the amount specified in the notice. All demands will be only on grounds specified in the notice.
- The Appellate Authority/Tribunal/Court can modify the amount of tax determined by the officer.
- Interest unpaid/short paid tax will have to be paid whether or not specified in the order.
- If the order is not issued within 3 or 5 years then it is assumed that the adjudication proceedings are completed. No order will be issued afterwards.

Pending cases where the decision was against the interest of revenue might be appealed to a higher authority. For these, the period between the date of the decision (aggrieved order) and the date of appeal decision of higher authority) will be excluded from the period of 3 or 5 years.

- Recovery provisions for unpaid/short paid tax and interest is applicable **irrespective** of demand provisions.

Penalty u/s 122 is not applicable in these cases. Once any penalty is imposed under sections 73 or 74, then no penalty under any of the GST sections is applicable.

This stands for cases (fraud or non-fraud) where:

- Tax is unpaid/short paid or,
- Refunds have been wrongly calculated or,
- The input tax credit has been wrongly availed/utilised

Only the penalty under Sections 73 and 74 will be applicable. Other penalties under Section 122 will not be applicable in these 3 cases. However, charges for offences under Section 132 facing prosecution will not be dropped.

Interest applicability on GST demand

The interest charged for the tax shortfall is 18% per annum where the tax is short paid or liability is short-assessed. Also, where the input tax credit is only availed but not utilised, this is the interest charge.

However, the interest charged for availing and utilising input tax credit in excess of what is available is 24% per annum, as per Section 50 of the CGST Act.

4.18 RECOVERY AND ADJUDICATION

Section 78 and section 79 of the CGST Act are the parent provisions which govern recovery of tax under GST law. Section 78 talks about the point of time at which, a tax determined to be payable, becomes due for payment to the exchequer. Section 79 lays down detailed procedure to be followed for recovery of tax. Section 75(12), which overrides both section 73 and 74, talks about recovery of two component of tax namely I) 'unpaid self-assessed tax' and ii) interest payable on such 'unpaid self-assessed tax'. Para 5 of the Flyer issued by CBIC says that recovery proceedings are final steps towards the realization of any tax or amount, which has been confirmed as payable after following the due process of adjudication by the proper officer.

An attempt has been made in this article to analyze the legal validity of recovery of interest on unpaid self-assessed tax without adjudication by the department.

VEXED ISSUE SURROUNDING RECOVERY OF INTEREST

A) Whether ‘interest’ as contemplated in section 75(12) is by itself fall within the expression ‘self-assessed’?

B) Whether interest payable on ‘unpaid self-assessed tax’ can be recovered u/s 79:

I) Straightaway by issuing letter/ email or any other similar communications

ii) By issuing Form DRC-07 without following adjudication process

LIABILITY TO PAY INTEREST – WHETHER AUTOMATIC? Section 75(12) of CGST Act reads as under – Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79. From the plain reading of the aforesaid provision, it appears that department can directly proceed to recover interest on admitted self -assessed tax without going through the process of adjudication.

The instant question that comes in mind is whether interest on belated filing of return arises automatically? Honble Telengana & AP HC in the case of Megha Engineering and Infrastructure Ltd V CCT (2019) 4 TMI 1319 has held that interest u/s 50(1) arises automatically. This case has been put to challenge before the hon’ble Supreme Court. Honble Madras HC in the case of AC CGT Vrs Daejung Moparts P Ltd WA 2127 of 2019 in Para 29 of the order has held as below:

Liability fastened on the assessee to pay Interest is an automatic liability.

- i) The term Automatic does not mean or to be construed as excluding ‘the arithmetic exercise’
- ii) In other words though liability is automatic, quantification of such liability shall have to be made by doing arithmetical exercise **IS SECTION 50(1) AN INDEPENDENT CODE BY ITSELF?** Section 50(2) of the CGST Act reads as under: The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

From the forgoing provisions, it is clear that Section 50(1) is not an independent code by itself, rather it is dependent upon section 50(2). As per sub-section 2, interest under subsection 1 shall be calculated in the manner prescribed. The word “prescribed” has been defined in section 2(87) of the CGST Act, 2017 to mean – prescribed by rules made under the

Act on the recommendation of the Council. Till date no such rules have been formulated to prescribe the manner for calculating interest u/s 50(1). Honble Gauhati High Court in the case of Santosh Kumar Harlalka Vs State of Assam & Ors, (1995) 2 GLR 95 while deciding the question on the manner held as under:

“Therefore, I am of the opinion that as per the “Rules”, no rate and manner have been prescribed to deduct tax at source. In the absence of any prescribed rate and manner, the 3rd respondent has no jurisdiction to issue notice dated 5.8.93 directing the 4th respondent to deduct taxes at source and the respondent no.5 has also no authority and jurisdiction to deduct the tax at source in the manner as it is proposed. Therefore, the letter dated 5.8.93 issued by the 3rd respondent is liable to be set aside as ultra vires. Subsequently, the Government of Assam amended the law prescribing the rate but no manner was prescribed. The matter again came up before the Gauhati High Court in Gauhati Municipal Corporation Contractor’s Association Vs Gauhati Municipal Corporation, (1996) 2 GLR 172 and the High Court held as under: “It is a well settled law that where a power is given to do certain thing in a certain way the thing must be done in that way or not at all. In section 27(b) of the Assam General Sales Tax Act the legislature has fairly indicated that tax can be deducted at source not only on the basis of the prescribed rate but also in the manner. While making the said provision, definitely, the legislature had in its mind certain manners. It is also an established principle of law that legislature do not use any expression which is unnecessary and redundant. Taking the plain meaning from Section 27(b) of the Act, it is abundantly clear that some manner, regarding deduction of tax has to be prescribed. As this has not been done, in my opinion, no tax can be deducted at source in the present facts and circumstances of the case. Accordingly, I set aside and quash the action of respondents deducting the sales tax at source from the bills payable to the members of the petitioner-association. Honorable Supreme Court in Mathuram Agrawal has identified three essential components of taxation:

- i) The subject of the tax;
- ii) The person who is liable to pay the tax; and
- iii) The rate at which the tax is to be paid. This test has been further elaborated by a two-judge Bench of Supreme Court in Govind Saran Ganga Saran V CST, 1985 Supp SCC or AIR 1985 SC 1041 by further requiring the designation of the measure or the value to which the rate of the tax will be applied. Thus, the four canons of taxation are as follows:

- (I) The taxable event;
- (ii) The person on whom the levy is imposed;
- (iii) The rate at which the levy is imposed; and
- (iv) The measure or the value to which the rate will be applied.

Section 5(1) of the IGST Act specifically identifies the four canons of taxation:

- (i) The inter-State supply of goods and services as the taxable event;
- (ii) The “taxable person” as the person on whom the levy is imposed;
- (iii) The taxable rate as such a rate notified by the Union Government on the recommendation of the GST Council, capped at forty per cent; and
- (iii) The taxable value as the value determined under Section 15 of the CGST Act. Section 5(3) and Section 5(4) of the IGST Act are inextricably linked with Section 5(1) of the IGST Act which is the charging provision. They must be construed together in determining the vires of the taxation. In *CIT v. B C Srinivas Setty* (1981) 128 ITR 294, a three-judge Bench of Supreme Court has held that the machinery provisions of an Act and the charging sections are inextricably linked. The Court observed: “A transaction to which those provisions cannot be applied must be regarded as never intended by Section 45 to be the subject of the charge. This inference flows from the general arrangement of the provisions of the Income Tax Act, where under each head of income the charging provision is accompanied by a set of provisions for computing the income subject to that charge. The character of the computation provisions in each case bears a relationship to the nature of charge. Thus the charging section and the computation provisions together constitute an integrated code. When there is a case to which the computation provisions cannot apply at all, it is evident that such a case was not intended to fall within the charging section. Any uncertainty or vagueness in the legislative scheme defining any of those components of the levy will be fatal to its validity. It is a trite law that for taxability of any transaction there are two provisions, one is charging provisions which provides the conditions for taxability of any event and other is machinery provision which takes care of computation of tax. It is now a settled legal position that in the absence of machinery provision, charging provisions cannot be applied on isolation. The above passage was cited with approval and this position of law has again been reiterated by honorable Supreme Court vide Para 88

(Page 108) in the case of UOI Vrs Mohit Minerals Pvt Ltd, Civil Appln No.1390 of 2022 dated 19.05.2022. Thus it can be safely concluded that in absence of machinery provisions, as referred to in section 50(2), section 50(1), being the charging provision cannot survive by its own.

INTERPRETATION OF THE WORD 'PAYABLE' Section 75(12), section 78 and section 79 have used the word 'payable'. What is the meaning of the word 'payable'? Honourable High Court of Madras in Para 7 in its judgment in the case of V N Mehta & Co Vrs Asst Commissioner, Preventive Unit, Chennai reported in 2020 (34) GSTL 148 has held: Section 79 of the CGST Act, 2017 contemplates that any amount payable by a person to the Government under any of the provisions of the said Act or the Rules made there under is not paid, the proper officer shall proceed to recover the amount by one or more of the modes referred to therein. Therefore, it is evident that the term "amount payable by a person" is to mean that such liability arises only after determination of such amount in a manner known to law.

INTERPRETATION OF THE WORD 'FOR' Rule 142 (6) has used the word notice 'for' recovery. Obviously it does not mean to say notice 'of' recovery. The expression 'for' in isolation is of wide amplitude, the dictionary.com defines it as "with the object or purpose of". Anything or any act with the object or purpose of something implies 'something is for that thing/ act'. Traditional meaning aside, the judicial approach in defining the word 'for' is a bit more complex, though. The meaning may be understood from some of the key judicial pronouncements; Context of Parent Section: The earliest tracing goes back to Hon'ble Supreme Court decision in State of UP vs Ramkrishan Burman. The respondent disputed payment of Court Fees on obtaining decree-declaration of title to money or other property, to the exclusion of "suits for a decree for money or other property" under Section 7 (iv-A) of the Court Fees Act[4]. The Court ruled that second time use of expression 'for' and is narrow and limited to suit for recovery of money or other property ['recovery' is the pursued act in other clauses of Section 7] and not all acts concerning money (in this case suit for obtaining title of money). The test is what acts are covered when the expression "for" is used be it (1) limit acts or (2) all acts, depends upon the context of parent Section. Context of general scheme of things: The Hon'ble Calcutta High Court in Anjali Roy vs State of West Bengal interpreted the scope of 'for' in Article 15 (3) of the Indian Constitution. Article 15 (3) entailing for sex wise discrimination read as follows "nothing in this Article shall prevent the State from making any special

provision for women and children”. The Court averting to *Madhab Jew vs BB Sen*, held that although grammatically and etymologically ‘for’ may mean ‘concerning’ i.e. discriminatory provision both favorable and unfavorable discrimination against women, however theoretically it is impossible that any unfavorable discrimination be resorted under Article 15 (3) *ibid*, hence ‘for women’ therein can only be interpreted as “in favor of” women. The Court again emphasized the context in which words ‘for’ should be seen. *Noscitur a social*: Another legal doctrine that could be utilized is ‘*noscitur a social*’ that the ambiguous words should be read along with the associated words. *Theory of direct or immediate use*: The goods or services received for construction, may also be examined as to how stretched the construction is process is. The direct or immediate use in construction or the remote use in construction determines the coverage of in-eligibility. In a fairly relevant judgment *vis-à-vis* Central Excise exemption on actively manufactured goods of *Chex vs Tata Engineering and Locomotives Co. Ltd.*, the Hon’ble Supreme Court agreed with the ruling of CEGAT, that in interpreting the exclusion of ‘use for producing or processing’ of any goods “indicates direct or immediate use in actual production or processing of goods”. In the earlier order, the CEGAT had very emphatically distinguished the rationale of “for” used in the context of manufacturing process. The CEGAT held that measuring equipment, handling equipment *ipso facto* doesn’t have the capacity to bring about processing or production or change in the substance, and such assets do not fall within the coverage of “for”. There direct and immediate use theory proceeds on the premise that the strength of the object proceeding after ‘for’, without the use of measuring equipment processing can be undertaken, and similarly without the surveyor’s services, the construction activity can surely be started. The measuring equipment and surveyor’s services in essence provides quality to the respective objects. Therefore an objective test that one can form is whether impugned goods or services is *sine qua non* for construction or is only for the qualitative purpose. If goods or services are *sine qua non*, they should be covered within ‘for’, while if they are only for the purpose of quality, then they should not be covered within the canopy of ‘for’

