

**BACKGROUND MATERIAL ON**

**TRAINING PROGRAMME**

**FOR**

**GOVERNMENT OFFICIALS**

Organised by



**The Institute of Chartered Accountants of India**  
(Set up by an Act of Parliament)  
New Delhi

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## FOREWORD

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The introduction of Goods and Services Tax helped the Indian Taxation system to overcome the limitations of existing indirect tax structure, and creating efficiencies in tax administration. GST is a broad-based, single, comprehensive National level tax applicable on goods or services or both which aims to replace the State VAT, Central Excise, Service Tax and a few other indirect taxes barring few goods and services as exempted by the Government.

With the advent of GST, Government's revenue has shown an increasing trend on account of increase in number of tax payers and compliance by them. This has led to additional responsibilities on Tax Officials who are required to assess the tax liability accurately and prevent the revenue leakage by implementing the provisions contained in Act, Rules, Notifications/circulars issued thereunder. Therefore, it has become matter of importance for the Training of government officers so as to be abreast them with topical and intriguing concepts of accounting, auditing and taxation.

Since these changes in the taxation system would be required to be dealt with ingeniously, the Indirect Taxes Committee of ICAI has brought out a study material "Background Material on GST for Government Officials". This study material aims at providing a guidance material for the officials at the "Training Programme on GST" organised by Indirect Taxes Committee of ICAI on continuous basis. This covers a large number of relevant topics which would prove to be a value addition to Department Officials and enable them to understand the accounting and auditing aspects involved in the GST which will, in turn, help them in verifying the tax credits, exemptions, abatement etc. as per the requirements of the law.

I am sure that this publication would be immensely helpful to the readers and serve the objective of its release.

**CA. Naveen ND Gupta**  
President, ICAI

Date: 08.02.2019

Place: New Delhi



## PREFACE

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GST Law is now 18months old and has gone through various changes which require continuous training of the trade, professionals as well as officials. Continuous training gives confidence to the trainee that they are abreast of the new developments and have a stronger understanding of the evolving concepts. It is also important for departmental officials to understand the accounting and auditing concepts along with the GST law. The concepts of accounting has universal application for recording transactions and events which would enable the tax officials to perform their duties efficiently. Knowledge and understanding of the financial statements become more essential for verifying the tax credits, exemptions, abatements etc. as prescribed under the law.

To provide a learning opportunity to the departmental officials, the Indirect Taxes Committee of ICAI has undertaken an initiative of training the department officials which will certainly help them in effectively implementing the newly implemented tax legislation. These programmes have been finely designed to deliberate on the accounting and auditing aspects involved in the indirect taxes. This study material has been thoroughly revised to aptly match the contents of the training programmes and elucidates topics like Study of Financial Statements, Goods & Service Tax – Accounting issues, GST Audit desk Review, Ratio Analysis etc. This material will pertinently complement the training programme.

We would like to express our sincere gratitude and thanks to CA. Naveen N. D. Gupta, President, ICAI, as well as other members of the Committee for their suggestions and support in this initiative. We must also thank CA. Gaurav Gupta, CA Ashish Chaudhary and CA Sachin Jain for preparing this material and CA. Jatin Christopher for vetting of the material.

We are confident that this training initiative would be handy and the officials will certainly be benefited by the deliberations of eminent experts. Also, it will enable us to make this training course more value additive and useful.

We wish the program a great success.

**CA. Madhukar Narayan Hiregange**

Chairman

Indirect Taxes Committee

**CA. Sushil Kumar Goyal**

Vice-Chairman

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Date: 11.02.2019

Place: New Delhi



# CONTENT

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1.	<b>BASIC CONCEPTS</b>	1
2.	<b>TRIAL BALANCE</b>	41
3.	<b>JOURNAL &amp; FINAL ACCOUNTS</b>	52
4.	<b>ANALYSIS OF REVISED SCHEDULE VI</b>	89
5.	<b>HOW TO SCRUTINIZE – JOURNAL AND LEDGER</b>	130
6.	<b>HOW TO STUDY FINANCIAL DOCUMENTS</b>	143
7.	<b>RATIO ANALYSIS</b>	202
8.	<b>UNDERSTANDING OF RELEVANT ACCOUNTING STANDARDS</b>	213
9.	<b>GOODS AND SERVICES TAX – ACCOUNTING ISSUES</b>	223
10.	<b>IMPORTANT RECONCILIATIONS</b>	234
11.	<b>GST AUDIT – DESK REVIEW AND ANALYSIS</b>	255
12.	<b>CARO / TAX AUDIT REPORT – UNDERSTANDING RELEVANT PARTS</b>	273
13.	<b>SAMPLE CHECKLIST FOR GST AUDIT</b>	279
14.	<b>SUMMARY OF IMPORTANT GST PROVISIONS</b>	299
15.	<b>SUMMARY OF COMPLIANCE AND PENALTIES UNDER GST</b>	331
16.	<b>GST COMMON ERRORS</b>	346
17.	<b>GST LAWS AND RULES</b>	353



# 1

## BASIC CONCEPTS

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### INTRODUCTION

1.1 Every individual performs some kind of economic activity. A salaried person gets salary and spends to buy provisions and clothing, for children's education, construction of house, etc. A sports club formed by a group of individuals, a business run by an individual or a group of individuals, a local authority like Kolkata Municipal Corporation, Delhi Development Authority, Governments, either Central or State, all are carrying on some kind of economic activities. It is not necessary that all the economic activities are run for any individual benefit, some economic activities may benefit a group of people or the public at large. Such economic activities are performed through '*transactions and events*'. **Transaction** is used to mean 'a business, performance of an act, an agreement' while **Event** is used to mean a happening or occurrence, as a consequence of such transaction(s).

1.2 Businesses wish to keep a record of all transactions and events and to have adequate information about the economic activity as an aid to decision making. Accounting discipline has been developed to serve this purpose. Accounting has universal application for recording transactions and events and presenting suitable accurate information. We concentrate only on business activities and their accounting. We hope that it would provide adequate knowledge to understand accounting as a field of study for universal application.

#### ***Nature of accounting***

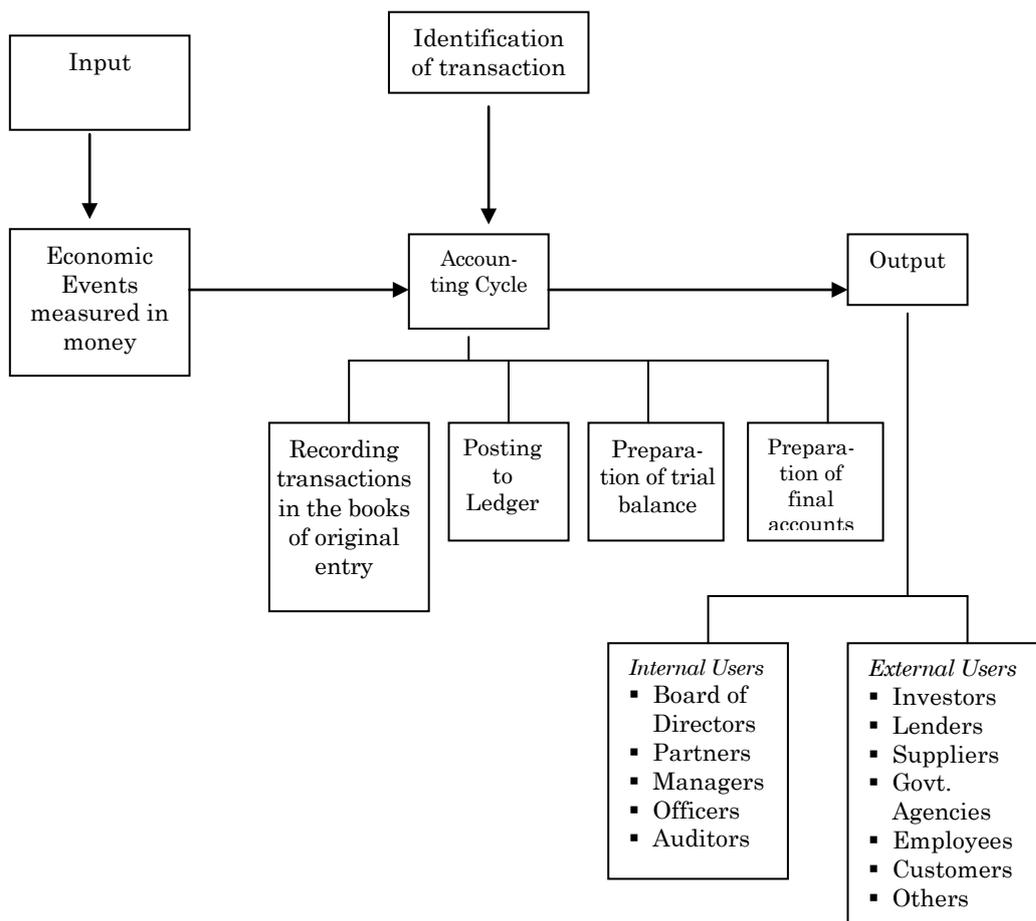
1.3 *Accounting*

- (i) is man-made
- (ii) has evolved over a period of time

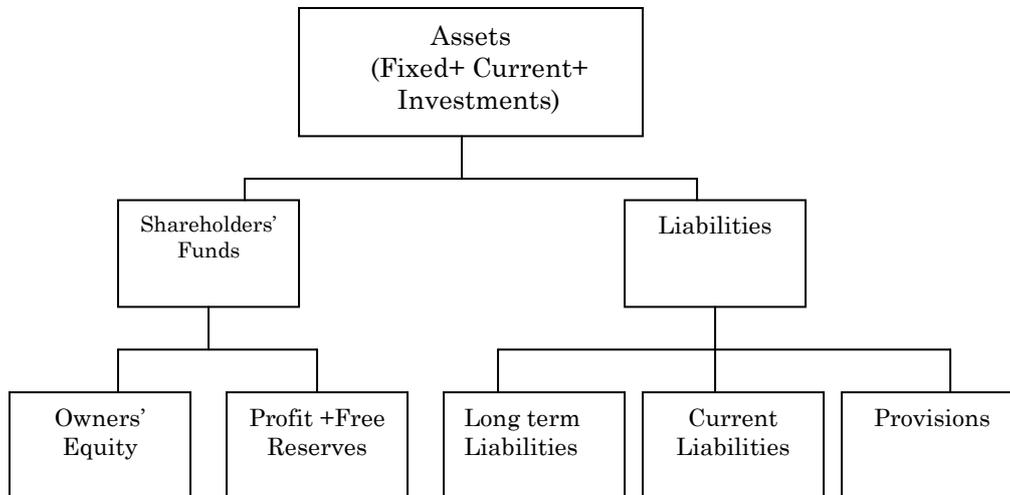
## 2 Background Material on Training Program for Government Officials

- (iii) is practiced in a social system
- (iv) is a systematic exercise
- (v) is judgmental in many circumstances
- (vi) is essentially the language of business
- (vii) records only financial information

### ACCOUNTING PROCESS-A FLOWCHART



### THE ACCOUNTING EQUATION



### BASIC CONCEPTS IN ACCOUNTING

1.4 A systematic record of the daily events of a business leading to presentation of a complete financial picture is known as *Accounting*. Accounting communicates the state of affairs of a business entity to the outside world. To ensure that the same meaning is conveyed to all the users, certain basic concepts are to be followed while preparing the accounts of an organization. The world over uniformity is sought to be achieved by way of application of Standards. IFRS and Ind AS are example of exercises to achieve uniformity in reporting. These accounting concepts are discussed briefly below:

**(i) *Business Entity Concept***

To bring out the true picture of the affairs of any business entity, the business is treated as distinct from the persons who own it. This concept has been further extended to different business units of the same entity so as to ascertain the results of every unit. This could be relevant to understand as there could be possibility of earnings by an individual who is also engaged in making supplies under GST. There could be possibility of some of his supplies being covered in the regular business run by him. Incidentally, he may be earning some income personally also . The concept of segregation between the owner and the business (of such owner) could bring important aspects of the taxability or otherwise of the transactions undertaken in personal capacity as these may not be said to be supply ‘in

the course' of business. This distinction of owner from the business should not be confused with the concept of distinct person under GST Law which is merely separate identification of the taxable person (each with a different registration in the same or other State) on deemed basis for the taxation purpose.

#### ***(ii) Money Measurement Concept***

Accounting records only those transactions which can be measured in monetary terms. Events, which do not have monetary measurement, are not recorded in the books of account even though they are very important like strike of the workers. It is important for any tax auditor to appreciate that any transaction which is not accounted for in terms of money shall not be visible in the books of accounts. Accordingly, transactions which are not recorded in the books of accounts but are part of business should be examined from the agreements and other base documents.

#### ***(iii) Cost Concept***

Cost concept requires the recording the transactions at the amount actually involved. For example, if the land has been purchased for ₹1.5 crores but its actual worth is ₹ 2.5 crores, it will be recorded at a value of ₹1.5 crore and not ₹ 2.5 crores. The reporting based on market value is being tested as in some cases the assets like land may have appreciated many times.

#### ***(iv) Going Concern Concept***

It is assumed that the business is not likely to be closed in the near future and the transactions are recorded from that point of view. If it is certain that the entity will exist only for a limited period, then the records may reflect the realizable value. When this aspect is qualified by the CA, the stakeholders (whether the tax administrators or suppliers) need to be careful. An example is the case of a widely known Airlines where from 2009 onwards the going concern concept was qualified by the auditors. The service tax overdue was reported Rs. 20 lakhs. By 2012-13 the going concern qualification continued and the ST overdue had reached Rs.703 crores!! This was available in the balance sheet filed with the ROC year after year. If this aspect of going concern was properly appreciated, the dues of service tax could have been recovered by taking suitable steps. Similar could be instances under GST also and the tax administrator need

to focus on the notes to accounts containing auditor's observations on going concern aspect.