DEEMING FICTION Rule 142(6) uses the expression ‘shall be treated’ after the expression ‘The order referred to in sub-rule (5)’. It creates a legal fiction for the treatment of an order as a notice. It is a settled law that deeming provision cannot go beyond the purpose for which it is created or beyond the language of the section by which it is created. By employing the word ‘treated’, the intent is quite clear and unambiguous that by its origin the subject matter is not a notice, in fact it is an order. By virtue of a

legal fiction, the original character of the order become a notice for a specific purpose only i.e. recovery. Moreover, an order shall be treated as a notice only after the making of an order. There are established procedure enshrined in the Rules itself for making of an order commencing from Rule 142(1) and ended with Rule 142(5) which must be followed. Without following following such procedure one cannot directly resorted to issuing an order. FORM DRC-07 A ‘SUMMARY OF ORDER’ OR A ‘NOTICE’? Rule 142(6) uses the expression: The order referred to in sub-rule (5) shall be treated as the notice for recovery. It gives an instant impression that it is a NOTICE. But the Rules uses the expression notice for recovery. That means, for the purpose of recovery action, DRC-07 is a notice; by origin it’s a ‘summary of order’. Let’s assume some hypothetical situation. Proper Officer issues DRC-07 for demanding Tax without following adjudication process. In that situation, the PO would have proceed to recover such tax, it would have led to an anarchy/ absurd situation. There are various provisions in CGST Rules which talks about issuance or service of notice for a particular cause of action. Let’s find out some provisions in CGST Rules which has employed the word notice. Rule 6(4) – Issue a notice, Rule 9(2) – Issue a notice, Rule 19(2) – Serve a notice, Rule 22(1) – Issue a notice, Rule 23(3) – Issue a notice, Rule 24(3) – Serving a notice, Rule 68– Issue a notice, Rule 83(4) – Giving a notice, Rule 92(3) – Issue a notice, Rule 98(2) – Issue a notice, Rule 98(4) – Issue a notice, Rule 99(1) – Issue a notice, Rule 142(1A) – Service of notice, Rule 142(6) – Treated as the notice. Employment of the expression ‘shall be treated as notice’ in Rule 142(6) is clearly distinguishable from those used in all other rules. By using the expression ‘shall be treated as notice’ in Rule 142(6), it becomes abundantly clear that law maker never intended to be used by the department DRC-07 a notice by its origin. DRC-07 is not a notice in its original sense rather an order is fortifying from the following facts: I) Language employed in Form DRC-07 ii) GSTIN portal has classified it under the head order although notice tab is already available iii) Distinguishable facts over language used in all other parts of the Rules over ‘issuance/ service of notice’

INTERPRETATION OF RULE 142(6)

The Hon’ble Apex Court in LSE Securities Limited v. Commissioner 2013 (29) S.T.R. 591 has settled the principle of taxation: In interpreting a taxing statute, equitable considerations are entirely out place. Taxing statutes cannot be interpreted on any presumption or assumption. A taxing statute has to be interpreted in the light of what is

clearly expressed; it cannot imply anything which is not expressed; it cannot imply provisions in the statute so as to supply any deficiency. DRC-07 is the ultimate product of the adjudication proceeding, which starts with issuing SCN, thereafter receiving reply, providing opportunity of hearing and finally passing order. DRC-07 is not an order, but a Summary of Order. It specifies the amount PAYABLE by the person concerned. The legislature has used the word 'payable' which assumes great importance. Payable is the final outcome of an adjudication proceeding. Meaning thereby, if there is no adjudication in a given situation, nothing would be payable.

INTERPRETATION OF SECTION 75(12) Let's dissect

Section 75 (12) which says as under: Notwithstanding anything contained in section 73 or section 74, where I) any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or ii) any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79. Self-assessed Tax has been defined in explanation to section 75(12) to include differential tax on supplies declared in statement u/s 37 with those declared in return u/s 39. This is an inclusive definition. The very nature of Self-assessed tax has neither been defined anywhere in the Act nor in The General Clauses Act' 1987. In the absence of specific definition in the law, its meaning has to be derived from the common parlance. The character of unpaid self-assessed tax, as the name suggests, is that of an admitted tax as the same has been self-declared by the taxpayer himself in his return u/s 39. One can safely assign meaning to the expression 'Self-assessed Tax' as tax admitted by the taxpayer in his return. Interest payable on Self-Assessed Tax possibly means 'interest payable on self-assessed tax'. Legislature has used the phraseology 'interest payable on such tax'. The legislature could have used the words 'self-assessed interest' in the manner it has used for self-assessed tax. By not using similar expression, the legislative intent is clear and unambiguous that interest itself is not self-assessed rather it is interest payable on self-assessed tax.

CAN INTEREST BE RECOVERED WITHOUT ADJUDICATION?

Section 75(12) of CGST Act reads as under – Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the

provisions of section 79. From the plain reading of the aforesaid provisions, it is apparent that department can directly proceed to recover interest on admitted self -assessed tax without going through the process of adjudication. Now, when an assessee questions the quantification or determination or calculation of interest by the department, in such an eventuality, can the department by invoking section 79 directly proceed to recover such interest from the assessee or have to mandatorily to go through the process of adjudication? Honble Jharkhand HC in the case of Manado Construction Co. Vrs UOI (2020) 116 Taxmann.com 212, after considering the judgment of Honble Madras HC in the case of AC CGT Vrs Daejung Moparts P Ltd(2020) 116 Taxmann.com 372 and its own judgment in the case of Godavari Commodities Ltd Vrs UOI (2020) 114 Taxmann.com 563, has held in Para 21 as under: It is not a true that liability of interest under Section 50 of the CGST Act is automatic, but the said amount of interest is required to be calculated and intimated to an assessed. If an assessed disputes the liability of interest i.e. either disputes its calculation or even the livability of interest, then the only option left for the Assessing Officer is to initiate proceedings either under Section 73 or 74 of the Act for adjudication of the liability of interest. Para 22 of the said judgment says that the department has to mandatorily go through the process of adjudication u/s 73 or 74 in the event assessee disputes the computation of very livability of interest. Without completing such adjudication process interest amount cannot be termed as 'amount payable under the Act'. This was followed by the judgment of hobble Jharkhand High Court in the case of Nursing I spat P Ltd WP(T) No.177 of 2021 dated 22.03.2022 and R K Transport P Ltd. WP(T) 1404 of 2020 dated 16.02.2022. Honourable Karnataka High Court in the case of L C Infraprojects Pvt Ltd Vrs UOI 2019 (8) TMI 84 in Para 6 has held: _____ The notion of the third respondent – Authority that Section 75(12) of the Act empowers the authorities to proceed with recovery without issuing Show Cause Notice is only misconceived. The said Section is applicable only to the self-assessment made by the assessee and not to quantification or determination made by the Authority. From the combined reading of Section 73 or Section 74 and subsection 12 of Section 75 of the Act it appears that if the amount of interest is not admitted by an assessee or if the same is disputed by the assessee, the tax authorities have to determine the same by means of adjudication inclusive of issuance of the show cause notice as per the procedures laid down in Section 73 or 74 of the CGST Act and it is after such determination and adjudication that the recovery proceedings under Section 79 of the Act can be initiated by the authorities, instead of taking recourse to Section 75(12) of the Act.

Honble Gujarat High Court in the case of Raj Kamal Builders Infrastructure P Ltd Civil Appln 21534 of 2019 dated 23.03.2021 while dealing with the question as to ‘whether issuance of DRC 01 under Section 50 of the CGST Act, 2017 is legal and proper?’ has held in Para 8, 9 and 10 as below: Para 8: Rule 142(1)(a) of the Central Goods and Service Tax Rules, 2017 reads thus: 1) The proper officer shall serve, along with the (a) notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in FORM GST DRC01.” Para 9: Thus, the plain reading of the aforesaid rules indicates that Form GST DRC 01 can be served by the proper officer along with the notice issued under Section 52 or Section 73 or Section 74 or Section 76 or Section 122 or Section 123 or Section 124 or Section 125 or Section 127 or Section 129 or Section 130 and that too, electronically as a summary of notice. Para 10: We do not find reference of any notice under Section 50 so far as Rule 142(1)(a) of the CGST Rules is concerned. In such circumstances, DRC 01 could not have been issued for the purpose of recovery of the amount towards interest on delayed payment of tax. With utmost respect to the hobble High Court and with all humility, I beg to differ with the view expressed in the said order. Section 73(1)/ 74(1) expressly provide to issue show cause notice on interest as well. Further Section 73(9)/ 74(9) also provide to determine interest due from such person. Section 50 is the enabling section/ provision which provide livability of interest in certain situations. Section 73, 74 and Rule 142, which are placed in ‘Chapter Demand and Recovery’, are the appropriate sections/ Rules/ provisions to deal with such issue.

WHETHER DRC-07 AN APPALABLE ORDER?

Section 107(1) says as under: I) Any person aggrieved ii) by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority iii) may appeal to such Appellate Authority _____. It is well established that ‘right to appeal’ is a right conferred by the statute. It is neither a fundamental, constitutional or vested right. In absence of such right being in a statute, no right to appeal exist. On plain reading of the substantive provision, is it quite clear that appeal exist against the order of an adjudicating authority. Now the question that comes up in mind is that whether appeal exist against DRC-07 which by its original character is an order, by way of a deeming fiction and for the exclusive purpose of recovery, it has been treated as notice for recovery. Looking at the format of DRC-07 and

the language used therein, it has become crystal clear that it is an order. Among the various rules of interpretation, the one which gives the highest priority to the object of the legislation and advances such interpretation of statute, which helps in the fulfilment of the object of such statute, is the rule of purposive interpretation of statute. In the celebrated case of *Workmen of Dimakuchi Tea Estate v. Management of Dimakuchi Tea Estate*, the Hon'ble Supreme Court of India held that the words of a statute, whenever there is a doubt about their meaning, have to be understood in the sense in which they best harmonize with the subject of the enactment and the object which the legislature has in its view. It was stated that "the meaning of the statute is not found in a strict grammatical or etymological propriety of language, nor even in its popular use, as in the subject or in the occasion on which they are used, and the object to be attained." It has been recognized by the Supreme Court of India on multiple occasions that whenever two interpretations are feasible the court will prefer such interpretation which advances the remedy and suppresses the mischief as it was envisioned by the legislature. It has been provided that the Court should adopt an object-oriented approach keeping in mind the principle that legislative futility is to be ruled out so long as interpretative possibility permits. Thus, it can be inferred that to the extent to which there is interpretive flexibility, the Court must seek to give such an interpretation to the statute which helps in the fulfilment of its ultimate objective and thereby prevents the same from becoming futile. Looking at the front of principle of natural justice, it is imperative on the part of government agencies to follow the path of natural justice enshrined by way of various judicial pronouncements. If right to appeal, provided in the statute, is freeze, that would lead to absurd and unexpected situation. Rule of law must prevail to have fare play between law maker and taxpayer. By presupposing that DRC-07 is a 'notice of recovery' (although language used in Rules is 'notice for recovery'), the agencies may try to create havoc and freezing the right of the taxpayer to make appeal against such action of the agencies.

CONCLUSION

In the light of above discussion and considering the settled legal jurisprudence, it is imperative on the part of department to follow the principle of natural justice of issuing show cause notice, providing opportunity of being heard and finally passing order. Direct recovery of interest on unpaid self-assessed tax is gross violation of natural justice and runs contrary to settled jurisprudence. DRC-07 can never be the point of ignition of a valid notice. Had it been the intention of the law maker, instead of treating an order to be

a notice, it would have employed suitable language to make its intent clear.

4.19 REFUND

Current GST return filing requires that every month, once GSTR-1 is filed to report Sales, one must file GSTR-3B to report the ITC and make necessary GST Payment. Also if a refund is required to be claimed the same can be done by filing relevant refund related forms.

A. Payments

What are payments to be made under GST?

Under GST the tax to be paid is mainly divided into 3 –

- IGST – To be paid when interstate supply is made (paid to centre)
- CGST – To be paid when making supply within the state (paid to centre)
- SGST – To be paid when making supply within the state (paid to state)

CIRCUMSTANCES	CGST	SGST	IGST
Goods sold from Delhi to Bombay	NO	NO	YES
Goods sold within Bombay	YES	YES	NO
Goods sold from Bombay to Pune	YES	YES	NO

Apart from the above payments a dealer is required to make these payments –

- Tax Deducted at Source (TDS) – TDS is a mechanism by which tax is deducted by the dealer before making the payment to the supplier

For example – A government agency gives a road laying contract to a builder. The contract value is Rs 10 lakh. When the government agency makes payment to the builder TDS @ 1% (which amounts to Rs 10,000) will be deducted and balance amount will be paid.

- Tax Collected at Source (TCS) – TCS is mainly for e-commerce aggregators. It means that any dealer selling through e-commerce will receive payment after deduction of

TCS @ 2%.

This provision is currently relaxed and will not be applicable to notified by the government.

- Reverse Charge – The liability of payment of tax shifts from the supplier of goods and services to the receiver. To know more about reverse charge check out our article ‘Know all about Reverse Charge under GST’
- Interest, Penalty, Fees and other payments

How to calculate the GST payment to be made?

Usually, the Input Tax Credit should be reduced from Outward Tax Liability to calculate the total GST payment to be made.

TDS/TCS will be reduced from the total GST to arrive at the net payable figure. Interest & late fees (if any) will be added to arrive at the final amount.

Also, ITC cannot be claimed on interest and late fees. Both Interest and late fees are required to be paid in cash. The way the calculation is to be done is different for different types of dealers –

Regular Dealer A regular dealer is liable to pay GST on the outward supplies made and can also claim Input Tax Credit (ITC) on the purchases made by him. The GST payable by a regular dealer is the difference between the outward tax liability and the ITC.

Composition Dealer The GST payment for a composition dealer is comparatively simpler. A dealer who has opted for composition scheme has to pay a fixed percentage of GST on the total outward supplies made. GST is to be paid based on the type of business of a composition dealer.

Who should make the payment?

These dealers are required to make GST payment –

1. A Registered dealer is required to make GST payment if GST liability exists.
2. Registered dealer required to pay tax under Reverse Charge Mechanism(RCM).
3. E-commerce operator is required to collect and pay TCS
4. Dealers required deducting TDS

When should GST payment be made?

GST payment is to be made when the GSTR 3 is filed i.e. by 20th of the next month.

What are the electronic ledgers?

These ledgers are maintained on the electronically on GST Portal.

How to make GST payment?

GST payment can be made in 2 ways

Payment through Credit Ledger

The credit of ITC can be taken by dealers for GST payment. The credit can be taken only for payment of Tax. Interest, penalty and late fees cannot be paid by utilizing ITC.

Payment through Cash Ledger

GST payment can be made online or offline. The challan has to be generated on GST Portal for both online and offline GST payment. Where tax liability is more than Rs 10,000, it is mandatory to pay taxes Online.

What is the penalty for non-payment or delayed payment?

If GST is short paid, unpaid or paid late interest at a rate of 18% is required to be paid by the dealer. Also, a penalty to be paid. The penalty is higher of Rs. 10,000 or 10% of the tax short paid or unpaid.

B. Refunds

What is GST refund?

Usually when the GST paid is more than the GST liability a situation of claiming GST refund arises. Under GST the process of claiming a refund is standardized to avoid confusion. The process is online and time limits have also been set for the same.

When can the refund be claimed?

There are many cases where refund can be claimed. Here are some of them – Excess payment of tax is made due to mistake or omission.

- Dealer Exports (including deemed export) goods/services under claim of rebate or Refund
- ITC accumulation due to output being tax exempt or nil-rated
- Refund of tax paid on purchases made by Embassies or UN bodies
- Tax Refund for International Tourists

- Finalization of provisional assessment

How to calculate GST refund?

Let's take a simple case of excess tax payment made. Mr. B's GST liability for the month of September is Rs 50000. But due to mistake, Mr. B made a GST payment of Rs 5 lakh. Now Mr. B has made an excess GST payment of Rs 4.5 lakh which can be claimed as a refund by him. The time limit for claiming the refund is 2 years from the date of payment.

What is the time limit for claiming the refund?

The time limit for claiming a refund is 2 years from relevant date. The relevant date is different in every case. Here are the relevant dates for some cases –

Reason for claiming GST Refund	Relevant Date
Excess payment of GST	Date of payment
Export or deemed export of goods or services	Date of despatch/loading/passing the frontier
ITC accumulates as output is tax exempt or nil-rated	Last date of financial year to which the credit belongs
Finalisation of provisional assessment	Date on which tax is adjusted

Also if refund is paid with delay an interest of 24% p.a. is payable by the government.

How to claim GST refund?

The refund application has to be made in Form RFD 01 within 2 years from relevant date. The form should also be certified by a Chartered Accountant. You can file your returns very easily using Clear Tax GST Software.

4.20 AUDIT BY TAX AUTHORITIES

GST audit is necessary at times to maintain a check and examine whether correct GST is being paid and the refund claimed, especially for certain categories of taxpayers.

Recent Updates on Audits under GST

Introduction to GST Audit

Audit under GST is the process of examination of records, returns and other documents maintained by a taxable person. The purpose is to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess the compliance with the provisions of GST.

The GST Audit can be of the different types as depicted in the flowchart given below:

Threshold Limit for Audit under GST by CA/CMA

Every GST registered taxable person whose turnover during a financial year exceeds the prescribed limit is subject to audit. As per the current notified GST Rules, the turnover limit is above Rs 2 crore[^]. Such businesses must get their books of accounts audited by a chartered accountant or a cost accountant. Such taxpayer shall electronically file:

1. An annual return using the Form GSTR 9 by 31st December of the next Financial Year
2. The audited copy of the annual accounts
3. A certified reconciliation statement in the form GSTR-9C, reconciling the value of supplies declared in the return with the audited annual financial statement
4. Any other particulars as prescribed

[^]For businesses with an annual turnover of less than Rs.5 crore, filing of GSTR-9C for FY 2018-19 and FY 2019-20 has been waived off.

Rectifications to Returns After GST Audit

If any taxable person, after furnishing a GST return discovers any omission/incorrect details (from results of audit), he can rectify **subject to payment of interest**.

However, no rectification will be allowed after the earlier of:

- (I) the due date for filing of return for the month of September or second quarter, (as the case may be), following the end of the financial year, or
- (ii) the actual date of filing of the relevant annual return.

For example, Mr 'X' found during the audit that he has made a mistake in Oct 2020 return. X

submitted an annual return for FY 2020-21 on 31st December 2021 along with audited accounts. He can rectify the Oct 2020 mistake within- 20th Oct 2021 (last date for filing September return) or 31st December 2021 (the actual date of filing of relevant annual return), whichever is earlier, i.e., his last date for rectifying is 20th Oct 2021.

Such rectification will not be allowed where results are from scrutiny or audit by the tax authorities.

Audit by Tax Authorities

- The Commissioner of CGST/SGST (or any officer authorized by him) may conduct an audit of a taxpayer. The frequency and manner of an audit will be prescribed later.
- A notice will be sent to the auditee at least 15 days before.
- The audit will be completed within 3 months from the date of commencement of the audit.
- The Commissioner can extend the audit period for a further six months with reasons recorded in writing.

Obligations of the Auditee

The taxable person will be required to:

1. provide the necessary facility to verify the books of account/other documents as required
2. to give information and assistance for timely completion of the audit.

Findings of Audit

On conclusion of an audit, the officer will inform the taxable person within 30 days of:

- the findings,
- their reasons, and
- the taxable person's rights and obligations

If the audit results in the detection of unpaid/short paid tax or wrong refund or wrong input tax credit availed, then demand and recovery actions will be initiated.

Special Audit under GST

When can a special audit be initiated?

The Assistant Commissioner may initiate the special audit, considering the nature and complexity of the case and interest of revenue.

If he is of the opinion during any stage of scrutiny/ inquiry/investigation that the value has not been correctly declared or the wrong credit has been availed then a special audit can be initiated.

A special audit can be conducted even if the taxpayer's books have already been audited before.

Who will order and conduct a special audit?

The Assistant Commissioner (with the prior approval of the Commissioner) can order for special audit (in writing). The special audit will be carried out by a chartered accountant or a cost accountant nominated by the Commissioner.

What is the time limit to initiate a special audit under GST?

The auditor will have to submit the report within 90 days. This may be further extended by the tax officer for 90 days on an application made by the taxable person or the auditor.

Who will bear the expenses of the special audit?

The expenses for examination and audit including the auditor's remuneration will be determined and paid by the Commissioner.

How are the findings of the special audit dealt with?

The taxable person will be given an opportunity of being heard in the findings of the special audit. If the audit results in detection of unpaid/short paid tax or wrong refund or input tax credit wrongly availed then demand and recovery actions will be initiated.

4.21 APPEALS AND REVISIONS

What is an appeal?

Any appeal under any law is an application to a higher court for a reversal of the decision of a lower court. Appeals arise when there are any legal disputes.

What are disputes?

Tax laws (or any law) impose obligations. Such obligations are broadly of two kinds: tax-

related and procedure-related. The taxpayer’s compliance with these obligations is verified by the tax officer (through audit, anti-evasion, examining etc.). Sometimes there are situations of actual or perceived non-compliance. If the difference in views persists, it results into a dispute, which is then required to be resolved. The initial resolution of this dispute is done by a departmental officer by a quasi-judicial process resulting into the issue of an initial order known by various names -assessment order, adjudication order, order-in-original, etc. GST Act defines the phrase “adjudicating authority” as any authority competent to pass any order or decision under this Act, but does not include the Board, the First Appellate Authority and the Appellate Tribunal. Thus, in a way, any decision or order passed under the Act is an act of “adjudication”. Some examples are:- cancellation of registration, best judgment assessment, decision on a refund claim, imposition of a penalty.

Steps of appeals under GST

Appeal level	Orders passed by....	Appeal to ——	Sections of Act
1st	Adjudicating Authority	First Appellate Authority	107
2nd	First Appellate Authority	Appellate Tribunal	109,110
3rd	Appellate Tribunal	High Court	111-116
4th	High Court	Supreme Court	117-118

Should every appeal be made to both CGST & SGST authorities? No. As per the GST Act, CGST & SGST/UTGST officers are both empowered to pass orders. As per the Act, an order passed under CGST will also be deemed to apply to SGST. However, if an officer under CGST has passed an order, any appeal/review/ revision/rectification against the order will lie only with the officers of CGST. Similarly, for SGST, for any order passed by the SGST officer the appeal/review/revision/rectification will lie with the proper officer of SGST only.

General rules for filing GST appeals

All appeals must be made in prescribed forms along with the required fees. Fee will be – The full amount of tax, interest, fine, fee and penalty arising from the challenged order, as admitted by appellant, AND –10% of the disputed amount In cases where an officer or the Commissioner of GST is appealing then fees will not be applicable.

Can an authorized representative appear in court?

Yes. Any person required to appear before a GST Officer/First Appellate Authority/Appellate Tribunal can assign an authorized representative to appear on his behalf, unless he is required by the Act to appear personally. An authorized representative can be-

- a relative
- a regular employee
- a lawyer practising in any court in India
- any chartered accountant/cost accountant/company secretary, with a valid certificate of practice
- a retired officer of the Tax Department of any State Government or of the Excise Dept. whose rank was minimum Group-B gazetted officer
- any tax return preparer

Retired officers cannot appear in place of the concerned person within 1 year from the date of their retirement.