**(v) Dual Aspect Concept**

Each transaction that is recorded in the books of account has two aspects. For example, if a business has acquired an asset, it must result in one of the following:

- (a) Giving up of some other asset; or
- (b) An obligation to pay has arisen; or
- (c) Profit has arisen; or
- (d) The proprietor has contributed money for acquisition of such asset

At any time, the following equation will hold true:

$$\boxed{Assets = Liabilities + Capital}$$

**(vi) Realization Concept:**

Accounting can be defined as a historical record of the transactions. Transactions which have already taken place are recorded. Unless money has been realized or a legal obligation to pay has arisen, no sale is recorded in the books of account. No accounting is involved where there is only an anticipation of realizing something but upon its actual realization.

**(vii) Accrual Concept**

The transactions are recorded not only on cash basis but are also recorded if the amount has accrued. This is due to the matching of revenue to the expenses. Waiting until recovery or discharge of dues would delay the recognition of the income or expenditure and distort the financial picture for each period.

**(viii) Consistency**

The accounting practice followed by the assessee should be consistent from one year to another. If a change becomes necessary, the change and its effect must be stated clearly. Many times, the changes are made on account of statutory needs such as compliance of Ind AS or IFRS.

***(ix) Disclosure***

All significant information should be properly disclosed irrespective of the legal requirements. Whether an item is to be disclosed or not would depend on its materiality. [example - 1 % of the expense sample]

***(x) Prudence***

In view of the uncertainty attached to future events, profits are not anticipated but recognized only when realized though not necessarily in cash. Refunds from statutory authorities are at times not recognized as they can take a few years. This at times leads to the same being questioned under unjust enrichment!!

Provision is made for all known liabilities and losses even though the amount cannot be determined with certainty and represents only a best estimate in the light of available information

***(xi) Substance Over Form***

The accounting treatment and presentation in financial statements of transactions and events should be governed by their substance and not merely by the legal form. An example could be a works contract agreement being broken into 2 parts one for supply of goods and one for labour which are fully co terminus. Under VAT they would be held to be WCT and consequently under service tax too. Unless there is some contrary treatment specifically prescribed in a given law.

***(xii) Materiality***

Financial Statements should disclose all material items i.e. items the knowledge of which might influence the decision of the user of the financial statements. Materiality could mean depicting a different picture also. Example if an amount converts a loss into a profit that amount could be said to be material. Otherwise in the group a 1% + could be considered material. Material amounts maybe hidden in miscellaneous expenses or in capital work in progress which may have some liability under service tax.

## METHODS OF ACCOUNTING – CASH AND MERCANTILE BASIS OF ACCOUNTING (ACCRUAL)

### *Cash System*

1.5 In this method of accounting, entries are recorded only when the impact of a transaction results in either a cash receipt or cash payment.

### *Mercantile System*

1.6 Under this basis, the effects of transactions and other events are recognized on mercantile (accrual) basis i.e. when they occur (and not as cash or a cash equivalent is received or paid) and they are recorded in the accounting records and reported in the financial statements of the periods to which they relate. Financial statements prepared on the accrual basis inform users not only of past events involving the payment and receipt of cash, but also of obligations to pay cash in the future and represent cash to be received in the future.

1.7 To understand accrual assumption, knowledge of revenues and expenses is required. Revenue is the gross inflow of cash, receivables and other consideration arising in the course of the ordinary activities of an enterprise from sale of goods, from rendering services and from the use by others of enterprise's resources yielding interest, royalties and dividends.

*For example*, Mr. X started a cloth merchandising business. He invested ₹50,000, bought merchandise worth ₹50,000. He sold such merchandise for ₹60,000. Customers paid him ₹50,000 cash and assured him to pay ₹10,000 shortly. His revenue is ₹60,000. It arose in the ordinary course of cloth business; Mr. X received ₹50,000 in cash and ₹10,000 by way of receivables.

*Take another example*, an electricity supply undertaking supplies electricity expending ₹16,00,000 for fuel and wages and collects electricity bill in one month ₹20,00,000 by way of electricity charges. This is also revenue which arose from rendering services.

*Lastly*, Mr. A invested ₹1,00,000 in a business. He purchased a machine paying ₹1,00,000. He hired it out for ₹20,000 annually to Mr. B. ₹20,000 is the revenue of Mr. A, it arose from the use by others of the enterprise's resources.

## **8 Background Material on Training Program for Government Officials**

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1.8 Expense is a cost relating to the operations of an accounting period or to the revenue earned during the period or the benefits of which do not extend beyond that period.

*In the first example*, Mr. X spent ₹50,000 to buy the merchandise. It is the expense of generating revenue of ₹60,000. In the *second instance* ₹16,00,000 are the expenses. Also whenever any asset is used it has a finite life to generate benefit. Suppose, the machine purchased by Mr. A in the *third example* will last for 10 years only. Then ₹10,000 is the expense he met. For the time being, ignore the idea of accounting period.

1.9 Accrual means recognition of revenue and costs as they are earned or incurred and not as money is received or paid. The accrual concept relates to measurement of income, identifying assets and liabilities.

*Example:* Mr. JD buys clothing of ₹50,000 paying cash ₹20,000 and sells at ₹60,000 of which customers paid only ₹50,000.

His revenue is ₹60,000, not only ₹50,000 which is cash received. Expense (i.e. cost incurred for earning the revenue) is ₹50,000 and not ₹20,000 which is cash paid. So the accrual concept based profit is ₹10,000 (Revenue – Expenses).

1.10 As per Accrual Concept:

Revenue – Expenses = Profit

Alternative as per Cash basis

Cash received in ordinary course of business – Cash paid in ordinary course of business = profit.

Revenue may not be realized in cash. Cash may be received simultaneously, or

- (i) before revenue is created (A.1)
- (ii) after revenue is created (A.2)

Expenses may not be paid in cash. Cash may be paid simultaneously or (i) before expense is made (B.1) (ii) after expense is made (B.2)

A.1 creates a liability when cash is received in advance.

A.2 creates an asset called Receivables or Trade Debtors.

- B.1 creates an asset called Trade Advance when cash is paid in advance.
  - B.2 creates a liability called payables or Trade Creditors or Outstanding Liabilities. If the expenses remain unpaid in respect of goods, it is called *Trade Creditors*, if it remains unpaid for other expenses, it is called Outstanding Expenses.
- 1.11 Accrual Concept provides the foundation on which the structure of present-day accounting has been developed.
- 1.12 If any fundamental accounting assumption is not followed in the financial statements, the fact should be disclosed.

### **DOUBLE ENTRY SYSTEM**

1.13 Every transaction has two aspects and according to this system, both the aspects are recorded. For example, if a business acquires something then either it must have been given by someone or it must have been acquired by giving up something. On purchase of furniture either the cash balance will be reduced or a liability to the supplier will arise. This has been made clear already. The Double Entry System is so named since it records both the aspects. We may define the *Double Entry System as the system, which recognizes and records both the aspects of transactions*. This system has proved to be systematic and has been found of great use for recording the financial affairs for all institutions requiring use of money.

- 1.14 This system affords the under-mentioned advantages:
- (i) By the use of this system the accuracy of the accounting work can be established, through the device of the Trial Balance.
  - (ii) The profit earned, or loss suffered during a period can be ascertained together with details.
  - (iii) The financial position of the firm or the institution concerned can be ascertained at the end of each period, through preparation of the Balance Sheet.
  - (iv) The system permits accounts to be kept in as much detail as necessary and, therefore affords significant information for the purposes of control etc.

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- (v) Result of one year may be compared with those of previous years and reasons for the change may be ascertained.

It is because of these advantages that the system has been used extensively in all countries.

### **DEBIT AND CREDIT**

1.15 Under Double entry book keeping, if there is any change on one side of the equation, there is bound to be similar change on the other side of the equation or amongst items covered by it. Hence, there is an equation, which is the basis of whole accounting under double entry book keeping.

$$\begin{array}{l} \text{Assets} = \text{Liabilities} + \text{Capital or} \\ \text{Assets} - \text{Liabilities} = \text{Capital} \end{array}$$

We have seen that by deducting the total of liabilities from the total of assets the amount of capital is ascertained, as is indicated by the accounting equation.

1.16 It is a tradition that:

- (i) an increase in assets is recorded on the left-hand side and a decrease in them on the right-hand side; and
- (ii) in the case of liabilities and capital, an increase is recorded on the right-hand side and a decrease on the left-hand side.

1.17 When two sides are put together in T form, the left-hand side is called the 'debit side' the right-hand side is 'credit side'. When in an account a record is made on the debit or left-hand side, one says that one has debited that account. Similarly, to record an amount on the right-hand side is to credit it.

1.18 From the above, the following rules can be obtained:

- (i) When there is an increase in the amount of an asset, its account is debited; the account will be credited if there is a reduction in the amount of the asset concerned:

Suppose, a firm purchases furniture for ₹800, the furniture account will be debited by ₹800 since the asset has increased by this amount. If later, the firm sells furniture to the extent of ₹300, the

reduction will be recorded by crediting the furniture account by ₹300.

- (ii) *If the amount of a liability increases, the increase will be entered on the credit side of the liability account, i.e., the account will be credited.*

A liability account will be debited if there is a reduction in the amount of the liability. Suppose a firm borrows ₹500 from Mohan. In this case, Mohan's account will be credited since ₹500 is now payable to him. If later, the loan is repaid, Mohan's account will be debited since the liability no longer exists.

- (iii) *An increase in the owner's capital is recorded by crediting the capital account.*

Suppose the proprietor introduces additional capital the capital account will be credited. If the owner withdraws some money, i.e., makes a drawing, the capital account will be debited.

- (iv) *Profit leads to an increase in capital and a loss to reduction in capital.*

According to the rule mentioned in (iii) above, profit may be directly credited to the capital account and losses may be similarly debited.

However, it is more useful to record all incomes, gains, expenses and losses separately. By doing so, very useful information will be available regarding the factors which have contributed to the year's profits and losses. Later the net result of all these is ascertained and adjusted in the capital account.

- (v) *Expenses are debited, and Incomes are credited*

Since incomes and gains increase capital, the rule is to credit all gains and incomes in the accounts concerned and since expenses and losses decrease capital, the rule is to debit all expenses and losses. Of course, if there is a reduction in any income or gain, the account concerned will be debited: similarly, for any reduction in an expenses or loss the concerned account will be credited.

The rules given above are summarized below:

- (i) Increases in assets are debits; decreases are credits;

## **12 Background Material on Training Program for Government Officials**

- (ii) Increases in liabilities are credits; decreases are debits;
- (iii) Increases in owner's capital are credits; decreases are debits;
- (iv) Increases in expenses are debits; decreases are credits; and
- (v) Increases in revenue or incomes are credits; decreases are debits.

The terms debit and credit should not be taken to mean, respectively, favourable and unfavourable things. They merely describe the two sides of accounts.

### ***Account***

1.19 We have seen how the accounting equation becomes true in all cases. A person starts his business with say, cash of ₹10,000, in such case capital and cash accounts both will be effected by ₹10,000. Transactions entered into by the firm will alter the cash balance in two ways, one will increase the cash balance and other will reduce it. Payment for goods purchased, for salaries and rent, etc., will reduce the cash balance whereas sale of goods for cash and collection from customers will increase it.

We can change the cash balance with every transaction, but this will be cumbersome. Instead it would be better if all the transactions that lead to an increase are recorded in one column and those that reduce the cash balance in another column, then the net result can be ascertained. If we add all increases to the opening balance of cash and then deduct the total of all decreases, we shall know the Closing Balance. In this manner, significant information will be available relating to cash.

The two columns of which we talked of above are put usually in the form of an account, called the 'T' form. This is illustrated below by taking imaginary figures:

### ***Cash***

	Increase ₹	Decrease ₹
Opening Balance	10,000	1,000
	2,500	300
	2,000	200
	50	500
	1,350	

	400	Total 2,000
New or Closing Balance		14,300
	16,300	16,300

What we have done is to put the increase of cash on the left-hand side and the decrease on the right hand side. The closing balance has been ascertained by deducting the total of payments, ₹2,000 from the total of the left-hand side. Such a treatment of receipts and payment of cash is very convenient.

The proper form of an account is as follows:

**Account**

Dr.				Cr.			
Date	Particulars	Ref.	Amount	Date	Particulars	Ref	Amount
			₹				₹

The columns are self-explanatory except that the column for reference (Ref.) is meant to indicate the sources where information about the entry is available.

**JOURNAL AND LEDGER**

1.20 Though accounts can be written up directly, it is common to use two books for the purpose. These are:

- (i) **Journal:** Transactions are first entered in this book to show which accounts should be debited and which credited. Journal is also called *subsidiary book*.
- (ii) **Ledger:** On the basis of entries made in the Journal, accounts are prepared; the book which contains the accounts is called 'ledger'. Ledger is also called *principal book*.