Appeal cannot be filed in certain cases

The Board or the State Government may, on the recommendation of the Council, fix monetary limits for appeals by the GST officer to regulate the filing of appeal and avoid unnecessary litigation expenses **Can all decisions be appealed against? No.** Appeals cannot be made for the following decisions taken by a GST officer-

- An order to transfer the proceedings from one officer to another officer;
- An order to seize or retain books of account and other documents;
- An order sanctioning prosecution under the Act; or
- An order allowing payment of tax and other amount in instalments

A person unhappy with any decision or order passed against him under GST by an adjudicating authority can appeal to the First Appellate Authority. If they are not happy with

the decision of the First Appellate Authority they can appeal to the National Appellate Tribunal, then to High Court and finally Supreme Court.

4.22 APPELLATE AUTHORITY AND ITS POWERS

(1) The Authority or the Appellate Authority² or the National Appellate Authority shall, for the purpose of exercising its powers regarding—

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) issuing commissions and compelling production of books of account and other records,

have all the powers of a civil court under the Code of Civil Procedure, 1908.

(2) The Authority or the Appellate Authority³ or the National Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code.

4.23 MISCELLANEOUS PROVISIONS

IGST Miscellaneous Provisions are, as

Section 17. Application of certain provisions of the CGST Act, 2016

The provisions relating to registration, valuation, time of supply of goods, time of supply of services, change in rate of tax in respect of supply of goods or services, input tax credit and utilization thereof, distribution of input tax credit by an Input Service Distributor, job work, accounts and records, payment, tax deduction at source, return, tax collection at source, audit, assessment, adjudication, demands, refunds, interest, recovery of tax, offences and penalties, inspection, search and seizure, prosecution and power to arrest, appeals, review, advance ruling and compounding shall apply, so far as may be, in relation to the levy of tax under this Act as they apply in relation to levy of tax under the CGST Act, 2016:

Provided that in the case of tax deduction at source, the deductor shall deduct tax at the rate

of two percent from the payment made or credited to the supplier: Provided further that in the case of tax collection at source, the operator shall collect tax at the rate of two percent of the value of net supplies.

Section 18. Power to make rules

(1) The Central Government may, on the recommendation of the Council, by notification, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(a) provide for settlement of cases in accordance with Chapter XII of this Act;

(b) provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

Section 19. Tax wrongfully collected and deposited with the Central or a State Government

(1) A taxable person who has paid IGST on a supply considered by him to be an inter-state supply, but which is subsequently found to be an intra-State supply, shall, be granted refund of the amount of IGST so paid in such manner and subject to such conditions as may be prescribed.

(2) A taxable person who has paid CGST / SGST on a transaction considered by him to be an intra-State supply, but which is subsequently found to be an inter-State supply, shall not be required to pay any interest on the amount of IGST payable.

Section 20. Refund of IGST paid on supply of goods to outbound tourist

(1) The IGST paid on any supply of goods to outbound tourist shall be refunded, in the manner and subject to such conditions and safeguards as may be prescribed, if such goods are taken out of India.

(2) The refund under sub-section (1) shall be allowed only on such supply of goods that is procured from a registered taxable person who satisfies the conditions and complies with the requirement, including relating to issue of invoice in the prescribed manner.

4.24 UNIT END QUESTIONS

A. Descriptive Questions

Long Answer Questions

1. What will be the effective date of registration?
2. Who are the persons liable to take a Registration under the GST Law?
3. Which are the cases for which registration is compulsory?
4. Is there any Advance tax to be paid by a Casual Taxable Person and Non-resident Taxable Person at the time of obtaining registration under this Special Category?
5. What is the registration process for GST in India?

Short Answer Questions

1. Whether the cancellation of registration certificate is permissible?
2. What is the time limit within which the application for registration be approved?
3. What is a constitutional amendment?
4. What are the finer points in the implementation of the bill?
5. If a person is operating in different states, with the same PAN number, can he operate with a single Registration?

B. Multiple Choice Questions

1. What is used for GST Registration?
 - a. FORM GST REG-01
 - b. FORM GST 20
 - c. FORM GST REG
 - d. FORM GSTR
2. 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
3. If an entity has multiple branches within the same state, it requires

- a. Registration for each branch separately
 - b. Multiple registration or single registration at the option of the Assessee
 - c. Single registration for all the branches
 - d. Registration for each branch separately if the turnover of each branch exceeds INR 20 Lakhs
4. Which of the following requires amendment in the registration certificate?
- a. Switching over from composition scheme to normal scheme or vice versa
 - b. Change in constitution of the registered person
 - c. Change of name of the registered person
 - d. All of these
5. As per section 25 of CGST Act, 2017, a casual taxable person shall apply for registration at least _____ prior to the commencement of business.
- a. 5 days
 - b. 10 days
 - c. 7 days
 - d. 30 days

Answers : 1-a, b, 3-c, 4-d, 5-a

4.25 REFERENCES

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UNIT-5 FILING OF TAX RETURNS

STRUCUTRE

- 5.0 Objectives
- 5.1 Introduction
- 5.2 Procedure for Filing of tax returns of GST
- 5.3 Matching tax credits and due dates
- 5.4 Payment of tax

5.5 Interest and Levy of Late fees

5.6 Assessment: Self-assessment

5.7 Summary and scrutiny

5.8 Taxability of e-Commerce

5.9 E-way bills

5.10 Zero-rated supply

5.11 Unit End Questions

5.12 References

5.0 OBJECTIVES

After completing this Students will be able to

- Describe Procedure for Filing of tax returns of GST
- Discuss E-way Bills
- Explain Matching tax credits and due dates
- Explain Self-Assessment

5.1 INTRODUCTION

All gst registered businesses have to file monthly or quarterly GST returns and an annual GST return based on the type of business. These GSTR filings are done online on the GST portal.

A GST return is a document containing details of all income/sales and/or expenses/purchases that a GST-registered taxpayer (every GSTIN) is required to file with the tax administrative authorities. This is used by tax authorities to calculate net tax liability.

GST returns are different forms that a taxpayer has to file for every GSTIN to which he is registered. In this article, we have provided several important questions surrounding GST

returns.

These include: how many different types of forms there are, who needs to file which form, when do these forms need to be filled and so on.

Let's get started, however, on what is GST Returns. Check it out!

What are GST Returns?

GST Returns are a type of form that a taxpayer has to file. There are around 22 types of GST forms available. From these 22 GST forms, there are 11 that are active, 8 view-only and 3 suspended. So the number and type of GST you have to file is based on the type of taxpayer you have registered.

While you understand what GST returns are, it is also necessary to understand the type of taxpayers. There are 7 types of taxpayers. These are:

- Regular taxpayer
- Composition taxable persons
- TDS detectors
- Non-resident taxpayer
- Input Service Distributor
- Casual taxable persons
- E-commerce operators

It is also worth knowing that GST Returns are filed quarterly, monthly, or annually. So with this idea of what a GST return filing is, let's get started on understanding the different types of GST returns.

5.2 PROCEDURE FOR FILING OF TAX RETURNS OF GST

If you have been wondering how to file GST returns, it is not a laborious or confusing process. It can be filed with the software provided by the Goods and Services Tax Network (GSTN), which will auto-populate the forms.

1) GST return online filing process

The GST return online filing process can be completed in the following steps.

Step 1: Use the GST portal that is www.gst.gov.in.

Step 2: Based on your state code and PAN number, a 15 digit number will be issued.

Step 3: Each invoice that you have needs to be uploaded. Against each invoice, a reference number will be issued.

Step 4: After this, the next step is to file the outward returns, inward returns, and cumulative monthly returns. All errors can be rectified.

Step 5: File the outward supply returns of GSTR-1 using the information section at the GST Common Portal on or before the 10th of the month.

Step 6: The outward supplies furnished by the supplier will be gotten from the GSTR-2A.

Step 7: After this, the recipient has to verify the details of the outward supplies and file details of credit or debit notes.

Step 8: Next, supply details of the inward supplies of goods and services in the GSTR-2 form.

Step 9: Supplier can accept or reject the details provided by the inward supplies made apparent in the GSTR-1A.

2) Offline process

To file your GST returns in the offline mode, you need to visit and download the following offline tool, Website Link. Once you have downloaded this tool, you can easily fill in the GSTR-1 and GSTR-2 forms. All you have to do is follow the steps in the link provided above.

How to download GST returns form?

Here's how to download GST returns from the government portal.

Follow these steps one after the other.

Step 1: Login to the GST portal.

Step 2: From there, go to the Service→ Returns→ Returns Dashboard.

Step 3: Choose the month and year from the drop-down.

Step 4: Hit "PREPARE OFFLINE."

Step 5: Navigate to "Download" and click on "GENERATE FILE."

Step 6: Click on the “Click Here” link and download the link. You should get a ZIP file.

Step 7: Open this file using the GST offline tool by clicking on “Open” under the Open Downloaded Return file from the GST portal.

Now that you know how to download the GST return file, follow the same procedure for every other GSTR file.

Different Types Of GST Returns

Here is a look at the different types of GST returns.

1. GSTR-1

GSTR-1 has to be filed against all goods and services rendered by a company. This includes all the invoices raised as well as credit-debit notes against sales for a tax period.

2. GSTR-2A

GSTR 2A is a view-only GST return for buying goods and services. It contains the details of all purchases made by the recipient in any month. All kinds of inward supplies to the recipient can be viewed as purchases made from other GST registered suppliers.

3. GSTR- 2B

This is also a static, view-only GST return. It is important for buyers of goods and services. GSTR-2B is available every month from August 2020 and contains ITC data of any period when it is checked back.

4. GSTR- 3B

GSTR 3B is a monthly self-declaration. It furnishes the summarised details of:

- All outward supplies made
- Input tax credit claimed
- Tax liability
- Taxes paid

5. GSTR-4

GSTR-4 is an annual return to be filed by composition taxable persons. It is to be filed by April 30th following the relevant financial year. This return replaced GSTR-9A.

6. GSTR-5

GSTR-5 is for those non-resident foreign taxpayers who carry out transactions in India. What do these returns entail? They contain details of the following:

- Outward supplies made
- Inward supplies received
- Credit-debit notes
- Tax liability
- Taxes paid

7. GSTR-5A

GSTR-5A summarises all the outward taxable supplies and tax payable by OIDAR, which stands for the Online Information and Database Access or Retrieval Services provider.

You have to file this return by the 20th of every month.

8. GSTR-6

GSTR-6 must be filed by an Input Service Distributor (ISD) every month. Its composition details are:

- Input tax credit distributed and received by ISD
- All the details of all documents related to the input tax credit

The due date of the GSTR-6 is the 13th of every month.

9. GSTR-7

GSTR-7 is to be filed by the persons who are required to deduct the TDS under GST. TDS stands for “Tax deducted at source.” Here’s what the GSTR-7 entails:

- Details of TDS deducted
- TDS liability payable and paid
- TDS refund if any

The due date of the GSTR-7 is the 10th of every month.

10. GSTR-8

This form is required to be filed by the e-commerce operators registered under GST. They are usually required to collect tax at the source. All the details of supplies made through the e-

commerce platform and the TCS on the same are recorded.

It is to be filed by the 10th of every month.

11. GSTR-9

This is an annual return to be filed by taxpayers who are registered under GST. It is due by December 31st for the year following the specific financial year. What does the GSTR-9 contain? It consists of the following:

- Details of outward supplies made
- Inward supplies received
- Summary of supplies received under HSN code
- Details of tax payable and paid

12. GSTR-9C

It is a statement filed by all the taxpayers registered under GST whose turnover exceeds Rs. 2 crores in a financial year. This is a unique form in that it has to be certified by a Chartered Accountant or a Cost Management Accountant after a GST audit and looking over the GSTR-9.

It is to be filed by December 31st of the year that follows the relevant financial year.

However, as per the Union Budget 2021, the mandate for the GST audit by CAs and CMAs has been removed.

13. GSTR-10

The GSTR-10 form is to be filled by a person whose registration was surrendered or cancelled. It is also called a final return which needs to be filed within three months of the cancellation order or the date of cancellation, whichever comes first.

14. GSTR-11

GSTR-11 is for foreign diplomatic missions and embassies that do not pay tax in India but require a refund of taxes. It is filed by those persons who have been issued a Unique Identity Number (UIN) to get a refund for the goods and services incurred by them in India. These returns have details of the inward supplies received and refunds claimed.

These were the different types of GST returns and who should file them.

Who should file for GST returns?

So ideally, who should file GST? Every business that has an annual turnover of Rs. 40 lakhs and Rs. 20 lakhs in Hilly and North-Eastern States will have to register under GST and file the returns accordingly.

Here is a summary of who should file an annual return under GST.

Type of GST Form	Who should file the form?
GSTR-1	Every registered person should file this form
GSTR-2A	Autofill form that is view-only
GSTR 2B	View only form
GSTR 3B	Needs to be filled by the normal taxpayer
GSTR- 4	Needs to be filled by a composition dealer who has opted for a composition scheme
GSTR-5	Needs to be paid by those non-resident foreigners who have businesses in India
GSTR-5A	Non-resident OIDAR service providers
GSTR-6	Needs to be filed by an Input Service Distributor (ISD)
GSTR-7	Filed by those persons who need to deduct TDS under GST
GSTR-8	Filed by e-commerce operators

GSTR-9	Taxpayers registered under GST
GSTR 9C	Taxpayers registered under GST
GSTR-10	Paid by those persons whose GST registration was cancelled or surrendered
GSTR-11	For refund claims by foreign diplomatic missions and embassies

What is the penalty for the late filing of GST returns?

If you have failed to pay the GST returns, there is an interest and late fee to be paid. The interest is at 18% per annum to be calculated on the amount of outstanding tax. And under the CGST and SGST, there is a late fee of Rs.100 to be paid each day, so the total comes to Rs.200 per day.

How To Check Status Of GST Returns?

To check GST return status online, just follow these steps.

- Open the portal <https://www.gst.gov.in/>.
- Enter the details on the login page.
- Choose and click Service > Returns > Track Returns Status.
- From the drop-down, select “Status of Return.”
- Click the Search button.
- The status may show up as TO BE FILED / SUBMITTED BUT NOT FILLED / FILED- VALID / FILED-INVALID.

This is how to track GST return filing.

In conclusion, GST returns filing used to be a tedious and laborious job. It has now become simplified by the process of online filling of the various forms. Once you have an idea of the various GST returns forms you have to fill, the process can become significantly simplified. So get your GST Returns filed today!

5.3 MATCHING TAX CREDITS AND DUE DATES

GST is an indirect tax that is levied on the consumption of goods and services in India. Since GST is levied in every stage of value addition, an input tax credit mechanism is used to set off the cascading effect of tax and ensure that tax is passed on to the end consumer. Thus, there exists a robust system for matching **input tax credit under GST** and in this article, we look at that system in detail.

Matching Input Tax Credit

All taxable person under GST are required to file monthly GST returns with details of all outward supplies, inward supplies and tax payable. Hence, in **GSTR-1**, all persons registered under GST are required to furnish details of the outward supplies made by them in the previous month. The taxpayer shall file GSTR-1 before the 10th of each month.

On 15th of every month, following the filing of GSTR-1, GSTR-2 must be filed by all registered businesses providing details of all inward supplies. The portal provides the auto-populates details of inward supplies as provided in GSTR-1 in GSTR-2. Hence, the taxpayer can accept, reject or modify the details from GSTR-1 filings. Thus in GSTR-2 filing, the matching of input tax credit happens based on the following data points:

- GSTIN of the supplier;
- GSTIN of the recipient;
- Invoice or debit note number;
- Invoice or debit note date; and
- Tax amount

Since the framework of GST inter-relates all the forms for matching of various data points, extending the time limit for filing GSTR-1 shall extend the time limit for other related forms, as prescribed in the GST rules.

Mismatch of Input Tax Credit

If there is a mismatch in the input tax credit, then the details of mismatch in input tax credit will be made available to the recipient in Form GST MIS-1 and Form GST MIS-2 to the supplier on the GST common portal on or before the last date of the month in which the matching has been carried out.

Based on the details of mismatch provided on the GST Common Portal, suppliers can make suitable rectifications in the statement of outward supplies for the month in which the discrepancy is made available.

Also, for recipients with a mismatch in the input tax credit can make rectification in the statement of inward supplies for the month in which the discrepancy is made available.

If the discrepancy of mismatch in input tax credit stays uncorrected, then the amount of discrepancy shall add along with the output tax liability of the recipient, while furnishing the return FORM GSTR-3.

Acceptance of Input Tax Credit

The final acceptance of the claim of the input tax credit for any tax period is provided electronically to the registered person in FORM GST MIS-1 through the GST Common Portal.

5.4 PAYMENT OF TAX

What are the Payments to be made in GST regime?

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government) and the State/UT GST (SGST, going into the account of the concerned State Government). For any inter-state supply, tax to be paid is Integrated GST (IGST) which will have components of both CGST and SGST. In addition, certain categories of registered persons will be required to pay to the government account Tax Deducted at Source (TDS) and Tax Collected at Source (TCS). In addition, wherever applicable, Interest, Penalty, Fees and any other payment will also be required to be made.

Who is liable to pay GST?

In general, the supplier of goods or services is liable to pay GST. However, in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Further, in some notified cases of intra-state supply of services, the liability to pay GST may be cast on e-commerce operators through which such services are supplied. Also Government Departments making payments to vendors above a specified limit [2.5 lakh under one contract as per S.51(1)(d)] are required to deduct tax (TDS) and E-

commerce operators are required to collect tax (TCS) on the net value [i.e. aggregate value of taxable supplies of goods and/or services but excluding such value of services on which the operator is made liable to pay GST under Section 9(5) of the CGST Act, 2017] of supplies made through them and deposit it with the Government.

When does liability to pay GST arises?

Liability to pay arises at the time of supply of Goods as explained in Section 12 and at the time of supply of services as explained in Section 13.

The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections.

What are the main features of GST payment process?

The payment processes under GST Act(s) have the following features:

Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan

Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax

Convenience of making payment online

Logical tax collection data in electronic format

Faster remittance of tax revenue to the Government Account

Paperless transactions

Speedy Accounting and reporting

Electronic reconciliation of all receipts

Simplified procedure for banks

Warehousing of Digital Challan.

How can payment be done?

Payment can be done by the following methods:

Through debit of Credit Ledger of the tax payer maintained on the Common Portal – ONLY Tax can be paid. Interest, Penalty and Fees cannot be paid by debit in the credit ledger. Tax

payers shall be allowed to take credit of taxes paid on inputs (input tax credit) and utilize the same for payment of output tax. However, no input tax credit on account of CGST shall be utilized towards payment of SGST and vice versa. The credit of IGST would be permitted to be utilized for payment of IGST, CGST and SGST in that order.

In cash by debit in the Cash Ledger of the tax payer maintained on the Common Portal. Money can be deposited in the Cash Ledger by different modes, namely, E-Payment (Internet Banking, Credit Card, Debit Card); Real Time Gross Settlement (RTGS)/ National Electronic Fund Transfer (NEFT); Over the Counter Payment in branches of Banks Authorized to accept deposit of GST.

When is payment of taxes to be made by the Supplier?

Payment of taxes by the normal tax payer is to be done on monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the tax payer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. As mentioned earlier, payment can also be debited from the Credit Ledger. Payment of taxes for the month of March shall be paid by the 20th of April. Composition tax payers will need to pay tax on quarterly basis.

Whether time limit for payment of tax can be extended or paid in monthly installments?

No, this is not permitted in case of self-assessed liability. In other cases, competent authority has been empowered to extend the time period or allow payment in installments. (Section 80 of the CGST/SGST Act).

What happens if the taxable person files the return but does not make payment of tax?

In such cases, the return is not considered as a valid return. Section 2(117) defines a valid return to mean a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

Which date is considered as date of deposit of the tax dues – Date of presentation of cheque or Date of payment or Date of credit of amount in the account of government?

It is the date of credit to the Government account.

What are E-Ledgers?

Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register. Once a taxpayer is registered on Common Portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dash board at all times.

What is a tax liability register?

Tax Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

What is a Cash Ledger?

The cash ledger will reflect all deposits made in cash, and TDS/TCS made on account of the taxpayer. The information will be reflected on real time basis. This ledger can be used for making any payment on account of GST.

What is an ITC Ledger?

Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of TAX ONLY and no other amounts such as interest, penalty, fees etc.

What is the linkage between GSTN and the authorized Banks?

There will be real time two-way linkage between the GSTN and the Core Banking Solution (CBS) of the Bank. CPIN is automatically routed to the Bank via electronic string for verification and receiving payment and a challan identification number (CIN) is automatically sent by the Bank to the Common Portal confirming payment receipt. No manual intervention will be involved in the process by any one including bank cashier or teller or the tax payer.

Can a tax payer generate challan in multiple sittings?

Yes, a taxpayer can partially fill in the challan form and temporarily “save” the challan for completion at a later stage. A saved challan can be “edited” before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes. The remitter will have option of printing the challan for his record.

Can a challan generated online be modified?

No. After logging into GSTN portal for generation of challan, payment particulars have to be

fed in by the tax payer or his authorized person. He can save the challan midway for future updating. However once the challan is finalized and CPIN generated, no further changes can be made to it by the taxpayer.

Is there a validity period of challan?

Yes, a challan will be valid for fifteen days after its generation and thereafter it will be purged from the System. However, the tax payer can generate another challan at his convenience.

What is a CPIN?

CPIN stands for Common Portal Identification Number (CPIN) given at the time of generation of challan. It is a 14-digit unique number to identify the challan. As stated above, the CPIN remains valid for a period of 15 days.

What is a CIN and what is its relevance?

CIN stands for Challan Identification Number. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code. CIN is generated by the authorized banks/ Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

What is the sequence of payment of tax where that taxpayer has liabilities for previous months also?

Section 49(8) prescribes an order of payment where the taxpayer has tax liability beyond the current return period. In such a situation, the order of payment to be followed is: First self-assessed tax and other dues for the previous period; thereafter self-assessed tax and other dues for the current period; and thereafter any other amounts payable including any confirmed demands under section 73 or 74. This sequence has to be mandatorily followed.

What does the expression “Other dues” referred to above mean?

The expression “other dues” means interest, penalty, fee or any other amount payable under the Act or the rules made thereunder.

What is an E-FPB?

E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only

one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Govt.) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.

What is TDS?

TDS stands for Tax Deducted at Source (TDS). As per section 51, this provision is meant for Government and Government undertakings and other notified entities making contractual payments where total value of such supply under a contract exceeds Rs. 2.5 Lakhs to suppliers. While making any payments under such contracts, the concerned Government/authority shall deduct 1% of the total payment made and remit it into the appropriate GST account.

How will the Supplier account for this TDS while filing his return?

Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier. He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

How will the TDS Deduct or account for such TDS?

TDS Deduct or will account for such TDS in the following ways:

Such deductors need to get compulsorily registered under section 24 of the CGST/SGST Act.

They need to remit such TDS collected by the 10th day of the month succeeding the month in which TDS was collected and reported in GSTR 7.

The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.

They need to issue certificate of such TDS to the deducted within 5 days of crediting the TDS to the got a/c, failing which fees of Rs. 100 per day subject to maximum of Rs. 5000/- will be payable by such deduct or.

What is Tax Collected at Source (TCS)?

This provision is applicable only for E-Commerce Operator under section 52 of CGST/SGST Act. Every E-Commerce Operator, not being an agent, needs to withhold an amount calculated at the rate not exceeding one percent of the “net value of taxable supplies” made through it where the consideration with respect to such supplies is to be collected by the

operator. Such withheld amount is to be deposited by such E-Commerce Operator to the appropriate GST account by the 10th of the next month. The amount deposited as TCS will be reflected in the electronic cash ledger of the supplier.

What does the expression “Net value of taxable supplies” mean?

The expression “net value of taxable supplies” means the aggregate value of taxable supplies of goods or services, other than services notified under Section 9(5), made during any month by all registered taxable persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

Is the pre-registration of credit card necessary in the GSTN portal for the GST payment?