**Journalising Process:** All transactions are first recorded in the Journal as and when they occur. The record chronological recorded, otherwise it would be difficult to maintain in an orderly manner. The form of the Journal is given below:

*Journal*

			<i>Dr</i>	<i>Cr</i>
<i>Date</i>	<i>Particulars</i>	<i>L.F.</i>	<i>Amount</i> ₹	<i>Amount</i> ₹
(1)	(2)	(3)	(4)	(5)

The columns have been numbered only to make clear the following but otherwise they are not numbered. The following points should be noted:

- (i) In the first column the date of the transaction is entered-the year is written at the top, then the month and in the narrow part of the column the particular date is entered.
- (ii) In the second column, the names of the accounts involved are written; first the account to be debited, with the word “Dr” written towards the end of the column. In the next line, after leaving a little space, the name of the account to be credited is written preceded by the word “To” (the modern practice shows inclination towards omitting “Dr.” and “To”). Then in the next line the explanation for the entry together with necessary details is given-this is called narration.
- (iii) In the third column, the page number of the ledger where posting has been made from the Journal is entered.
- (iv) In the fourth column, the amounts to be debited to the various accounts concerned are entered.
- (v) In the fifth column, the amount to be credited to various accounts is entered.

**STEPS IN JOURNALISING**

1.21 Before one can journalize transactions, one must think, based on the rules given above, the effect of the transaction on assets, liabilities, expenses, gains etc. of the firm. In accordance with the effects, the accounts to be debited or credited will be determined. Then the entry will be made in the Journal, as indicated above.

1.22 It should be noted that the papers or documents supporting transaction and establishing its veracity are known as *vouchers*. These should be filed in proper order, together with necessary references, so that in times of need these can be referred to.

An entry in the Journal may appear as follows:

May 5	Cash Account Dr. To Mohan (Being the amount received from Mohan in payment of the amount due from him)		₹ 450	₹  450
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We will now consider some individual transactions.

- (i) Mohan commences business with ₹5000 cash According to the rules given above, the increase in an asset has to be debited to it. The firm also now owes ₹5000 to the proprietor, Mohan as capital. The rule given above also shows that the increase in capital should be credited to it. Therefore, the Journal Entry will be:

Cash Account	Dr. ₹5,000	
To Capital Account		₹5,000
(Being capital introduced by Sh. Mohan)		

- (ii) Out of the above, ₹500 is deposited in the bank. By this transaction the cash balance is reduced by ₹500 and another asset, bank account, comes into existence. Since increase in assets is debited and decrease is credited, the Journal Entry will be:

Bank Account	Dr. ₹500	
To Cash Account		₹500
(Being cash deposited to Bank)		

- (iii) Furniture is purchased for cash ₹200. Applying the same reasoning as above the entry will be:

Furniture Account	Dr. ₹200	
To Cash Account		₹200
(Being Furniture purchased vide CM No....)		

## **16 Background Material on Training Program for Government Officials**

- (iv) Purchased goods for cash ₹400. The required entry will be:

Purchase Account	Dr. ₹400	
To Cash Account		₹400

(Being goods purchased vide CM No....)

- (v) Purchased goods for ₹1,000 credit from M/s. Ram Narain Bros. Purchase of merchandise is an expense item so it is to be debited. ₹1,000 is now owed to the supplier; his account should therefore be credited, since the amount of liabilities has increased. The entry will be:

Purchases Account	Dr. ₹1,000	
To M/s Ram Narain Bros.		₹1,000

(Being goods purchased vide Bill No....)

- (vi) Sold goods to M/s Ram & Co. for cash ₹600. The amount of cash increases and therefore, the cash amount should be debited. Sale of merchandise is revenue item so it is to be credited. The entry will be.

Cash Account	Dr. ₹600	
To Sales Account		₹600

(Being goods sold vide CM No....)

- (vii) Sold goods to Ramesh on credit for ₹300. The stock of goods has decreased and therefore, the goods account has to be credited. Ramesh now owes ₹300, that is an asset and therefore. Ramesh should be debited. The entry is:

Ramesh	Dr. ₹300	
To Sales Account		₹300

(Being goods sold vide Bill No....)

- (viii) Received cash from Ramesh ₹300. The amount of cash increased therefore the cash account has to be debited. Ramesh no longer owes any amount to the firm, i.e., this particular form of assets has disappeared, therefore, the account of Ramesh should be credited. The entry is.

Cash Account	Dr. ₹300	
To Ramesh		₹300

(Being cash received against Bill No....)

- (ix) Paid to M/s Ram Narain Bros. ₹1000. The liability to M/s Ram Narain Bros. has been discharged, therefore this account should be debited. The cash balance has decreased and, therefore, the cash account has to be credited. The entry is:

M/s Ram Narian Bros.	Dr. ₹1,000	
To Cash Account		₹1,000

(Being cash paid against Bill No....)

- (x) Paid rent ₹100. The cash balance has decreased and therefore, the cash account should be credited. No asset has come into existence because of the payment. The payment is for services enjoyed and is an expense. Expenses are debited. Therefore, the entry should be :

Rent Account.	Dr. ₹100	
To Cash Account		₹100

(Being rent paid for the month of .....)

- (xi) Paid ₹200 to the clerk as salary. Applying the reasons given in (x) above, the required entry is:

Salary Account	Dr. ₹200	
To Cash Account		₹200

(Being salary paid to Mr..... for the month of .....)

- (xii) Received ₹20 interest. The cash account should be debited since there is an increase in the cash balance. There is no increase in any liability. Since the amount is not returnable to any one, the amount is an income, incomes are credited. The entry is:

Cash Account	Dr. ₹20	
Interest Account		₹20

(Being interest received from..... for the period .....)

When transactions of similar nature take place on the same date, they may be combined while they are journalised. For example, entries (x) and (xi) may be combined as follows:

Rent Account	Dr. ₹100	
Salary Account	Dr. ₹200	
To Cash Account		₹300
(Being expenses done as per detail attached)		

When Journal entry for two or more transactions is combined, it is called composite Journal entry.

Usually, the transactions in a firm are so numerous that to record the transactions for a month will require many pages in the journal. At the bottom of one page the totals of the two columns are written together with the words “Carried forward” in the ‘particulars’ column. The next page is started with the respective totals in the two columns with the words “Brought forward” in the ‘particulars’ column.

### **CLASSIFICATION OF ACCOUNTS**

1.23 The accounting equation tells us that in broad categories the account is as follows:

- (i) Assets, indicating the resources, which the firm is enjoying. They may be in the form of cash, stock of goods, amounts owing from customers, land, buildings etc.
- (ii) Liabilities, indicating the amounts, which the firm owes to outsiders.
- (iii) Capital, indicating the amounts, which the proprietor has invested in the firm, the accretion to it or a reduction in it.

Since capital is affected by expenses and gains, net results from the operation of the entity i.e, profit and loss is the part of the capital.

1.24 Accounts may be classified in another manner;

- (i) *Personal Accounts*: Personal accounts related to persons, debtors or creditors. Example- the account of Ram & Co., a credit customer or the account of Jhaveri & Co., a supplier of goods. The capital account is the account of the proprietor and, therefore, it is also

personal but adjustment on account of profits and losses are made in it.

- (ii) *Impersonal Accounts:* Accounts, which are not personal such as machinery account, cash account, rent account etc. These can be further sub-divided as follows:
- (a) *Real Accounts:* Accounts, which relate to assets of the firm but not debt. For example, accounts regarding land, building, investment, fixed deposits etc., are real accounts. Cash in hand and the bank accounts are also real.
- (b) *Nominal Accounts:* Accounts, which relate to expenses, losses, gains, revenue, etc. like salary account, interest paid account, commission received account. The net result of all the nominal accounts is reflected as profit or loss, which is transferred to the capital account. Nominal accounts are, therefore, temporary.

### LEDGER POSTING

1.25 The Journal tells us the accounts to be debited and credited and also the amounts involved. The amount is written on the left-hand side of the account to be debited. In the 'particulars' column, the name of the account is written, preceded by the word. "To" The amount is written on the right-hand side of the account to be credited. In the particulars column the name of the other account concerned is written preceded by the word "By". Consider the following entry.

March 6	Furniture Account	Dr.	₹1,120	
	To Modern Furniture			₹1,120

The amount of ₹1,120 is debited to the Furniture Account and credited to Modern Furniture. In the Furniture Account in the particulars column we write: "To Modern Furniture". In the account of Modern Furniture is written: "By Furniture Account." The two accounts appear as under:

***Furniture Account***

Dr.				Cr.			
Date	Particulars	JF	Amount	Date	Particulars	JF	Amount
			₹				₹
March 6	To Modern Furniture	57	1,120				

***Modern Furniture***

Dr.				Cr.			
Date	Particulars	JF	Amount	Date	Particulars	JF	Amount
			₹				₹
				March 6	By Furniture Account	57	1,120

“57” is the assumed number of the page on which the entry was made in the Journal. While preparing one account in the ledger, page no. of the corresponding account is also given along with the page no. of Journal. The concept of page number (F.) is highly relevant in manual accounting. But in computerized accounting environment the page number (F.) is not used.

Sometimes in the Journal there may be two or more accounts to be debited and only one to be credited or vice versa. The entry given below shows that the debt of ₹500 due from Satish has been discharged by receipt of only ₹485 cash and by ₹15 allowed as discount:

		₹	₹
Cash Account	Dr.	485	
Discount Account	Dr.	15	
To Satish			500

In the Cash Account we write “To Satish ₹485”; in the Discount Account we write “To Satish ₹15”; in the account of Satish we write as follows (On credit side).

Cash Account	₹485
Discount Account	₹15
But we may also write, By Sundries	₹500

The transactions which have been journalized earlier are posted below:

**Ledger  
Cash Account**

Dr.			Cr.		
Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 1	To Capital A/c	10,000	April 2	By Bank A/c	7,000
4	To Bank A/c	100	3	By Purchases A/c	500
24	To Krishna A/c	145	30	By Shyam A/c	215
30	To Sales A/c	800	30	By Rent A/c	50
				By Salary A/c	100
				By Balance c/d	3,180
		11,045			11,045
May 1	To Balance b/d	3,180			

**Capital Account**

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
			April 1	By Cash A/c	10,000

**Bank Account**

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 12	To Cash A/c	7,000	April 4	By Cash A/c	100
			April 30	By Balance c/d	6,900
		7,000			7,000
May 1		6,900			6,900

**Purchase Account**

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 3	To Cash A/c	500			
April 20	To Shyam	225			

**22 Background Material on Training Program for Government Officials*****Sales Account***

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
			April 13	By Krishna	150
			April 30	By Cash A/c	800

***Krishna***

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 13	To Sales A/c	150	April 20	By Cash A/c	145
			April 30	By Discount A/c	5
		150			150

***Shyam***

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 13	To Cash A/c	215	April 20	By Purchases A/c	2
	To Discount A/c	10	April 30	By Discount A/c	5
		225			150

***Discount Account***

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 24	To Krishna	5	April 28	By Shyam	10

***Rent Account***

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 30	To Cash A/c	50			

***Salaries Account***

Date 2015	Particulars	Amount ₹	Date 2015	Particulars	Amount ₹
April 30	To Cash A/c	100			

*Balancing an account:* At the end of each month or year or any particular day it may be necessary to ascertain the balance in an account. This is not a too difficult thing to do; suppose a person has bought goods worth ₹1,000 and has paid only ₹850; he owes ₹150 and that is balance in his account. To ascertain the balance in any account, what is done is to total the sides and ascertain the difference; the difference is the balance. *If the credit side is bigger than the debit side, it is a credit balance. In the other case it is a debit balance.* The credit balance is written on the debit side as, “To Balance c/d”; c/d means “carried down”. By doing this two sides will be equal. The totals are written on the two sides opposite one another.

Then the credit balance is written on the credit side as “By balance b/d (i.e., brought down)”. This is the opening balance for the new period. The debit balance similarly is written on the credit side as “By Balance c/d”, the totals then are written on the two sides as shown above as then the debit balance written on the debit side as, “To Balance b/d”, as the opening balance of the new period.

It should be noted that nominal accounts are not balanced; the balance in the end are transferred to the profit and loss account. Only personal and real accounts ultimately show balances. In the illustration given above, one will have noticed that the capital account, the purchases account, sales account the discount account, the rent account and the salary account have not been balanced. The capital account will have to be adjusted for profit or loss and that is why it has not been balanced yet.

## **BALANCING AN ACCOUNT**

1.26 Once the posting in ledger is completed the accounts are to be balanced. For balancing an account, first the total of two sides is ascertained. If the total of debit side is higher than the total of credit side, the difference is known as “Debit Balance” and if the total of credit side is higher than the total of debit side, the difference is known as “Credit Balance” Such a difference is placed on the shorter side saying “ To/By balance carried down (c/d)”. After placing the difference on the shorter side the two sides become equal.

In the beginning of next year the difference that was placed on the shorter side of the ledger is carried forward and written on its opposite side, saying “ To/By Balance Brought forward (b/f)”.

The accounts, which are to be balanced, are those, which relate to some property like building, vehicle etc. Certain other accounts are not balanced at the year-end as they are to be transferred to some other accounts in order to ascertain the profit or loss of the business.

The balancing process has been shown in the illustration showing ledger posting above.

### **SUBSIDIARY BOOKS AND THEIR ADVANTAGES**

1.27 In a Business most of the transactions generally relate to receipts and payments of cash, sale of goods and their purchase. It is convenient to keep a separate register for each such class of transactions one for receipts and payments of cash, one for purchase of goods and one for sale of goods. A register of this type is called a Book of Original Entry or of Prime Entry. For transactions recorded in such books there will be no Journal Entry. The system by which transactions of a class are first recorded in the book, specially meant for it and on the basis of which ledger accounts are then prepared is known as the Practical System of Book keeping or even the English System. It should be noted that in this system, there is no departure from the rules of the double entry system.