Yes. The taxpayer would be required to pre-register his credit card, from which the tax payment is intended, with the Common Portal maintained on GSTN. GSTN may also attempt to put in a system with banks in getting the credit card verified by taking a confirmation from the credit card service provider. The payments using credit cards can therefore be allowed without any monetary limit to facilitate ease of doing business.

5.5 INTEREST AND LEVY OF LATE FEES

Late fees and interest form important components of the Goods and Services Tax (GST) payment and are incurred by business in case of delay in submitting or filing GST returns. The article covers all latest announcements on Late fees and Interest charge in a comprehensive manner!

Introduction to Late Fees under GST

As per the GST laws, late fee is an amount charged for delay in filing the GST returns. A prescribed late fee will be charged for each day of delay, when a GST registered business misses filing GST returns within the prescribed due dates*.

The late fee should be paid in cash and the taxpayer cannot use the Input Tax Credit (ITC) available in electronic credit ledger for payment of late fee.

The late fee is also applicable for the delay in filing nil returns. For example, one has to pay a late fee even though there are no sales or purchases and no GST liability to declare in the GSTR-3B.

The late fee will depend upon the number of days of delay from the due date. GST return in GSTR-3B is filed on 23rd January 2021, 3 days after the prescribed due date i.e. 20th January 2021. The late fees will be calculated for three days and it should be deposited in cash.

However, currently, the GST portal is aligned to charge a late fee only on returns GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR-8, GSTR-7 and GSTR-9 only.

Amount of late fees applicable

Note that the maximum late fees have been rationalised from the month of June 2021 and quarter ending June 2021.

As per the 43rd GST Council meeting's outcome, maximum late fee is reduced to the following amounts based on type of return and turnover slab, notified via the CGST notifications 19/2021, 20/2021 dated 1st June 2021 for GSTR-3B and GSTR-1.

- In case of nil GSTR-1 and GSTR-3B filing, the maximum late fee charged shall be capped at Rs.500 per return (i.e. Rs. 250 each for CGST & SGST).
- In GSTR-1 and GSTR-3B other than nil filing, maximum late fee is fixed based on annual turnover slab, as follows:
 - If the annual turnover in the previous financial year is up to Rs.1.5 crore, then the late fee of maximum Rs 2,000 per return can only be charged (i.e. Rs.1000 each for CGST and SGST).
 - If the turnover ranges between Rs.1.5 crore and Rs.5 crores, then the maximum late fee of Rs. 5,000 per return can only be charged (i.e. Rs. 2500 each for CGST and SGST).
 - If the turnover is more than Rs.5 crores, then late fee of maximum Rs. 10,000 (i.e. Rs. 5000 per CGST and SGST) can be charged.

Additionally, the late fee has been rationalised for delayed filing of GSTR-4 from FY 2021-22, via the CGST notification 21/2021 dated 1st June 2021. The maximum late fee will be restricted to Rs.500 per return for nil filing and Rs. 2000 for other than nil filing.

According to CGST notification 22/2021 dated 1st June 2021, the late fee chargeable for GSTR-7 i.e. TDS filing under GST shall be of maximum Rs. 2,000 while late fee per day charged is reduced from Rs.200 to Rs.50 per day of delay, per act, per return.

Late fee computation for GSTR-3B and GSTR-1

As per the GST Acts, for intrastate supplies, the late fee should be paid under both the CGST and SGST Act as follows:

Name of the Act	Late fees for every day of delay
Central Goods and Services Act, 2017	Rs 25*
Respective State Goods and Services Act, 2017 (or) Union territory Goods and Services Act, 2017	Rs 25*
Total late fees to be paid per day	Rs 50*
<p>The law has fixed a maximum late fees of Rs 10,000 up to May 2021. This means that in any case, the maximum late fees that can be charged by the Government is Rs 5,000 each return being filed under each Act.</p> <p>However, the maximum late fee has been rationalised from the June 2021 return period onwards, as given in the above section.</p>	

- The Nil return filers must pay the below mentioned late fee:

Name of the Act	Late fees for every day of delay
CGST Act	Rs 10*
SGST Act	Rs 10*
Total late fees to be paid per day	Rs 20*
<p>The maximum late fee has been rationalised for GSTR-1 and GSTR-3B from the June 2021 return period onwards, given in the above section.</p>	

For example, a Taxpayer has filed GSTR-3B for the month of December 2020 on 23rd January 2021, where actual due date was 20th Jan 2021.

Amount of late fees to be paid would be Rs.150 (Rs. 50 per day for 3 days). The late fee would be Rs.75 under CGST and Rs.75 under SGST.

If the above return was a return with 'Nil' tax liability then late fees would be Rs. 60 (20 per day 3 days). The late fee would be Rs.30 under CGST and Rs.30 under SGST.

* The original late fees used to be Rs.100 per day under each CGST Act and SGST Act. Also, *the* original late fee for Nil return filers used to be Rs.25 per day under each CGST Act and SGST Act. However, CBIC has notified reduced late fees to provide relief for businesses having difficulties in GST return filing.

You can use the calculator here to find out the applicable late fees and interest: [Clear Tax GSTR-3B Interest and Late Fee Calculator](#)

For GST annual returns (GSTR-9)

Name of the Act	Late fees for every day of delay
Central Goods and Services Act, 2017	Rs 100*
Respective State Goods and Services Act, 2017 (or) Union territory Goods and Services Act, 2017	Rs 100*
Total Late fees to be paid	Rs 200*
The law has fixed a maximum late fees of an amount calculated at 0.25% of the Turnover for the financial year.	

Up-to-date List of late fee notifications

Following are the changes that have been made on the applicability of the late fees:

GSTR-1

Applicable Return Period/s	Applicability of Late fee	Link to Notification
June 2021 onwards for monthly filers and quarter-ended June 2021 onwards for QRMP taxpayers	Maximum late fee is reduced. For nil filers, it is fixed at Rs.500 per return. For the rest, it is fixed as per turnover slabs, explained in the above section.	20/2021
Months March 2020 – June 2020 and Quarter ending 31st March 2020 and 30th June 2020	Waived off completely if filed before the specified dates of July-August 2020.	53/2020
Months March 2020 – April 2020 and Quarter ending 31st March 2020	Waived off completely if filed before the specified dates of June-July 2020.	33/2020
July 2017 – November 2019	Waived off completely if filed between the period from 19th December 2019 to 10th January 2020	74/2019
July 2019	Waived off completely for taxpayers in certain districts of the flood-affected States and all districts of J&K	41/2019
July 2017 – September 2018	Waived off completely**	75/2018
July 2017 onwards	Reduced Late fee**	4/2018

GSTR-3B

Applicable Return Period/s	Applicability of Late fee	Link to Notification
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For June 2021 onwards in case of monthly filers and quarter-ended June 2021 onwards for QRMP taxpayers	Maximum late fee is reduced. For nil filers, it is fixed at Rs.500 per return. For the rest, it is fixed as per turnover slabs, explained in the above section.	19/2021
From July 2017 to April 2021	Conditional waiver of late fee for delay in filing GSTR-3B, If now filed between 1st June to 31st August 2021 with maximum late fee charged at Rs.500 per act per return.	19/2021
For monthly filers: March and April 2021 For quarterly filers: Jan-Mar 2021	Conditional waiver of late fee for delay in filing GSTR-3B For turnover more than Rs.5 crore- No late fee for 15 days of delay For turnover up to Rs.5 crore- No late fee for 30 days of delay	09/2021
For turnover more than Rs 5 crore May 2020 – July 2020 For turnover equal to or less than Rs 5 crore February 2020 – July 2020	The maximum late fee to be capped at Rs 500 per return filed after the dates given in notification 52/2020 but before 30th September 2020, whereas nil return to not be charged any late fee.	57/2020
1. For turnover more than Rs 5 crore (February 2020 – April 2020) 2. For turnover equal to or	1. & 2. Waived off completely if the filed before the staggered specified dates of June-September 2020. 3. The maximum late fee to be capped at Rs 500 per return filed between 1st	52/2020

less than Rs 5 crore (February 2020 – July 2020) 3. Pending for months July 2017 – January 2020	July 2020 and 30th September 2020, whereas Nil return attracts no late fee.	
February 2020 – April 2020	Waived off completely if the filed before the staggered specified dates of June-July 2020.	32/2020
October 2018 onwards	Reduced Late fee**	76/2018
July 2017 -September 2018	Reduced Late fee** If filed beyond 31st Mar 2019	76/2018
July 2017 -September 2018	Waived off completely** If filed between 22nd Dec 2018 to 31st Mar 2019	76/2018
October 2017 only	Waived off completely** For GSTR-3B submission made but not filed due to a technical glitch	41/2018
October 2017-April 2018 GSTR-3B was yet to be filed by those who submitted TRAN-1 on the GST portal, but could not file it by 27th Dec 2017.	Waived off completely** Condition to be satisfied: Such registered persons have filed the declaration in TRAN-1 on or before the 10th May 2018 and the return in GSTR-3B for each of such months, on or before the 31st May 2018	22/2018
October 2017 onwards	Reduced Late fee**	64/2017

	Condition to be satisfied: If the date of filing was before 22nd December 2018	
July 2017 -September 2017	Waived off completely** Condition to be satisfied: If the date of filing was before 22nd December 2018	28/2017 and 50/2017

GSTR-4 (Annual)

Applicable Return Period/s	Applicability of Late fee	Link to Notification
FY 2021-22 onwards	Maximum late fee that can be charged will be restricted to Rs.500 per return for nil filing and Rs. 2,000 for other than nil filing.	21/2021

GSTR-5

Applicable Return Period/s	Applicability of Late fee	Link to Notification
July 2017 onwards	Reduced Late fee**	5/2018

GSTR-5A

Applicable Return Period/s	Applicability of Late fee	Link to Notification
Returns for July 2017 onwards filed on or after 7th Mar 2018	Full Late fee applicable^	13/2018

July 2017 onwards	Reduced Late fee**	5/2018
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GSTR-6

Applicable Return Period/s	Applicability of Late fee	Link to Notification
July 2019	Waived off completely for for taxpayers in certain districts of the flood-affected States and all districts of J&K	41/2019
For any tax period prior to January 2018	Completely waived off**	41/2018
July 2017 onwards	Reduced Late fee** No late fees for the delay in filing a Nil return	7/2018

Note: Rest of the returns like GSTR-7, GSTR-8, or GSTR-9 will have late fees applicable to them as per the Act at normal fee.

** If paid before the waiver, this amount will be credited into the electronic cash ledger for use, to pay against the tax liability.

^ The previous notification 6/2018 was cancelled prospectively.

How to deposit Late fees with Government

Amount of Late fee applicable will automatically be calculated by the GST portal while submitting the GST returns.

The Late fee is paid in cash separately for CGST, and SGST in separate electronic cash ledgers. GST return cannot be filed without the payment of the Late fee.

Late fee for the month includes previous month's late fee charged due to delay in filing of the return. Also, non-payment or late payment of GST attracts Interest.

Interest under GST & Calculation

Interest is applicable on late payment of GST liability on the net tax liability after reducing

the input tax credit claims. The interest has to be paid by every taxpayer who:

- Makes a delayed GST payment i.e. pays CGST, SGST or IGST after the due date.
- Claims excess input tax credit
- Reduces excess output tax liability

If GST is not paid within the due dates of filing return Interest at following rates has to be paid:

Particulars	Interest
Tax paid after due date*	18% per annum
Excess ITC Claimed or excess reduction in Output Tax	24% per annum

* Interest has been reduced on occasion of the COVID-19 pandemic for various periods. Read our article “GST calendar” for more information.

The Interest has to be calculated from the next day on which tax was due.

For example, a taxpayer fails to make a tax payment of Rs. 10,000 for the month of December 2020, where the due date was 20th January 2021. If he makes the payment on 20th February 2021, the interest for the delay period (31 days: from 21st January till 20th February) will be calculated as follows:

$$\text{Rs.}10,000 * 31/365 * 18\% = \text{Rs.}153$$

Thus, it is important to make tax payments and file GST returns within due dates. You can use Clear Tax GST Software , which is a one-stop solution to file GST Returns quickly and easily. Use Clear Tax GST Software and never miss a deadline.

5.6 ASSESSMENT: SELF-ASSESSMENT

System under which the taxpayer is required to declare the basis of his assessment (e.g. taxable income), to submit a calculation of the tax due and, usually, to accompany his calculation with payment of the amount he regards as due. The role of tax authorities is to

check (perhaps in random cases) that the taxpayer has correctly disclosed his income.

Assessment is the process of determination of the tax liability of a taxpayer. There are different ways to determine tax liability under the GST law. GST Assessment is required to be done to establish the tax liability of an assessed. Taxation Laws lay down a process of assessment, i.e. a way to figure out exactly how much tax should be paid

Self GST assessment is available to every registered taxable person to assess the tax payable by him for any tax period. Thus, determination of tax liability is to be undertaken by the taxpayer himself and stated in the return to be filed by him. The return is required to primarily contain inward supplies in Form GSTR 2 and outward supplies in Form GSTR 1 of goods/services, Input Tax Credit, tax payable and tax paid. Hence, the furnishing of the return shall mean self-assessment of the taxpayer.

5.7 SUMMARY AND SCRUTINY

Summary and Scrutiny Assessment

Assessment under section 143(1)

This is a preliminary assessment and is referred to as summary assessment without calling the assessee (i.e., taxpayer).

Scope of assessment under section 143(1)

Assessment under section 143(1) is like preliminary checking of the return of income. At this stage no detailed scrutiny of the return of income is carried out. At this stage, the total income or loss is computed after making the following adjustments (if any), namely:-

- (I) any arithmetical error in the return; or
- (ii) an incorrect claim (*), if such incorrect claim is apparent from any information in the return;

For the above purpose “an incorrect claim apparent from any information in the return” means a claim on the basis of an entry in the return :-

- (I) of an item which is inconsistent with another entry of the same or some other item in such return;
- (ii) in respect of which the information is required to be furnished under the Act to

substantiate such entry and has not been so furnished; or

(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction; [As amended by Finance Act, 2015]

Procedure of assessment under section 143(1)

•	After correcting arithmetical error or incorrect claim (if any) as discussed above, the tax and interest, if any, shall be computed on the basis of the adjusted income.
•	Any sum payable by or refund due to the taxpayer shall be intimated to him.
•	An intimation shall be prepared or generated and sent to the taxpayer specifying the sum determined to be payable by, or the amount of refund due to the taxpayer.
•	An intimation shall also be sent to the taxpayer in a case where the loss declared in the return of income by the taxpayer is adjusted but no tax or interest is payable by or no refund is due to him.
•	The acknowledgement of the return of income shall be deemed to be the intimation in a case where no sum is payable by or refundable to the assessee or where no adjustment is made to the returned income.
•	The processing of a return under section 143(1) shall not be necessary, where a notice has been issued to the assessee under section 143(2), i.e., a notice for scrutiny assessment has been issued to the taxpayer.

Time-limit

Assessment under section 143(1) can be made within a period of one year from the end of the financial year in which the return of income is filed.

Assessment under section 143(3)

This is a detailed assessment and is referred to as scrutiny assessment. At this stage a detailed scrutiny of the return of income will be carried out. At this stage a scrutiny is carried out to confirm the correctness and genuineness of various claims, deductions, etc., made by the

taxpayer in the return of income.

Scope of assessment under section 143(3)

The objective of scrutiny assessment is to confirm that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner.

To confirm the above, the Assessing Officer carries out a detailed scrutiny of the return of income and will satisfy himself regarding various claims, deductions, etc., made by the taxpayer in the return of income.

Procedure of assessment under section 143(3)

•	If the Assessing Officer considers it necessary or expedient to ensure that the taxpayer has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, then he will serve on the taxpayer a notice requiring him to attend his office or to produce or cause to be produced any evidence on which the taxpayer may rely, in support of the return.
•	To carry out assessment under section 143(3), the Assessing Officer shall serve such notice in accordance with provisions of section 143(2). [As amended by Finance Act, 2015]
•	Notice under section 143(2) should be served within a period of six months from the end of the financial year in which the return is filed.
•	The taxpayer or his representative (as the case may be) will appear before the Assessing Officer and will place his arguments, supporting evidences, etc., on various matters/issues as required by the Assessing Officer.
•	After hearing/verifying such evidence and taking into account such particulars as the taxpayer may produce and such other evidence as the Assessing Officer may require on specified points and after taking into account all relevant materials which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the taxpayer and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

Time-limit

As per section 153, assessment under section 143(3) shall be made within a period of two years from the end of the relevant assessment year.

5.8 TAXABILITY OF E-COMMERCE

GST registration rules and forms for e-commerce operators, online sellers, e-retailers and dealers vary from the normal or regular registration, where the Tax Collection at Source (TCS) provisions apply to the e-commerce operator. The article dives into finer details of the same.

Who will collect TCS under GST?

e-Commerce aggregators are responsible under the GST law for collecting and depositing tax at the rate of 1% on each transaction under the Section 52 of the CGST Act. Any dealers/traders selling goods/services online would get the payment after deduction of 1% tax. All the traders/dealers selling goods/services online would need to get registered under GST even if their turnover is less than the prescribed threshold limit, for claiming the tax collected by the aggregators.

Notes:

1. Supplier of services, who is not supplying through an e-commerce operator liable to collect tax at source, having a turnover of less than Rs.20 lakh are exempted from obtaining registration under GST.
2. e-Commerce operators liable under Section 52 of the CGST Act cannot opt into the composition scheme.

GST registration rules for those liable to TCS

As per Section 24 of the CGST Act, all the e-commerce companies must obtain GST registration mandatorily.

Any person who is required to collect TCS must electronically submit an application for registration, duly signed or verified through Electronic Verification Code (EVC), using the form **GST REG-07** either directly on the GST portal or from a facilitation centre notified by the Commissioner.

As per the CGST Rule 12(1A), the e-commerce operator not having physical presence in the State or Union Territory where the operations are conducted should mention such State name in part-A of the REG-07 form. Further, the State in which the principal place of business is situated must be mentioned in part-B, if it is different from the State mentioned in part-A.

The proper officer will grant registration after verification and issue a certificate of registration in form **GST REG-06** within 3 working days from the date of submission of application. The entire process has been illustrated in the flowchart given below.

Cancellation of GST registration for e-commerce operators

If the proper officer enquires or ascertains through a proceeding that a person is no longer liable to collect TCS, then the officer will cancel the registration. The cancellation shall be communicated to the said person electronically in form **GST REG-08**. The procedure given under the CGST Rule 22 shall be followed for cancellation.

The officer will follow the same procedure for cancellation as for normal taxpayers.

GST registration for people supplying online information from outside India

What does online information and database access or retrieval services mean? Online information and database access or retrieval services [OIDAR] means services whose delivery is mediated through the internet. The supply is essentially automated involving minimal human intervention and impossible without information technology.

Applicability

These are a few examples of electronic services from the service tax list which will be considered as OIDAR-

- Advertising on internet
- Providing cloud services (Google Drive)
- Provision of e-books, movie, music, software and other intangibles via internet (Hot star, Amazon Prime Video)
- Providing data or information, retrievable or otherwise, to any person, in electronic form through a computer network
- Online gaming (Steam)
- Web-based services providing trade statistics, legal and financial data, matrimonial

services, social networking sites etc

Non-OIDAR services

- Supplies of goods, where the order and processing is done electronically
- Supplies of physical books, newsletters, newspapers or journals
- Services of lawyers and financial consultants who advise clients through email
- Booking services or tickets to entertainment events, hotel accommodation or car hire
- Educational or professional courses, where the content is delivered by a teacher over the internet
- Offline physical repair services of computer equipment
- Repair of software, or of hardware, through the internet, from a remote location
- Advertising services in newspapers, on posters and on television
- Internet backbone services and internet access services (BSNL broadband)

It has also been clarified that using the internet just to communicate or facilitate the outcome of service needs does not always mean that a business is providing OIDAR services.

5.9 E-WAY BILLS

Under GST, transporters should carry a way Bill when moving goods from one place to another when certain conditions are satisfied.

1. What is a way Bill?

Elway Bill is an Electronic Way bill for movement of goods to be generated on the way Bill Portal. A GST registered person cannot transport goods in a vehicle whose value exceeds Rs. 50,000 (Single Invoice/bill/delivery challan) without an e-way bill that is generated on ewaybillgst.gov.in.

Alternatively, Elway bill can also be generated or cancelled through SMS, Android App and by site-to-site integration through API entering the correct GSTIN of parties. Validate the GSTIN with the help of the GST search tool before using it.

When an away bill is generated, a unique Elway Bill Number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

2. When Should way Bill be issued?

way bill will be generated when there is a movement of goods in a vehicle/ conveyance of value more than Rs. 50,000 (either each Invoice or in aggregate of all invoices in a vehicle/conveyance) –

- In relation to a ‘supply’
- For reasons other than a ‘supply’ (say a return)
- Due to inward ‘supply’ from an unregistered person

For this purpose, a supply may be either of the following:

- A supply made for a consideration (payment) in the course of business
- A supply made for a consideration (payment) which may not be in the course of business
- A supply without consideration (without payment) In simpler terms, the term ‘supply’ usually means a:
 1. Sale – sale of goods and payment made
 2. Transfer – branch transfers for instance
 3. Barter/Exchange – where the payment is by goods instead of in money

Therefore, way Bills must be generated on the common portal for all these types of movements. For certain specified Goods, the away bill needs to be generated mandatorily even if the value of the consignment of Goods is less than Rs. 50,000:

1. Inter-State movement of Goods by the Principal to the Job-worker by Principal/ registered Job-worker
2. Inter-State Transport of Handicraft goods by a dealer exempted from GST registration

3. Who should Generate a way Bill?

- **Registered Person** – E-way bill must be generated when there is a movement of goods of more than Rs 50,000 in value to or from a registered person. A Registered person or the transporter may choose to generate and carry away bill even if the value of goods is less than Rs 50,000.
- **Unregistered Persons** – Unregistered persons are also required to generate e-Way Bill. However, where a supply is made by an unregistered person to a registered

person, the receiver will have to ensure all the compliances are met as if they were the supplier.

- **Transporter** – Transporters carrying goods by road, air, rail, etc. also need to generate e-Way Bill if the supplier has not generated an e-Way Bill.

The transporters need not generate the Elway bill (as Form EWB-01 or EWB-02) where all the consignments in the conveyance:

- Individually(single Document**) is less than or equal to Rs 50,000 **BUT**
- In Aggregate (all documents** put together) exceeds Rs 50,000

**Document means Tax Invoice/Delivery challan/Bill of supply

Unregistered Transporters will be issued Transporter ID on enrolling on the e-way bill portal after which Elway bills can be generated.

Who	When	Part	Form
Every Registered person under GST	Before movement of goods	Fill Part A	Form GST EWB-01
Registered person is consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods	Before movement of goods	Fill Part B	Form GST EWB-01
Registered person is consignor or consignee and goods are handed over to transporter of goods	Before movement of goods	Fill Part B	The registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01

Transporter of goods	Before movement of goods		Generate e-way bill on basis of information shared by the registered person in Part A of FORM GST EWB-01
An unregistered person under GST and recipient is registered	Compliance to be done by Recipient as if he is the Supplier.		<p>1. If the goods are transported for a distance of fifty kilometres or less, within the same State/Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.</p> <p>2. If supply is made by air, ship or railways, then the information in Part A of FORM GST EWB-01 has to be filled in by the consignor or the</p>

			recipient
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Note: If a transporter is transporting multiple consignments in a single conveyance, they can use the form GST EWB-02 to produce a consolidated e-way bill, by providing the e-way bill numbers of each consignment. If both the consignor and the consignee have not created an e-way bill, then the transporter can do so * by filling out PART A of FORM GST EWB-01 on the basis of the invoice/bill of supply/delivery challan given to them.