These books of original or prime entry are also called Subsidiary Books since ledger accounts are prepared on their basis and, without the further process of ledger posting, a trial balance cannot be taken out. Normally, the following subsidiary books are used in a business:

- (i) *Cash Book* to record receipts and payments of cash, including receipts into and payments out of the bank.
- (ii) *Purchases Book* to record credit purchases of goods dealt in or of the materials and stores required in the factory.
- (iii) *Purchases Returns Books* to record the returns of goods and materials previously purchased.
- (iv) *Sales Book* to record the credit sales of the goods dealt in by the firm.
- (v) *Sales Returns Book* to record the returns made by the customers.
- (vi) *Bills receivable books* to record the receipts of promissory notes or hundies from various parties.

- (vii) *Bills Payable Book* to record the issue of the promissory notes or hundies to other parties.
- (viii) *Journal* (proper) to record the transactions, which cannot be recorded in any of the seven books, mentioned above.

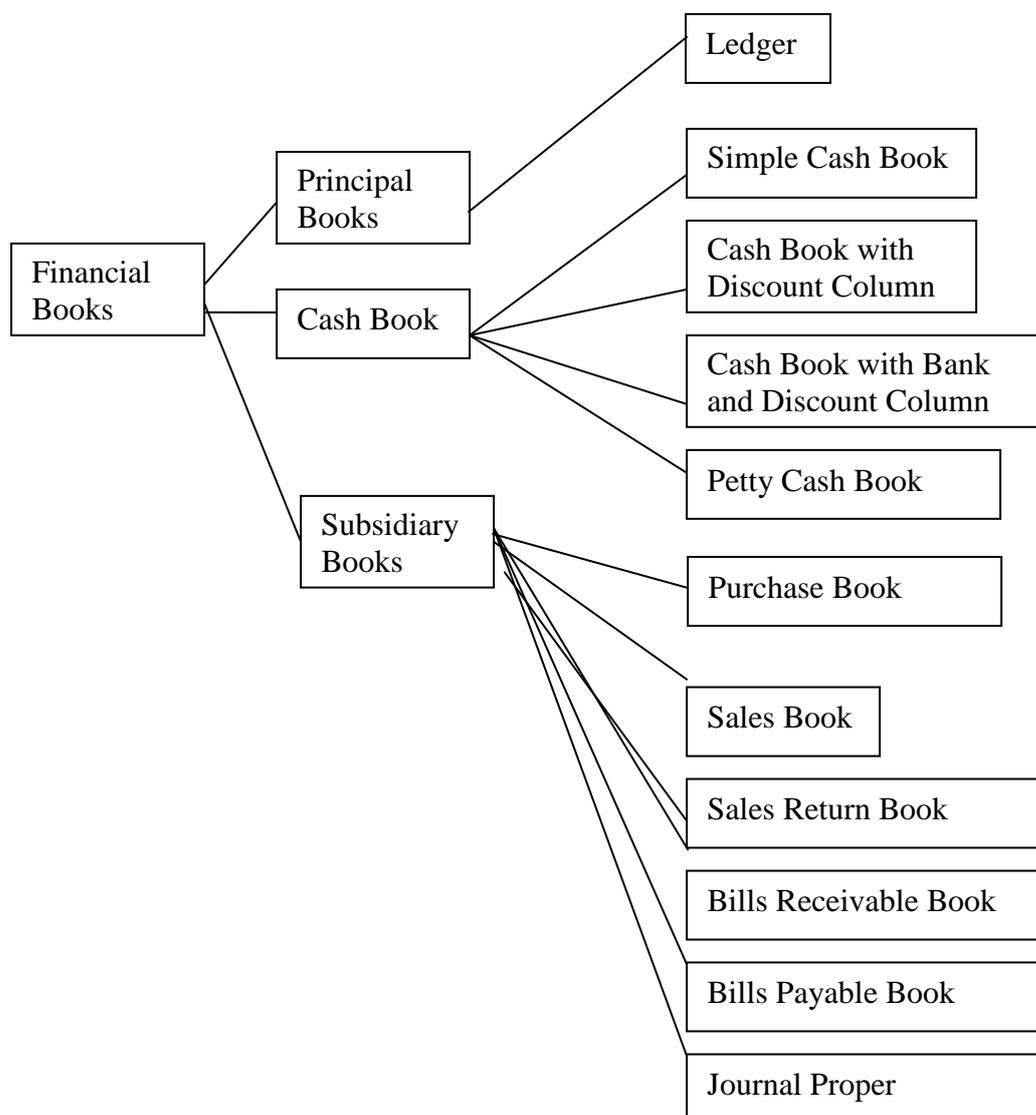
It may be noted that in all the above cases the word “Journal” may be used for the word “book”.

In today’s world most of the medium and large companies are working on ERPs wherein only the basic entry is made with due care. Postings to all the subsidiary ledgers is automatic. Common ERPS today are Tally ERP, JD Edwards, Oracle, SAP, BAAN, etc.

### ***Advantages of Subsidiary Books***

1.28 The use of subsidiary books affords the under mentioned advantages:

- (i) *Division of work:* Since in the place of one Journal there will be so many subsidiary books, the accounting work may be divided amongst a number of clerks.
- (ii) *Specialization and efficiency:* When the same work is allotted to a particular person over a period of time, he acquires full knowledge of it and becomes efficient in handling it. Thus the accounting work will be done efficiently.
- (iii) *Saving of the time:* Various accounting processes can be undertaken simultaneously because of the use of a number of books. This will lead to the work being completed quickly.
- (iv) *Availability of information:* Since a separate register or book is kept for each class of transactions, the information relating to each transaction will be available at one place.
- (v) *Facility in checking:* When the trial balance does not agree, the location of the error or errors is facilitated by the existence of separate books. Even the commission of errors and frauds will be checked by the use of various subsidiary books.



***Purchases Book***

1.29 To record the *credit purchases* of goods dealt in or materials and stores used in the factory, a separate register called the Purchases Book or the Purchases Journal, is usually maintained by firms. The ruling is given below:

<i>Date</i>	<i>Particulars</i>	<i>L.F.</i>	<i>Details</i>	<i>Amount</i>
			₹	₹

It should be remembered that:

- (i) Cash purchases are not entered in this book since these will be entered in the cash book; and
- (ii) Credit purchases of things other than goods or materials, such as office furniture or typewriters are journalized, they also are not entered in the Purchases Book.

The particulars column is meant to record the name of the supplier and name of the articles purchased and the respective quantities. The amount in respect of each article is entered in the 'details' column. After totaling the various amounts included in a single purchase, the amount for packing, or other charges is added and the amount for trade discount is deducted. The net amount is entered in the extreme right-hand column. The total in this column shows the total purchase made in a period.

### **Posting the Purchase Book**

1.30 The Purchases Book shows the names of the parties from whom goods have been purchased on credit. These parties are now creditors. Their accounts have to be credited for the respective amounts shown in the purchase book. The total of the 'amounts' column shows the total purchases made in a period. The amount is debited to the Purchase Account to indicate receipt of goods. In illustration 11, the Purchases Account is debited by ₹502.12, M/s Brown & Co. is credited by ₹304.12, the Paper Company by ₹180 and M/s Verma Bros. by ₹18. The total of the amounts put on the credit side equals the debit. Thus the double entry is completed.

### **Sales Book**

1.31 The Sales Book is a register specially kept to record *credit sales* of goods dealt in by the firm, cash sales are entered in the Cash Book and not in the Sales Book. Credit sales of things of other than the goods dealt in by the firm are not entered in the Sales Book, they are journalized. The ruling is the same as for the Purchases Book.

Entries in the sales book are also made in the same manner as in the Purchase Book. The particulars column will record the name of the customers concerned together with particulars and quantities of the goods sold. For each item, the amount is entered in the 'details' column; after

totaling the amounts for one sale, charges for packing etc, are added and the trade discount, if any is deducted. The net amount is put in the outer column. The total of this column will show the total credit sales for a period.

### **Posting the Sales Book**

1.32 The names appearing in the Sales Book are of those parties, which have received the goods. The accounts of the parties have to be debited with the respective amounts. The total of the Sales Book shows the credit sales made during the period concerned, the amount is credited to the Sales Account. In the illustration 12, ₹1,921 is credited to the Sales Account; ₹396 is debited to M/s Gupta and Verma ₹400 to M/s Jain and Sons and ₹1,125 to M/s Mathur & Jain. The amount put on the credit side is equal to the total of the amount put on the debit side. Thus, the double entry principle is followed correctly.

### **Sales Book with GST column**

1.33 GST is levied on supply of goods and / or services. It is collected by the supplier from the recipient on supply of goods or services and deposited with the government. It is charged at a fixed percentage on the net price of the goods. It is calculated after giving trade discount, if any. Generally, a separate column is provided in the Sales Book for GST so that a proper record is maintained regarding GST collected. Rates of GST vary from item to item. A separate column in sales book for each rate of GST helps the assessee in calculating GST liability accurately.

At the end of a certain period, generally quarterly or monthly, the total of GST column is credited to the GST liability Account. When GST is deposited with the government, the GST Account is debited, and Cash/Bank Account is credited. When there is any credit balance in GST liability Account, it shows the amount payable as GST and hence be shown in the Balance Sheet as a liability.

### **Sales Returns Book or Returns Inward Book**

1.34 If customers frequently return the goods sold to them, it would be convenient to record the returns in a separate book, which is named as the Sales Returns Book or the Returns Inward Book. The ruling of the book is similar to the Purchases or the Sales Book and entries are also

made in the same manner. The following, assumed figures, will illustrate this:

**Returns Inward Book**

<i>Date</i>	<i>Particulars</i>	<i>Details</i>	<i>L.F.</i>	<i>Amount</i>
2015				₹
June 7	Sunil Bank & Co. 6 Copies–Double Entry Book keeping by T.S. Grewal @ ₹7 Less: Trade Discount 10% (returns as per debit note no.....)	42.00 4.20		37.80
	Kailash & Co. 1 Copy–Business Methods by R.K. Gupta (returns as per debit note no.....)			3.50
		Total		41.30

**Purchase Returns or Returns Outward Book**

1.35 Such a book conveniently records return of purchased goods or materials back to the suppliers. If however, the returns are infrequent, it may be sufficient to record the transaction in the Journal. The ruling of the Purchase Returns or Returns Outward Book is similar to that of the Purchase Book; entries are also similarly made, as the illustration given below shows:

**Returns Outward Book**

<i>Date</i>	<i>Particulars</i>		<i>Amount</i>
2015		₹	₹
June 2	Premier Electric Co. One 36" Usha Ceiling Fan		175.00
June 28	Mohan Electric Co. Ten Iron Heaters Less : Discount	150.00 15.00	135.00
	Total		310.00

### **Posting of the Return Books**

1.36 The Sales Return Book will show the total of the returns made by customers. Really, the total of the returns is in reduction of the sales. Therefore, the amount may be debited to the Sales Account. But usually, a separate account called Returns Inward Account is opened and the total of the sales returns is debited to this account. The customers who have returned the goods are credited with the respective amounts.

1.37 It should be noted that on goods being received and accepted back from the customers, a credit note is issued to the customers concerned. This shows the amount to be credited to the customer's account.

1.38 Similarly, when goods are returned to supplier they will issue the necessary credit note; also the firm returning the goods will issue a debit note to the supplier, indicating the amount for which the supplier is liable on account of the return.

1.39 The total of Returns Outwards Book shows the total returns made. The amount can be credited to the purchase Account, but in practice, is credited to a separate account called Purchase Returns or Returns Outward Account.

### **Bills Receivable Books and Bills Payable Books**

1.40 If the firm usually receives a number of promissory notes or hundies, it would be convenient to record the transaction in a separate book called the Bills Receivable Book. Similarly, if promissory notes or hundies are frequently issued, the Bills Payable Book will be convenient.

### **BANK RECONCILIATION STATEMENT**

1.41 Strictly speaking, there should be no difference between the balance shown by the passbook and the cash-book. This is so, if all the entries are recorded in both. However, on a particular date it is possible that balances of both the books do not tally i.e., some entries may or may not have been recorded in the cash-book or the pass-book. Efforts are made for their reconciliation. This reconciliation is prepared and presented in the form of a statement commonly known as *Bank Reconciliation Statement*.

**Procedure for reconciling the cash-book balance with the Pass-book balance**

1.42 Before proceeding further, one must understand the meaning of the term “Dr. Balance as per cash book”. This means deposits in the bank or cash at bank or Cr. balance as per pass book. Similarly, ‘Cr-balance as per cash book’ means excess amount over deposits, withdrawn by the account holder or overdraft balance or Dr. Balance as per pass-book.

Bank reconciliation can be started from any of the following four balances:

1. Dr. Balance as per cash book
2. Cr. Balance as per cash book
3. Dr. balance as per pass book
4. Cr. balance as per pass book

When causes of differences are known, one can start the reconciliation by taking any of the balances stated above and proceed further with the causes. If the balance of the other book is more on account of the said causes then add the amount. If the balance of the other book is less on account of the said causes then subtract the amount.

The main causes of differences are:

- i. Cheques received and accounted not deposited
- ii. Cheques deposited not credited
- iii. Cheques issued not handed over
- iv. Cheques issued not banked by creditors
- v. Cash In Transit
- vi. Bank charges debited not accounted
- vii. ,, , few more.

But if the causes of differences are not known then one has to compare the debit entries of cash book with the credit entries of the pass-book and *vice-versa*. The entries, which do not tally in the course, are the causes of difference in the balances of both the books. Once the causes are located, their effects on both the books are analyzed and then the reconciliation statement is prepared to arrive at the actual bank balance.

**CAPITAL AND REVENUE RECEIPTS AND EXPENDITURE**

1.43 Accounting aims at ascertaining and presenting the results of the

business for an accounting period. For ascertaining the periodical business results, the nature of transactions should be analyzed whether they are of capital or revenue nature. Revenue Expenses relate to the operations of the business of an accounting period or the items of expenditure, benefits of which do not extend beyond that period. Revenue Receipts relates to the revenue earned during the period. Capital Expenditure, on the other hand, generates enduring benefits and helps in revenue generation over more than one accounting period. Revenue Expenses must be associated with the operations of the entity. Therefore, whereas production and sales generate revenue in the earning process, use of goods and services in support of those functions causes expenses to occur. Expenses are recognized in the Profit & Loss Account through matching principal which tells us when and how much of the expenses is to be charged against revenue. A part of the expenditure can be capitalized only when these can be traced directly to definable streams of future benefits.

1.44 The distinction of transaction into revenue and capital is done for the purpose of placing them in Profit and Loss Account or in the Balance Sheet. For example, revenue expenditures are shown in the profit and loss account as their benefits are for one accounting period i.e., in which they are incurred while capital expenditures are placed on the asset side of the balance sheet as they will generate benefits for more than one accounting period and will be transferred to profit and loss account of the year on the basis of utilization of that benefit in particular accounting year. Hence, both capital and revenue expenditures are ultimately transferred to profit and loss account. The distinction has relevance in GST as any goods which are capitalized in the books of account are considered as 'capital goods' whereas all other inward supply of goods is considered as 'inputs'. There is no determination or disclosure criterion under GST Law as to the concept of capitalization, the taxpayers have to rely on the accounting concept of capitalization. Further, the concept of capitalization could have relevance in some of the blocked credit cases also.

1.45 Revenue expenditures are transferred to profit and loss account in the year of spending while capital expenditures are transferred to profit and loss account over the period during which their benefits are utilized. Therefore, we can conclude that it is the time factor, which is the main determinant for transferring the expenditure to profit and loss account.

Also expenses are recognized in profit and loss account through matching concept which tells us when and how much of the expenses to be charged against revenue. However, distinction between capital and revenue creates a considerable difficulty. In many cases borderline between the two is very thin. Expertise and experience will help in forming a professional judgement about this difference.

### ***Considerations in determining Capital and Revenue Expenditure***

1.46 Following are the basic considerations for determining whether an expenditure is capital or revenue in nature:

If an expenditure meets the definition of Asset given in the *Framework for the Preparation and Presentation of Financial Statements*, issued by the Institute of Chartered Accountants of India, the same should be capitalized. Otherwise, it should be treated as revenue expense and should be charged to Profit and Loss Account.

*Asset: An asset is a resource controlled by the enterprise as a result of past events from which future economic benefits are expected to flow to the enterprise.*

If an expenditure does not meet above definition, the same should be charged to profit and loss account as expense.

### **Capital Receipts and Revenue Receipts**

1.47 Just as a clear distinction between Capital and Revenue expenditure is necessary, in the same manner capital receipts must be distinguished from revenue receipts.

Receipts which are obtained in course of normal business activities are revenue receipts (e.g. receipts from sale of goods or services, interest income etc.). On the other hand, receipts which are not revenue in nature are capital receipts (e.g. receipts from sale of fixed assets or investments, secured or unsecured loans, owner's contributions etc.). Revenue and capital receipts are recognised on accrual basis as soon as the right of receipt is established. Revenue receipts should not be equated with the actual cash receipts. Revenue receipts are credited to the Profit and Loss Account.

On the other hand, Capital receipts are not directly credited to Profit and Loss Account. For example, when a fixed asset is sold for ₹92,000 (cost ₹90,000), the capital receipts ₹92,000 is not credited to Profit and Loss

Account. Profit/Loss on sale of fixed assets is calculated and credited to Profit and Loss Account as follows:

Sale Proceeds	₹92,000
Cost	(₹90,000)
Profit	₹2,000

For more clarity on Capital and Revenue Receipts and Expenditures, relevant Accounting Standards may be referred.

### **CASE STUDY**

1.48 Journalise the following transactions in the books of a trader

*Debit Balance on January 1, 2015*

Cash in Hand ₹8,000, Cash at Bank ₹25,000, Stock of Goods ₹20,000, Furniture ₹2,000, Building ₹10,000. Sundry Debtors: Vijay ₹2,000, Anil ₹1,000 and Madhu ₹2,000.

*Credit Balances on January 1, 2015:*

Sundry Creditors: Anand ₹5,000, Loan from Bablu ₹10,000.

Following were further transactions in the month of January, 2015:

Jan. 1	Purchased goods worth ₹5,000 for cash less 20% trade discount and 5% cash discount.
Jan. 4	Received ₹1,980 from Vijay and allowed him ₹20 as discount.
Jan. 6	Purchased goods from Bharat ₹5,000.
Jan. 8	Purchased plant from Mukesh for ₹5,000 and paid ₹100 as cartage for bringing the plant to the factory and another ₹200 as installation charges.
Jan. 12	Sold goods to Rahim on credit ₹600.
Jan. 15	Rahim became insolvent and could pay only 50 paise in a rupee.
Jan. 18	Sold goods to Ram for cash ₹1,000.
Jan. 20	Paid salary to Ratan ₹2,000.
Jan. 21	Paid Anand ₹4,800 in full settlement.
Jan. 26	Interest received from Madhu ₹200.
Jan. 28	Paid to Bablu interest on loan ₹500.
Jan. 31	Sold goods for cash ₹500.
Jan. 31	Withdrew goods from business for personal use ₹200.

**Solution:**

**Cash Account**

<i>Dr.</i>				<i>Cr.</i>			
<i>Date</i>	<i>Particulars</i>	<i>LF.</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>L.F.</i>	<i>₹</i>
2015				2015			
Jan. 1	To Balance b/d		8,000	Jan. 1	By Purchases A/c		3,800
Jan. 4	To Vijay		1,980	Jan. 8	By Plant A/c		300
Jan. 15	To Rahim		300	Jan. 20	By Salary A/c		2,000
Jan. 18	To Sales A/c		1,000	Jan. 21	By Anand		4,800
Jan. 26	To Interest A/c		200	Jan. 28	By Interest of Loan A/c		500
Jan. 31	To Sales A/c		<u>500</u>	Jan. 31	By Balance c/d		<u>580</u>
			<u>11,980</u>				<u>11,980</u>
Feb. 1	To Balance b/d		580				

**Interest Account**

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 31	To Balance b/d	<u>200</u>	Jan. 26	By Cash A/c	<u>200</u>
		<u>200</u>			<u>200</u>
			Feb. 1	By Balance b/d	200

**Bank Account**

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹.</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 1	To Balance b/d	<u>25,000</u>	Jan. 31	By Balance c/d	<u>25,000</u>
		<u>25,000</u>			<u>25,000</u>
Feb. 1	To Balance b/d	25,000			

**Stock Account**

<i>Dr.</i>				<i>Cr.</i>			
<i>Date</i>	<i>Particulars</i>		<i>₹</i>	<i>Date</i>	<i>Particulars</i>		<i>₹</i>
Jan. 1	To	Balance b/d	<u>20,000</u>	Jan. 31	By	Balance c/d	<u>20,000</u>
			<u>20,000</u>				<u>20,000</u>
Feb. 1	To	Balance b/d	<u>20,000</u>				

**Furniture Account**

<i>Dr.</i>				<i>Cr.</i>			
<i>Date</i>	<i>Particulars</i>		<i>₹</i>	<i>Date</i>	<i>Particulars</i>		<i>₹</i>
Jan. 1	To	Balance b/d	<u>2,000</u>	Jan. 31	By	Balance c/d	<u>2,000</u>
			<u>2,000</u>				<u>2,000</u>
Feb. 1	To	Balance b/d	<u>2,000</u>				

**Building Account**

<i>Dr.</i>				<i>Cr.</i>			
<i>Date</i>	<i>Particulars</i>		<i>₹</i>	<i>Date</i>	<i>Particulars</i>		<i>₹</i>
Jan. 1	To	Balance b/d	<u>10,000</u>	Jan. 31	By	Balance c/d	<u>10,000</u>
			<u>10,000</u>				<u>10,000</u>
Feb. 1	To	Balance b/d	<u>10,000</u>				

**Vijay**

<i>Dr.</i>				<i>Cr.</i>			
<i>Date</i>	<i>Particulars</i>		<i>₹</i>	<i>Date</i>	<i>Particulars</i>		<i>₹</i>
Jan. 1	To	Balance b/d	2,000	Jan. 4	By	Cash A/c	1,980
			_____		By	Discount A/c	<u>20</u>
			<u>2,000</u>				<u>2,000</u>

**Anil**

<i>Dr.</i>				<i>Cr.</i>			
<i>Date</i>	<i>Particulars</i>		<i>₹</i>	<i>Date</i>	<i>Particulars</i>		<i>₹</i>
Jan. 1	To	Balance b/d	<u>1,000</u>	Jan. 31	By	Balance c/d	<u>1,000</u>
			<u>1,000</u>				<u>1,000</u>
Feb. 1	To	Balance b/d	1,000				

**Madhu**

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	₹	<i>Date</i>	<i>Particulars</i>	₹
Jan. 1	To Balance b/d	<u>2,000</u>	Jan. 31	By Balance c/d	<u>2,000</u>
		<u>2,000</u>			<u>2,000</u>
Feb. 1	To Balance b/d	<u>2,000</u>			

**Anand**

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	₹	<i>Date</i>	<i>Particulars</i>	₹
Jan. 21	To Cash A/c	4,800	Jan. 1	By Balance b/d	5,000
Jan. 21	To Discount A/c	<u>200</u>			—
		<u>5,000</u>			<u>5,000</u>

**Capital Account**

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	₹	<i>Date</i>	<i>Particulars</i>	₹
Jan. 31	To Balance c/d	<u>55,000</u>	Jan. 1	By Balance b/d	<u>55,000</u>
		<u>55,000</u>			<u>55,000</u>
			Feb. 1	By Balance b/d	55,000

**Babu's Loan Account**

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	₹	<i>Date</i>	<i>Particulars</i>	₹
Jan. 31	To Balance c/d	<u>10,000</u>	Jan. 1	By Balance b/d	<u>10,000</u>
		<u>10,000</u>			<u>10,000</u>
			Feb. 1	By Balance b/d	10,000

**Purchases Account**

Dr.			Cr.		
Date	Particulars	₹	Date	Particulars	₹
Jan. 1	To Cash	3,800	Jan. 31	By Drawings A/c	200
Jan. 1	To Discount	200	Jan. 31	By Balance c/d	8,800
Jan. 6	To Bharat	<u>5,000</u>			
		<u>9,000</u>			<u>9,000</u>
Feb. 1	To Balance b/d	8,800			

**Discount Account**

Dr.			Cr.		
Date	Particulars	₹	Date	Particulars	₹
Jan. 4	To Vijay	20	Jan. 1	By Purchases A/c	200
Jan. 31	To Balance c/d	<u>380</u>	Jan. 21	By Anand	<u>200</u>
		<u>400</u>			<u>400</u>
			Feb. 1	By Balance b/d	380

**Bharat**

Dr.			Cr.		
Date	Particulars	₹	Date	Particulars	₹
Jan. 31	To Balance c/d	<u>5,000</u>	Jan. 6	By Purchases A/c	<u>5,000</u>
		<u>5,000</u>			<u>5,000</u>
			Feb. 1	By Balance b/d	5,000

**Plant Account**

Dr.			Cr.		
Date	Particulars	₹	Date	Particulars	₹
Jan. 8	To Mukesh	5,000	Jan. 31	By Balance c/d	5,300
Jan. 8	To Cash A/c	<u>300</u>			
		<u>5,300</u>			<u>5,300</u>
Feb. 1	To Balance b/d	5,300			

***Interest on Loan Account***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 28	To Cash A/c	<u>500</u>	Jan. 31	By Balance c/d	<u>500</u>
		<u>500</u>			<u>500</u>
Feb. 1	To Balance b/d	500			

***Mukesh***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 31	To Balance c/d	<u>5,000</u>	Jan. 8	By Plant A/c	<u>5,000</u>
		<u>5,000</u>			<u>5,000</u>
			Feb. 1	By Balance b/d	5,000

***Sales Account***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 31	To Balance c/d	2,100	Jan. 21	By Rahim	600
			Jan. 18	By Cash A/c	1,000
		—	Jan. 31	By Cash A/c	<u>500</u>
		<u>2,100</u>	Feb. 1	By Balance b/d	<u>2,100</u>

***Rahim***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 12	To Sales A/c	600	Jan. 15	By Cash A/c	300
		—	Jan. 15	By Bad Debts A/c	<u>300</u>
		<u>600</u>			<u>600</u>

***Bad Debts Account***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 15	To Rahim	<u>300</u>	Jan. 31	By Balance c/d	<u>300</u>
		<u>300</u>			<u>300</u>
Feb. 1	To Balance b/d	300			

**40 Background Material on Training Program for Government Officials**

***Salary Account***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 20	To Cash A/c	<u>2,000</u>	Jan. 31	By Balance b/d	<u>2,000</u>
		<u>2,000</u>			<u>2,000</u>
Feb. 1	To Balance b/d	2,000			

***Drawings Account***

<i>Dr.</i>			<i>Cr.</i>		
<i>Date</i>	<i>Particulars</i>	<i>₹</i>	<i>Date</i>	<i>Particulars</i>	<i>₹</i>
Jan. 31	To Purchases A/c	<u>200</u>	Jan. 31	By Balance c/d	<u>200</u>
		<u>200</u>			<u>200</u>
Feb. 1	To Balance b/d	200			

# 2

## **UNDERSTANDING THE TRIAL BALANCE**

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2.1 After posting the accounts in the ledger, a statement is prepared to show separately the debit and credit balances. Such a statement is known as the Trial Balance. It may also be prepared by listing each and every account and entering in separate columns the totals of the debit and credit sides. Whichever way is prepared, the totals of the two columns should agree. An agreement indicates reasonable accuracy of the accounting work. If the two sides do not agree, then this is simply an arithmetic error(s).