4. Cases when way bill is Not Required

In the following cases it is not necessary to generate e-Way Bill:

1. The mode of transport is non-motor vehicle
2. Goods transported from Customs port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
3. Goods transported under Customs supervision or under customs seal
4. Goods transported under Customs Bond from ICD to Customs port or from one custom station to another.
5. Transit cargo transported to or from Nepal or Bhutan
6. Movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
7. Empty Cargo containers are being transported
8. Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20 kiss, accompanied by a Delivery challan.
9. Goods being transported by rail where the Consignor of goods is the Central Government, State Governments or a local authority.
10. Goods specified as exempt from E-Way bill requirements in the respective State/Union territory GST Rules.
11. Transport of certain specified goods- Includes the list of exempt supply of goods, Annexure to Rule 138(14), goods treated as no supply as per Schedule III, Certain schedule to Central tax Rate notifications. (PDF of List of Goods).

Note: Part B of e-Way Bill is not required to be filled where the distance between the consigner or consignee and the transporter is less than 50 KS and transport is within the same state.

5. State-wise e-Way Bill Rules and Limits

Inter-State movement of goods has seen rise in numbers of generation of away bills ever since its implementation began from 1st April 2018. State-wise implementation of e-way bill system has seen a good response with all the States and Union Territories joining the league in the generation of away bills for movement of goods within the State/UT.

However, reliefs have been provided to people of few States by way of exempting them from away bill generation in case of monetary limits falling below threshold amount or certain specified items. For Instance, Tamil Nadu has exempted people of its State from the generation of away bill if the monetary limit of the items falls below Rs. One Lakh. To know more of such reliefs for other States/UTs, visit our page on state-wise e-way bill rules and threshold limits or alternatively check the respective commercial tax websites for each of such States/UTs.

6. How to generate way Bill on portal

E-Way Bill and the e-way bill number can be generated on the e-Way Bill Portal. All you need is a Portal login. For a detailed step-by-step guide on e-Way Bill Generation check out our article – Guide to generate e-Way Bill online.

7. SMS e-way bill generation on mobile

You can generate e-way bills via SMS using registered mobile phone. All can begin by enabling SMS e-way bill generate facility. Register the mobile phone to be used for SMS facility of e-way bill generation. Thereafter, send simple SMS codes to a particular mobile number managed by the e-way bill portal/GSTN to generate, manage and cancel e-way bills. For more details, read our article on SMS mode of e-way bill generation

8. Validity of way Bill

An e-way bill is valid for periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date and time of generation of e-way bill-

Type of conveyance	Distance	Validity of
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		EWB
Other than Over dimensional cargo	Less Than 200 KS	1 Day
	For every additional 200 KS or part thereof	additional 1 Day
For Over dimensional cargo	Less Than 20 KS	1 Day
	For every additional 20 KS or part thereof	additional 1 Day

Validity of Elway bill can be extended also. The generator of such Elway bill has to either eight hours before expiry or within eight hours after its expiry can extend Elway bill validity.

9. Documents or Details required to generate way Bill

1. Invoice/ Bill of Supply/ Challan related to the consignment of goods
2. Transport by road – Transporter ID or Vehicle number
3. Transport by rail, air, or ship – Transporter ID, Transport document number, and date on the document

10. Frequently Asked Questions

- **Can I add two invoices in one e-way bill?**

No, you cannot generate a single e-way bill against two invoices.

However, you can use consolidated e-way bill to club two or more e-way bills.

- **Should I generate e-way bills against invoices raised for supply service?**

No, e-way bill rules do not apply to service oriented transactions.

Hence, you need not generate an e-way bill against the supply of

services.

- **Whether away bill is required when the goods is billed within 10 km surroundings?**

Goods that are moved inside a state need no e-way bill if the distance is up to 10 km. The limit has now been increased to 50 km.

- **How many days after raising an invoice that one should generate the e Way bill for delayed delivery?**

The e-way bill is required at the time of delivery of goods only. So, if invoice is raised but goods are not delivered yet, then part-A can be generated on the e-way bill and Part-B details can be entered later on upon delivery. The validity of e-way bill begins when Part-B is entered.

- **What is the responsibility and liability for the transporter in E-Way bill system?**

Transporters carrying goods by road, air, rail, etc. also need to generate e Way Bill if the supplier has not generated an e Way bill due to any reason. Generate e way bill on basis of information shared by the suppliers/ consignors regarding the Invoice/challan. To know more refer to our article on 'Compliance on e-Way Bills by Transporter' If the transporter does not generate in the above circumstances when he is required to, he may face penalty of Rs 10,000 or tax sought to be evaded (wherever applicable) whichever is greater, further liable for confiscation of goods and seizure of vehicle.

- **How many e-way bills are required to be generated to ship a consignment to a customer involving multiple transporters (having different Transporter IDs) in between? How will the one invoice-one e-way bill validation be complied here since end customer is only one?**

One e-Way bill needs to be generated against the Invoice. Above situation is known as "Transshipment". Transporter can also re-assign another transporter by updating transporter ID on the away bill portal. Once transporter re-assigns another transporter, seller cannot make any changes to assigned transporter. So, the user has to generate different delivery challans against the invoice based on the different Transporter ID, because different e-way bills against a single invoice is not possible and will also cause the problem in populating the data in the GSTR-1.

- **How is the criteria of “Value of Consignment of Goods” applied?**

Value of consignment of Goods” is interpreted as follows:

1. Invoice Value* exceeds Rs. 50,000 OR
2. If a vehicle carries goods against multiple Invoices, then where the aggregate Invoice value* exceed Rs. 50,000

So, if either of above points is satisfied, the user should generate e-Way Bill.

*Invoice Value means transaction value as per Invoice inclusive of all the taxes excluding the Value of exempt goods that are being carried along the taxable goods and billed together.

- **Is e-Way bill required, if the value of shipment per customer per day exceeds Rs 50,000? How will we take multiple invoices under single e-way bill?**

Here, it depends whether the supplier himself is the transporter or not. If he is the transporter, then he is required to generate the e-way bill for all the invoices but if not, then the transporter will be required to generate the e-way bill against all the invoices in the Vehicle.

- **For Selection of Sub Type in case of Outward Supply, What do terms “CKD/SKD” & “Line sales” mean?**

“CKD/SKD” means the movement of the goods in Completely knocked down condition or Semi Knocked Down condition. For egg: Movement of Fan in different parts, which will be assembled later. “Line Sales” Vertical sales made from one unit / department/division of an organisation to another unit/department/division next in production line within that Organisation

5.10 ZERO-RATED SUPPLY

In any economy, the government tries to increase its exports as much as possible. This helps the government in maintaining the country’s economic growth, employment and balance of payments. To boost exports, the government provides certain reliefs and benefits to business houses. One such relief provided under the GST regime is called Zero Rated Supplies in GST.

Introduction

Any supplies made by a registered dealer as an export (both goods or services) or supply to an SEZ qualifies for Zero Rated Supplies in GST. The rate of tax on such supplies is ‘Zero’ or

we can say the supplies are tax-free. The supplies to a developer of an SEZ is also covered under Zero-Rated Supplies in GST as no tax is levied on these supplies as well. There are certain supplies on which there is no incidence of GST. It is important to understand the underlying difference among all such supply criterions :

Particulars	NIL Rated Supplies	Non-Taxable Supplies	Exempt Supplies	Zero-Rated Supplies
Meaning	Goods and services on which 0% GST is applicable	Goods and services on which GST is not levied at all	Supplies which are exempt from payment of GST	Goods or services which are exported or supplied to SEZ
Input credit availability	Not available	Not available	Not available	Available
GST applicability	Falls within GST ambit	Doesn't fall within GST ambit	Falls within GST ambit	Falls within GST ambit
Example	Hotel accommodation with tariff below Rs. 1,000	Supply of alcohol for human consumption	Inward supplies from unregistered dealers	Export of shoes to South Africa

Refund of Zero Rated Supplies in GST

The suppliers making Zero-rated supplies are entitled to claim refunds. The refunds are for the input tax paid on the goods and services which are used for such Zero-rated supplies (including non-taxable and exempt supplies). For example:- An exporter supplies shoes to Dubai and uses soles in the production of such shoes. The exporter has an option of claiming Input tax credit of GST paid on the purchase of soles. There are two options available with a dealer to claim refunds:

I. The dealer can export under Bond or LUT (Letter of Undertaking) and claim a refund of the accumulated Input credit of tax; or

II. The dealer can pay IGST while making the supplies and claim refund of the same.

Therefore, the dealers are provided with a flexibility to choose between any two options as per their convenience.

Refund procedures for Export of goods

Under GST laws, the process of claiming refund has been made easy for the export dealers. For Zero-Rated Supplies, there is no need to file refund application (*GST RFD-01*) separately. The shipping bill filed by the exporter is a refund claim in itself. The law specifies that shipping bill is to be considered as a refund claim on satisfying following two conditions:

I. A person carrying the export goods should file an export manifest; and

II. Applicant should have filed the returns GSTR-3 or GSTR-3B appropriately.

Once the above two documents are filed appropriately, the refund is processed by the department.

Refund procedures for Export of Services and Supplies to SEZ

The option to pay IGST and claim a refund is always available. In this case, the refund claim has to be filed in Form *GST RFD-01*. For exporters of services, the following are also required to be filed along with the refund claim:

I. A Statement containing Number and Date of Invoices; and

II. Bank Realisation Certificates / Foreign Inward Remittance Certificates

The supplier of goods or services to an SEZ are required to file the following along with the refund claim:

I. A Statement containing Number and Date of Invoices; and

II. Proof of Receipt of goods or services which is authorised by the specified officer of SEZ

III. Details of payment made

IV. The declaration that the SEZ or developer of SEZ has not claimed the input tax credit of the taxes paid by the supplier

Provisional Refund

The exporters and suppliers of SEZ are entitled to a 90% refund on a provisional basis. Provisional refund is granted within seven (7) days of the refund claim. The amount of provisional refund is credited directly to the claimant's bank account. There is a condition attached to provisional refunds. The provisional refund is not granted if the applicant has been prosecuted for any offense under the GST law or earlier law within past five (5) years. The amount of tax evaded in such prosecution shall be more than Rupees Two Hundred and Fifty Lakhs (Rs. 2.5 Crores).

5.11 UNIT END QUESTIONS

A. Descriptive Questions

Long Answer Questions

1. Why the transporter needs to enroll on the e-way bill system?
2. What Is Section 9(5) And Services Covered Under Section 9(5) Of CGST Act?
3. Explain the mechanism under the CGST Act, 2017 for claiming Input Tax Credit while making payment of Taxes.
4. How to deposit Late fees with Government?
5. How to calculate Late Fees and Interest on GST Returns?

Short Answer Questions

1. What is an e-way bill?
2. Who Is Considered As E-Commerce Operator?
3. What are the Payments to be made in GST regime?
4. What are pre-requisites to generate the e-way bill?
5. What are the requirements of E-commerce operators registration?

B. Multiple Choice Questions

1. What is the limit of amount above which movement of goods in a conveyance require E-way Bill?

- a. Rs. 50,000/-
- b. Rs. 15000/-
- c. Rs. 40,000/-
- d. Rs. 10,000/-

2. Zero rated supply includes

- a. Supply of goods or/and services to a SEZ developer or SEZ Unit
- b. Export of goods or/and services & Supply of goods or/and services to a SEZ developer or SEZ Unit
- c. Supply of goods or/and services by a SEZ developer or SEZ Unit
- d. None of these

3. Collection of Tax at Source is relevant in the case of

- a. Government departments
- b. Any GST dealers
- c. E-commerce operator
- d. Contractors

4. When should e-way bill be issued?

- a. Due to inward supply from an unregistered person
- b. For reasons other than a supply (return)
- c. In relation to supply
- d. All of these

5. Which of the following value shall be excluded for determining the transaction value of consignment for e-way bill?

- a. Value of exempt supply if the invoice has both taxable and exempt goods
- b. Delivery charges
- c. Central tax, state tax or union territory tax, integrated tax and cess
- d. Packing charges

Answers: 1-a, 2-b, 3-c, 4-d, 5-a

5.12 REFERENCES

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