This follows from the fact that under the Double Entry System, the amount written on the debit sides of various accounts is always equal to the amounts entered on the credit sides of other accounts and *vice versa*. Hence, the totals of the Debit Balance (debit sides) must be equal to the totals of the Credit Balance (credit sides). Once this agreement is established, there is reasonable confidence that the accounting work is free from clerical errors, though is not proof of cent percent accuracy, because some errors of principle and compensating errors may still remain.

### **OBJECTIVES OF PREPARING THE TRIAL BALANCE**

2.2 The preparation of trial balance has the following objectives:

- (i) This trial balance enables one to establish whether the posting and other accounting processes have been carried out without committing arithmetical errors. In other words, the trial balance helps to establish arithmetical accuracy of the books.
- (ii) Financial statements are normally prepared on the basis of agreed trial balance, otherwise the work may be cumbersome. Preparation of financial statements, therefore, is the second objective.

- (iii) The trial balance serves as a summary of what is contained in the ledger. The ledger may have to be seen only when details are required in respect of an account.

### **EXTRACTING BALANCES AND PREPARATION**

2.3 Once the Journal entries are posted to the respective accounts there would be debit or credit balances in each account. Arriving at such debit or credit balances is called the process of extracting balances. These balances will constitute the trial balance. There are three methods of preparation of trial balance. These are explained below:

#### **(i) Total Amount method**

Under this method, every ledger account is totaled and that total amount (both of debit side and credit side) is transferred to trial balance. In this method, trial balance can be prepared as soon as ledger account is totaled. Time taken to balance the ledger accounts is saved under this method as balance can be found out in the trial balance itself. The difference of totals of each ledger account is the balance of that particular account. *This method is not commonly used as it cannot help in the preparation of the financial statements*

#### **(ii) Balance method**

Under this method, every ledger account is balanced, and those balances only are carry forward to the trial balance. This method is used commonly by the accountants and helps in the preparation of the financial statements. Financial statements are prepared on the basis of the balances of the ledger accounts.

#### **(iii) Total Amount and Balance method**

Under this method, the above two explained methods are combined. Under this method statement of trial balance contains seven columns instead of five columns. This has been explained with the help of the following example:

**Trial Balance of X as at 31.3.2016**

<i>Sl. No.</i>	<i>Heads of Account</i>	<i>L.F.</i>	<i>Debit Balance</i>	<i>Credit Balance</i>	<i>Debit Total</i>	<i>Credit Total</i>
			(₹ )	(₹ )	(₹ )	
1.	Cash Account		7,500		35,500	28,000
2.	Furniture Account		3,000		3,000	
3.	Salaries Account		2,500		2,500	
4.	Shyam's Account			3,500	21,500	25,000
5.	Purchases Account		26,000		26,000	
6.	Purchase Returns Account			500		500
7.	Ram's Account		4,900		30,000	25,100
8.	Sales Account			30,500		30,500
9.	Sale Returns Account		100		100	
10.	Capital Account			9,500	500	10,000
	<b>Total</b>		<b>44,000</b>	<b>44,000</b>	<b>1,19,100</b>	<b>1,19,100</b>

**OPENING TRIAL BALANCE AND CLOSING TRIAL BALANCE**

2.4 Opening trial balance is nothing but the closing trial balance of the previous financial year. After entering the transactions that have taken place during the year, into the respective accounts in the ledger, the balances are extracted. After these entries are passed in the Journal for rectifying errors, for providing for outstanding liabilities, for providing accrued income etc., and these entries are posted in the respective ledger accounts. Then the final balances are extracted which will form the base for the preparation of the closing trial balance.

**COMPARISON OF OPENING LEDGER BALANCES WITH THE CLOSING TRIAL BALANCE OF THE PREVIOUS YEAR**

2.5 One of the important responsibilities of an auditor is to compare the opening balances in the ledger with the closing trial balance of the previous year. This will ensure that the outstanding expenses, accrued

income and other provisions relating to the last year are correctly reflected in the current year's ledger.

### **GROSS TRIAL BALANCE AND NET TRIAL BALANCE**

2.6 Please refer to para no. 2.3 where reference has been made to total and net balances method for preparing the trial balance. Even though this method is more detailed, it will provide a better insight into the nature and extend of operations in an account.

### **QUARTERLY TRIAL BALANCE BY LISTED COMPANIES**

2.7 Nowadays listed companies are required to publish quarterly results in respect of their operations. A detailed comparison is also made between the current quarterly figures and the corresponding quarterly figure of the previous financial year. This information would be quite useful to the auditor.

### **CASE STUDY- 1-BALANCE METHOD**

2.8 Given below is a ledger extract relating to the business of X and Co. as on March, 31, 2016. You are required to prepare the Trial Balance by the Balance Amount Method.

#### **Cash Account Ledger**

<i>Dr</i>		<i>Cr.</i>	
<i>Particulars</i>	<i>₹</i>	<i>Particulars</i>	<i>₹</i>
To Capital A/c	10,000	By Furniture A/c	3,000
To Ram's A/c	25,000	By Salaries A/c)	2,500
To Cash Sales	500	By Shyam's A/c	21,000
		By Cash Purchases	1,000
		By Capital A/c	500
		By Balance c/d	<u>7,500</u>
	<u>35,500</u>		<u>35,500</u>

***Furniture Account***

<i>Dr</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Cash A/c	3,000	By Balance c/d	3,000
	<u>3,000</u>		<u>3,000</u>

***Salaries Account***

<i>Dr</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Cash A/c	2,500	By Balance c/d	2,500
	<u>2,500</u>		<u>2,500</u>

***Shyam's Account***

<i>Dr</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Cash A/c	21,000	By Purchases A/c (Credit Purchases)	25,000
To Purchase Returns A/c	500		
To Balance c/d	<u>3,500</u>		
	<u>25,000</u>		<u>25,000</u>

***Purchases Account***

<i>Dr</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Cash A/c (Cash Purchases)	1,000	By Balance c/d	26,000
To Sundries as per Purchases Book (Credit Purchases)	<u>25,000</u>		
	<u>26,000</u>		<u>26,000</u>

**Purchases Returns Account**

<i>Dr.</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Balance c/d	500	By Sundries as per Purchases Return Book	<u>500</u>
	<u>500</u>		<u>500</u>

**Ram's Account**

<i>Dr.</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Sales A/c (Credit Sales)	30,000	By Sales Returns A/c	100
		By Cash A/c	25,000
		By Balance c/d	<u>4,900</u>
	<u>30,000</u>		<u>30,000</u>

**Sales Account**

<i>Dr.</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Balance c/d	30,500	By Cash A/c (Cash Sales)	500
		By Sundries as per Sales Book (Credit sales)	<u>30,000</u>
	<u>30,500</u>		<u>30,500</u>

**Sales Returns Account**

<i>Dr.</i>		<i>Cr.</i>	
<i>Particulars</i>	₹	<i>Particulars</i>	₹
To Sundries as per Sales Returns Book	<u>100</u>	By Balance c/d	100
	<u>100</u>		<u>100</u>

**Capital Account**

<i>Dr.</i>		<i>Cr.</i>	
<i>Particulars</i>	<i>₹</i>	<i>Particulars</i>	
To Cash A/c	500	By Cash A/c	10,000
To Balance c/d			_____
	<u>9,500</u>		
	<u>10,000</u>		<u>10,000</u>

**Solution:**

***Trial Balance of X and Co. as at 31.03.2016***

<i>Sl. No.</i>	<i>Name of Account</i>	<i>Debit Balance</i>	<i>Credit Balance</i>
		<i>₹</i>	<i>₹</i>
1.	Cash A/c	7,500	
2.	Furniture A/c	3,000	
3.	Salaries A/c	2,500	
4.	Shyam's A/c		3,500
5.	Purchases A/c	26,000	
6.	Purchases Returns A/c		500
7.	Ram's A/c	4,900	
8.	Sales A/c		30,500
9.	Sales Returns A/c	100	
10.	Capital A/c		<u>9,500</u>
		<u>44,000</u>	<u>44,000</u>

**CASE STUDY 2**

2.9 One of your clients Mr. Singhania has asked you to finalise his accounts for the year ended 31<sup>st</sup> March, 2016. Till date, he himself has recorded the transactions in books of accounts. As a basis for audit, Mr. Singhania furnished you with following statement.

	<i>Dr. Balance</i>	<i>Cr. Balance</i>
Singhania's capital		1,556
Singhania's Drawings	564	
Leasehold premises	750	
Sales		2,750

**48 Background Material on Training Program for Government Officials**

	<i>Dr. Balance</i>	<i>Cr. Balance</i>
Due from customers		530
Purchases	1,259	
Purchases return	264	
Loan from bank		256
Creditors	528	
Trade expenses	700	
Cash at bank	226	
Bills payable	100	
Salaries and wages	600	
Stock (1.4.2015)		264
Rent and rates	463	
Sales return		98
	5,454	5,454

**TRIAL BALANCE**

The closing stock on 31<sup>st</sup> March, 2016 was valued at ₹ 574. Mr. Singhania claims that he has recorded every transaction correctly as the trial balance is tallied. Check the accuracy of the above trial balance.

**Solution:**

***Corrected Trial Balance of Mr. Singhania  
As on 31<sup>st</sup> March, 2016***

<i>Particulars</i>	<i>Dr. Amount ₹</i>	<i>Cr. Amount ₹</i>
Singhania Capital		1,556
Singhania's Drawing	564	
Lease of Premises	750	
Sales		2,750
Due from customers	530	
Purchases	1,259	
Purchases returns		264
Loan from Bank		256
Creditors		528
Trade expenses	700	
Cash at Bank	226	

<i>Particulars</i>	<i>Dr. Amount ₹</i>	<i>Cr. Amount ₹</i>
Bills payable		100
Salaries and wages	600	
Stock (1.4.2015)	264	
Rent and rates	463	
Sales return	98	
	5,454	5,454

***Reasons:***

1. Due from customers is an asset, so it will be a debit balance.
2. Purchases return account always shows a credit balance because stock (assets) go out of the business.
3. Creditor is a liability, so it will be a credit balance.
4. Bills payable is a liability, so it will be a credit balance
5. Stock (opening) represents assets, so it will have a debit balance.
6. Sales return account always shows a debit balance because stock (assets) come in to the business.

**IMPORTANT LEDGERS IN TRIAL BALANCE UNDER GST**

2.10 Though every account of Trial Balance is a summarized reflection of transactions undertaken during a period, and requires a review in entirety, yet certain accounts require special mention in GST, which are as follows:

- a. **Sales / Services / Income Account:** The total of this account reflects the total supply made by a person during a period. This figure should generally be equal to the supply shown in the GST returns by the person. However, in special cases, the balance of this account may differ from the returns when the income does not coincide with supply. This usually happens in case of continuous supply of goods/ services. This account will be net of Credit notes / debit notes issued for such heads during the tax period.

- b. GST Payable Account: This account reflects the GST liability as payable at the end of a period and should match with the amount of tax paid by Cash Ledger of that period.
- c. GST receivable account: This account reflects the excess balance of Input Tax Credit as being carried forward as the same could not be utilized during a particular period. GST receivable account should generally match the Credit Ledger as it reflect on the GST portal of the Assessee.
- d. Branch transfer/ Supplies: This account is netted in the consolidated financial statement of an entity and is available only in Trial Balance. This account reflects the inter state / GSTIN supplies of an Assessee and thus, is exigible to GST.
- e. Advance from Customers: This account is reflective of the amounts received as advance for future supplies and should be added to the taxable supplies to derive total GST liability. However, any opening balance of such account should be subtracted from closing balance as the same would have been exigible to GST in last tax period.
- e. Income accrued but not due: This account represents the income which is accrued in the profit and loss account but for which completion is yet to happen as only part of the supply has been effected, however, income has been accrued on the basis of accrual concept of income. The closing balance of this account to the income of profit and loss account to derive taxable supply. Opening balance of such account should be added to income as reflecting in profit and loss account as the same was not levied to tax in earlier tax period.
- f. Income due but not accrued: This account reflects the amounts for which invoices has been raised based on the agreement with the recipient, however, supplies to this extent are yet to be effected. The account stems from the fact that the accrual of income (supply made) and right to recover amount from recipient can fall in different point of time.

### **RELEVANCE OF TRIAL BALANCE UNDER GST**

2.10 The GST Law has deemed person (called 'distinct person') concept where a person carrying on business in multiple States is required to obtain the registration in each of the States from where he has been making supply. Further, the taxpayers have 'option' to take separate registration within a single State for different place(s) of business. Each such registration will constitute a 'distinct person' separate and distinct from each other although all have the same PAN.

2.11 All the compliances under GST are required to be carried out with respect to each of the GSTIN separately. There could always be possibility of multi state operating organization to have multiple registrations and doing separate compliance with respect to each of the registrations separately. However, the books of account and trial balance may have been maintained at consolidated level wherein State level separate ledgers may have been maintained for the tax liability and input tax credits.

2.12 There could be need for the business to identify the transactions pertaining to a single GSTIN out of the consolidated trial balance having entity level transactions. This could be done either maintaining separate GSTIN wise trial balance or maintaining separate identifications for the transactions pertaining to a particular GSTIN. It is always suggested to have (or be able to extract) separate GSTIN wise trial balance as it would be useful not only for the taxpayers to discharge its obligations but also easier for the department to undertake the audit and verification process.

## JOURNAL AND FINAL ACCOUNTS

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### IMPORTANCE OF JOURNAL

3.1 We are now familiar with the Journal. We also know that:

- (i) Cash transactions are recorded in the cash book;
- (ii) Credit purchases of goods or materials are recorded in the purchases book;
- (iii) Credit sales of goods are recorded in the sales book;
- (iv) Returns from customers are recorded in the sales returns book; and
- (v) Returns to suppliers are entered in the purchase returns book.

Bill transactions are entered in the Bills Receivable Books or the Bills Payable Books, if these are maintained. Apart from the transactions mentioned above, there are some entries also which have to be recorded. For them the proper place is the Journal. In fact, if there is no special book meant to record a transaction, it is recorded in the Journal (proper). The role of the Journal is thus restricted to the following types of entries:

- (i) **Opening entries:** When books are started for the new year, the opening balances of assets and liabilities are journalised.
- (ii) **Closing entries:** At the end of the year the profit and loss account has to be prepared. For this purpose, the nominal accounts are transferred to this account. This is done through journal entries called *Closing Entries*.
- (iii) **Rectification entries:** If an error has been committed, it is rectified through a Journal Entry.
- (iv) **Transfer entries:** If some amount is to be transferred from one account to another, the transfer will be made through a journal entry.

- (v) **Adjusting entries:** At the end of the year the amount of expenses or income may have to be adjusted for amounts received in advance or for amounts not yet settled in cash. Such an adjustment is also made through journal entries. Usually, the entries pertain to the following:
- (a) *Outstanding expenses*, i.e., expenses incurred but not yet paid;
  - (b) *Prepared expenses*, i.e., expenses paid in advance for some period in the future;
  - (c) *Interest on capital*, i.e., the interest which the proprietor thinks proper to allow on his investment; and
  - (d) *Depreciation*, i.e., fall in the value of the assets used on account of wear and tear.

For all these, journal entries are necessary.

### PREPARATION OF FINAL ACCOUNTS

3.2 In case of certain entities, the statute governing the entity prescribes the formats for preparation of financial statements, such as, for companies, Schedule III to the Companies Act, 2013, lays down the presentation formats. Similarly for Banks, Banking Regulations Act, 1949, prescribes the formats for banks. In such cases, the relevant formats shall be followed for preparation of final accounts (financial statements). Accordingly, the discussion in this chapter regarding preparation of final accounts is relevant for entities for which no formats have been prescribed under any statute, such as, Proprietorship Concerns, Partnership firms, etc.

3.3 The principal function of final statements of account (Profit and Loss Account and the Balance Sheet) is to exhibit truly and fairly the profitability and the financial position of the business to which they relate. In order to ensure that these are properly drawn up, it is essential that a proper record of transactions entered into by the business during the period of account should be maintained. The basic principles in regard to accumulation of accounting data are:

- (i) a distinction should be made between capital and revenue, both income and expenditure;

- (ii) also income and expenses relating to a period of account should be separated from those of another period. What is more, different items of income and expenditure should be accumulated under significant heads so as to disclose the sources from which capital has been procured and the nature of liabilities which are outstanding for payment.

Having regard to these basic principles, the various matters to which attention should be paid for determining the different aspects of transactions, a record of which should be kept, and the different heads of account under which various items of income and expenditure should be accumulated, are stated below:

- (a) Since the final statements of account are intended to show the profitability of the business and not that of its proprietors, it is essential that all personal income and expenditure should be separated from business income and expenditure.
- (b) A distinction should be made between capital and revenue, both receipts and expenditure. Different types of income and expenditure should be classified under separate heads. Assets should be included in the Balance Sheet at a valuation arrived at, on the same basis on which these assets are valued in the preceding year. Likewise, a provision for income and expenses which are accrued but not paid should be made by estimation or otherwise on the same basis as in the previous year.
- (c) Every information considered material for judging the profitability of the business or its financial position should be disclosed. For example, when the labour charges have increased on account of bonus having been paid to workmen, the amount of bonus paid should be disclosed. Similarly, if some of the items of stock are not readily saleable, these should be valued at their approximate sale price and the basis of valuation and value of such stocks shown separately.
- (d) Though the record of the transactions should be maintained continuously, at the end of each accounting period (accounting year), the transactions of the period which has closed should be cut off from those of the succeeding period.

- (e) It should be seen that only the effect of transactions which were concluded before the close of period of account has been adjusted in the accounts of the year unless they qualify to be adjusting event in accordance with AS 4, *Contingencies and Events Occurring After the Balance Sheet*. For example, when a sale of goods is to take place only after the goods have been inspected by the purchaser and the inspection had not been made before the close of the year, it would be incorrect to treat the goods as a sale in the accounts of the year.

### INTER-RELATIONSHIP OF THE TWO STATEMENTS

3.4 One of the points to be remembered is that of total expenditure incurred, some appears in the Profit and Loss Account and some in the Balance Sheet. Consider a few examples: of the total amount spent on manufacturing goods, that part which is attributable to finished goods in stock is shown in the Balance Sheet as closing stock and the amount debited to the Trading (or the Profit and Loss) Account is thereby reduced. When a machine is purchased, that part of it which is attributable to the year concerned, as depreciation, is debited to the Profit and Loss Account and the balance is shown in the Balance Sheet as an asset. Next year again, part of the cost will be debited to the Profit and Loss Account and the remaining cost will be shown as an asset in the Balance Sheet. These illustrations show that the two statements, the Profit and Loss Account and the Balance Sheet, are thoroughly inter-related. The assets shown in the Balance Sheet are mostly only the remainder of the expenditure incurred after a suitable amount has been charged to the Profit and Loss or the Trading Account. For preparing the two statements properly, it is of the greatest importance that the amounts to be charged to the Profit and Loss Account should be properly determined; otherwise both statements will show an incorrect position. The principle that governs this is called the *Matching Principle*.

#### ***Matching Principle***

3.5. This principle demands that the expenses incurred to earn the revenue should be properly matched. This means the following:

- (a) If a certain revenue and income is entered in the Profit and Loss Account all the expenses relating to it, whether or not payment has been actually made, should be debited to the Profit and Loss

Account. This is why, at the end of the year an entry is passed, to bring into account, the outstanding expenses. That is also the reason why the opening stock of goods is debited to the Trading Account (or the Profit and Loss Account) since the relevant sale is credited in the same account.

- (b) If some expense has been incurred but against it sale will take place in the next year or income will be received next year, the expense should not be debited to the current year's Profit and Loss Account, but should be carried forward as an asset and shown in the Balance Sheet and debited to the Profit and Loss Account when the relevant income will be also be credited. It is because of this principle that:
- (i) at the end of the year inventory of all the stocks in hand is prepared and is valued at cost. The credit to the Trading Account (or the Profit and Loss Account) has the effect of reducing the debit in the Trading Account to the extent goods remain unsold or unutilized. These will be sold or used up next year and the cost will therefore, be properly debited to the next year's Trading Account. If thenet realizable value, i.e., estimated selling price adjusted by the costs to complete the sale, is lower than the cost, stock will be valued at this valueand not at cost. This has the effect of raising the net debit in the Trading Account higher than the cost of goods sold or utilised in the year, but that is proper. Thenet realisable value below cost means that the loss has occurred in the year and therefore, it is appropriate to debit same incurrent year's Trading and Profit and Loss Account;
  - (ii) at the end of the year prepaid expenses are brought into the books by debiting prepaidexpenses account and crediting the expenses concerned. The effect of this is also to transfer the debit in respect of prepaid expenses to the next year when the benefit from such expenses will accrue; and
  - (iii) at the end of the year, appropriate depreciation of fixed assets is charged to the profit and loss account (and credited to the assets concerned). In this manner, that part of the cost of the assets which has been used up for earning

current year's revenue is debited to the Profit and Loss Account.

- (c) If an income or revenue is received in the current year but the work against it has to be done and the cost in respect of it have to be incurred next year, the income or the revenue belongs to next years even though the money may have been received in current year. It should be shown in the Balance Sheet on the liabilities side as "*income received in advance*" and should be credited to the Profit and Loss Account of the next year. Firms, except those which follow the cash system (and such firms are usually of specialised personal service nature), do not credit to the Profit and Loss Account that income or revenue against which service is to be rendered in future. Newspapers or magazines usually receive subscriptions in advance for a year. The part of subscription that covers copies to be supplied in the next year is treated as income received in advance.

*An exception:* There appears to be one exception to the rule that only such costs as have yielded or is expected to yield revenue should only be debited to Profit and Loss Account. For example, if a fire has occurred and has damaged the firm's property the loss must be debited to the Profit and Loss Account to the extent it is not covered by insurance. A loss, resulting from the fall of selling price below the cost or from some debts turning bad, must similarly be debited to the Profit and Loss Account. If this is not done the profit will be over-stated.

In this regard, the definition of '*expense*' given in the *Framework for Preparation and Presentation of Financial Statements* issued by the Institute of Chartered Accountants of India as reproduced below may be noted.

*"Expense: are decreases in economic benefits during the accounting period in the form of outflows or depletions of assets or incurrences of liabilities that result in decreases in equity<sup>1</sup>, other than those relating to distributions to equity participants<sup>2</sup>."*

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<sup>1</sup> Capital

<sup>2</sup> Owners of the entity

**TRADING ACCOUNT**

3.6 At the end of the year, as has been seen above, it is necessary to ascertain the net profit or the net loss. For this purpose, it is first necessary to know the gross profit or gross loss. Gross Profit is the difference between the selling price and the cost of the goods sold. For a trading firm, the cost of goods sold can be ascertained by adjusting the cost of goods still in hand at the end of the year against the purchases. Suppose, in the first year, the net purchases (that is after deducting returns) total ₹1,00,000 and that ₹15,000 worth of goods (at cost) were not sold at the end of the year. The cost of the goods sold will then be ₹85,000. If in the next year purchases are ₹ 1,50,000 and the cost of goods in hand at the end of the year is ₹20,000 the cost of goods sold will be ₹1,45,000. Thus:

	₹
Cost of the stock of goods in the beginning of the year	15,000
Purchases	1,50,000
	1,65,000
Less: Cost of the stock of goods at the end of the year	20,000
Cost of goods sold	1,45,000

If net sales, i.e., after adjustment for sales returns, total ₹2,00,000 the gross profit will be ₹ 55,000, i.e., ₹2,00,000 – 1,45,000. The Profit is called gross profit since from its expenses are still to be deducted for knowing the net profit.

Gross profit is usually ascertained by preparing a Trading Account and will appear as:

***Trading Account for the year ending***

Dr.		Cr.	
	₹		₹
To Opening Stock	15,000	By Sales Account	2, 00,000
To Purchase Account	1,50,000	By Stock in hand	20,000
To Gross Profit carried to P & L A/c	55,000		
	2,20,000		2, 20,000

The opening stock and purchases are written on the debit side. Sales and the closing stocks are entered on the credit side. If the credit side is bigger, the difference is written on the debit side as gross profit. This amount will also be written in the Profit and Loss Account on the credit side. In case of gross loss, i.e., when the debit side of the Trading Account exceeds the credit side, the amount will be written on the credit side of the Trading Account and the debit side of the Profit and Loss Account.

***Trading Account Items***

- (a) In a trading firm like a wholesaler, the main business consists of buying and selling the same goods. In addition to the amount of the opening stock, the trading account will also be debited with all expenses incurred in bringing the goods to the godown of the firm and in making them ready for sale. For example, freight paid on purchases, cartage, octroi, customs duty etc. will all be debited to the Trading Account. The rule is that this account will be debited with all expenses incurred in bringing the goods to their present location and condition.
- (b) In a manufacturing concern purchases consist of raw materials. All expenses incurred in bringing them to the godown of the manufacturer-customs duty, freight, cartage etc. will be debited to the Trading Account. In addition, all expenses incurred in the factory for purposes of production such as wages, power and fuel, rent of factory premises, will be debited to the Trading Account.

In a manufacturing business, there are usually three types of stock. Stock of raw materials, stock of finished goods and work in progress, that is the cost incurred on units still incomplete. The cost of all these at the end of the year will be credited to the Trading Account as closing stocks.

3.7 We shall now consider individual items:

- (i) ***Opening Stock***: Since this was closing stock of the last year, it must have been entered in the opening stock account, through the opening entry. Therefore, it will be found in the trial balance. This item is usually put as the first item on the debit side of the Trading Account. Of course, in the first year of a business there will be no opening stock.

- (ii) **Purchases and Purchase Returns:** The purchase account will have debit balance, showing the gross amount of purchases made of the materials. The purchase returns account will have credit balance showing the return of materials to the suppliers. On the debit side of the trading account the net amount is shown as indicated (with assumed figures):

	₹
To Purchases	3, 00,000
Less: Purchase Returns	10,000
	2, 90,000

It happens sometimes that goods are received but the relevant invoice is not received from the supplier. On the date of the closing of the account, an entry must be passed to debit the purchases account and credit the supplier with the cost of goods. One may also exclude such goods from the closing stock and not pass any entry, but this course is not recommended.

- (iii) **Carriage or Freight Inwards:** This item should also be debited to the Trading Account, as it is incurred to bring the materials to the firm's godown and make them available for use. However, if any freight or cartage is paid on any asset, like machinery, it should be added to the cost of the asset and not debited to the Trading Account.
- (iv) **Manufacturing Wages:** Wages paid to workers in the factory, including stores, should be debited to the Trading Account. If any amount is outstanding, it must be brought into books so that full wages for the period concerned are charged to the Trading Account. However, if wages are paid for installation of an asset, it should be added to the cost of the asset.
- (v) **Power and Fuel:** Fuel used for the boiler or electricity consumed to run the machines will be included under this item. The full amount for the period concerned should be debited to the Trading Account. In other words, the outstanding amount should be brought into books.
- (vi) **Factory Lighting:** Electricity consumed for providing light in the factory or to run fans should also be debited to the Trading

Account. If there is a common meter for the office and the factory, the total bill should be suitably apportioned between the two—the portion relating to the factory will be debited to the Trading Account. The other portion will be debited to the Profit and Loss Account.

- (vii) **Factory Rent and Rates:** The rent paid for the factory premises, as also the municipal taxes (which are called rates) or charges for water etc. should be debited to the Trading Account. If the office and the factory are in the same premises, total rent and rates have to be suitably apportioned.

The items given above may be grouped as: (i) cost of materials consumed; (ii) manufacturing wages; and (iii) other manufacturing expenses.

- (viii) **Sales and Sales Returns:** The sales account will have credit balance indicating the total sales made during the year. The sales return account will have debit balance, showing the total of the amount of goods returned by customers. The net of the two amounts is entered on the credit side of the Trading Account.

Sometimes, invoice for sold goods might have been prepared but not dispatched. If the sale is complete, that is if the customer is liable to pay the amount, such goods should be kept aside and should not be included in the closing stock. If, however, the sale is not yet complete, say, when sent to customers on approval basis, that is when the customer has the right to return the goods within the stipulated period, the cost of the goods should be included in the closing stock.

- (ix) **Closing Stock and its valuation:** Usually there is no account to show the value of goods lying in the godown at the end of the year. However, to correctly ascertain the gross profit, the closing stock must be properly taken and valued.

The entry is

Stock Account	Dr.
To Trading Account	

It is possible to pass the following entry:

Stock Account	Dr.
To Purchase Account	

The effect of this entry is to reduce the debit in the Purchases Account. The Stock Account is then not entered in the Trading Account. It will then appear in the trial balance.

To ascertain value of the closing stock, it is necessary to make a complete inventory or list of all the items in the godown together with quantities. Of course, damaged or obsolete items are separately listed. Also, the list should be separate for finished goods, semi-finished goods (work-in-progress), raw materials and stores. To the list of finished goods, one should also add the goods lying with agents sent to them on consignment basis and also the goods sent on approval to customers.

The valuation principle is cost or net realisable value whichever is lower. In the case of finished goods, the cost will mean the cost of materials, manufacturing wages and manufacturing expenses. This also applies to work-in-progress.

In the Trading Account, the three types of closing stocks are shown separately. Taking stock is quite a lengthy process. Strictly speaking, immediately at the end of the year, stock-taking should be completed. Sometimes however, this is done either a few weeks before or a few weeks after the closing. In such a case the value of the stock thus taken must be adjusted to relate it to the closing date. The adjustment will be necessary because, in the meantime, purchases and sales must have been made. The main point to remember is that in respect of sales, their cost has been established. Cost will be Sales less Gross Profit.

- (x) ***Duty drawback and subsidies:*** Duty drawback is refund of duties paid on purchases. This is available to the exporters as an incentive. Subsidies in the form of cash assistance are sometimes received from Government on purchases. AS-2 “*Valuation of Inventories*” recommends that such duty drawback and subsidies should be deducted from the cost of purchases in the year in which these are accounted for.

- (xi) **Excise Duty:** Excise duty should be included in the cost of purchases for the purpose on valuation of inventories. However, for a manufacturing concern, if it is entitled to get the benefit of excise paid on purchases under CENVAT Credit Rules it has to show the entries for excise duty in a different manner. In simple terms, the concept of CENVAT is that the credit of duty of Central Excise and additional duty of excise paid on the goods used in or in relation to the manufacture of final product can be utilized towards payment of duty of excise on the final product. Thus, when manufacturing concern purchases raw materials, the cost of raw materials may include some excise duties. The manufacturer uses the material to produce finished product too. Excise duty is leviable on such finished product too. But the manufacturer can deduct the excise duty already paid on purchases of raw materials from the excise duty payable on finished goods and only the difference is to be paid to the Excise authority. In practice, what happens is that a manufacturer deposits with the excise authority from time to time some amounts depending on his requirement and at the end of financial year reconciles the excise duties payable or recoverable. Thus, when he purchases the raw materials to produce finished goods, he should deduct the CENVAT credit utilised from the cost of purchases. The relevance of excise duty ledgers may not be in the GST regime excluding for those industries (i.e. petrol etc.) where excise duty would still continue to be levied. For normal tax payers, the excise duty account could be only for the period upto 30<sup>th</sup> June 2017 i.e. immediately before introduction of GST but not after that.
- (xii) **Sales Tax/VAT :** Sales Tax/VAT is an indirect tax in the sense that it is collected by the seller from the customers and deposited in Government's Account as per requirements of the Sales Tax/VAT Act. Sales tax is generally deducted from gross sales figures and sales tax liability (net of payments) is shown as current liability in the balance sheet. Similar to discussion above under excise duty, there could be very limited relevance of Sales Tax/VAT account after introduction of GST.
- (xiii) **GST:** GST is leviable on the supply of goods or services made by the registered persons and collected from the recipient unless the transactions are covered under reverse charge mechanism. The tax

collected does not become revenue of the business and hence it is deducted from the gross income and net amount is only shown as the turnover/outward supply. The treatment of GST on outward supply for disclosure purpose could be same as was followed for VAT purpose in erstwhile regime.

3.8 The Trading Account is very useful. With its help, the firm can see the relationship between the costs incurred and the revenues earned and the level of efficiency with which operations have been conducted. The ratio of gross profit to sales is very significant. It is arrived as

$$\text{Gross Profit Ratio} = \frac{\text{Gross Profit}}{\text{Sales}} \times 100$$

In the illustration given under Para 3.6, the rate of gross profit is 27.5%. If the rate of gross profit changes substantially in a year compared to that in a previous year, the reasons leading to the change should be enquired into. If the rate of gross profit has declined, the reasons may have been the following:

- (ii) There has been excessive wastage during the process of manufacture or there has been pilferage.
- (iii) Labour efficiency has declined or wage rates have increased without a corresponding increase in productivity.
- (iv) A part of the sale proceeds has been misappropriated or the finished goods have been stolen.
- (v) The closing stock has not been taken properly and some items have been omitted.
- (vi) The closing stock has been undervalued.
- (vii) The closing stock of the last year (that is the opening stock of this year) was overvalued.
- (viii) Some purchases made last year were not entered in the books at that time and have been brought into books only now.
- (ix) Some sales of the current year have not been entered in the books.
- (x) Some of the expenses pertaining to different GSTIN have been recorded in the trading account of current GSTIN (if GSTIN wise trading account is prepared)

If the rate of the gross profit has increased, the reasons will be the reverse of those given above except those relating to theft or misappropriation. If accounting is correct, increase in the rate of the gross profit will show better performance, higher prices for finished goods or lower prices for materials etc.

Closing entries in respect of Trading Account:

3.9 The following entries will be required:

- (i) *For opening stock:* Debit Trading Account and Credit Stock Account.
- (ii) *For purchases returns:* Debit Returns Outward Account and Credit Purchases Account.
- (iii) *For returns inward:* Debit Sales Account and Credit Returns Inwards Account. (In the trading account, information is usually given both in respect of gross sales and purchases and the respective returns).
- (iii) *For purchases account:* Debit Trading Account and Credit Purchases Account, the amount being the net amount after return.
- (iv) *For expenses* to be debited to the Trading Account, for example wages, customs duty etc; Debit Trading Account and credit the concerned expenses accounts individually.
- (v) *For sales:* Debit Sales Account with the net amount after returns, and Credit Trading Account.

We should see that all the accounts mentioned above will be closed with the exception of the Trading Account.

- (vi) *For closing stock:* Debit Stock Account and Credit Trading Account. The Stock Account will be carried forward to the next year.

After making the entries mentioned in (ii) above, the other entries are usually summarized as follows:

- |                            |     |
|----------------------------|-----|
| (1) Trading Account        | Dr. |
| To Stock (opening) Account |     |
| To Purchases Account       |     |
| To Wages Account           |     |
| To Fuel and Power Account  |     |

To Factory Rent and Rates Account  
To Freight on Purchases Account, etc.  
(2) Sales Account Dr.  
Stock (closing) Account Dr.  
To Trading Account

At this stage Trading Account will reveal the gross profit, if the credit side is bigger or gross loss if the credit side is short. The gross profit will be transferred to the Profit and Loss Account by the entry:

Trading Account Dr.  
To profit and Loss Account

The entry for gross loss, if there be any is:

Profit and Loss Account Dr.  
To Trading Account

### **PROFIT AND LOSS ACCOUNT**

3.10 The Profit and Loss Account starts with gross profit on the credit side. If there is gross loss, it will be written on the debit side. After that all those expenses and losses which have not been entered in the Trading Account will be written on the debit side. Incomes and gains, other than sales, will be written on the credit side.

If we understand word expenses properly, there should be no difficulty in distinguishing between items that will be debited to the Profit and Loss Account and those that will not be. Assets and personal expenses are not written in this account, revenue expenses and losses, but only those relating to the current year, are debited.

It is desirable, that the Profit and Loss Account should be prepared in such a manner as will enable the reader to form a correct idea about the profit earned or loss suffered by the firm during the period together with the significant factors. Too many details will prevent a person from knowing properly the factors leading to the profit earned. Therefore, items can be according to the various functions, such as administrations, selling and financing:

- (i) The selling and distribution expenses will comprise the following;

- (a) Salesmen's salaries and commission
- (b) Commission to agents.
- (c) Advertising.
- (d) Warehousing expenses.
- (e) Packing expenses.
- (f) Freight and carriage on sales.
- (g) Export duties (for specified industries)
- (h) GST to the extent it cannot be recovered from the customers.
- (i) Maintenance of vehicles for distribution of goods and their running expenses.
- (j) Insurance of finished goods stock and goods in transit.
- (k) Bad debts.

It would be a good idea to either show these expenses in a separate schedule or to indicate the total of these, prominently in the Statement of Profit and Loss. This rule should be followed wherever the number of items is rather large.

- (ii) Administrative expenses include the following;
  - (a) Salaries paid to the people working in the general office, salaries of executive officers should be shown separately.
  - (b) Rent and rates for the office premises.
  - (c) Lighting in the office.
  - (d) Printing and stationery.
  - (e) Postage, telegrams and telephone charges.
  - (f) Legal expenses.
  - (g) Audit fees, etc.
- (iii) Financing expenses normally include interest paid on loan, discount on bills discounted and the discount allowed to customers. It is possible to show only the net amount of interest if it has been both received and paid. It is however, better to show the two figures separately.

3.11 On the income side of the Profit and Loss Account, besides the gross profit, there may be interest received, discount received, rents from subletting of premises, miscellaneous incomes such as from sale of junk material etc, It would be desirable to show the totals only under each of the main categories of income. However, interest on fixed deposits, interests or income from investments and other interest should be shown separately, similarly, items which have to be debited/credited to the proprietor should be segregated from other items. Examples would be interest charged on drawings, interest allowed on capital and charges for services rendered by the firm to the proprietor personally.

3.12 We shall now consider a few items individually:

- (i) **Drawings:** Drawings are not expense for the firm and should therefore not be debited to the Profit and Loss Account. If the proprietor has enjoyed some benefit personally, like use of the firm's car, a suitable amount should be treated as drawing and to that extent, the charge to the Profit and Loss Account will be reduced. Drawings is debited to the proprietor's capital account.
- (ii) **Income Tax:** In case of companies, the income tax payable is treated like other expenses. But in the case of sole proprietorship, income tax is treated as a personal expense. It is debited to the Capital Account and not to the Profit and Loss Account. This is because the amount of the tax will depend on the total income of the partners or proprietor besides the profit of the firm. In case of partnership business, firm's tax liability is to be debited to profit and loss account of the firm, but partners' tax liabilities are not to be borne by the firm. Therefore, if the firm pays income tax on behalf of partners, such payment of personal income tax should be treated as drawings.
- (iii) **Discount Received and Allowed:** We have already seen that discount is of two types: Trade discount and Cash Discount. Trade discount is allowed when the order for goods is not below a certain figure. It is deducted from the invoice. Only the net amount of invoice is entered in books. There is no further treatment of the trade discount. Cash discount is allowed to a customer if he makes the payment before a certain date. It is allowance made to him for prompt payment. Discount received is really in the nature of

interest received and similarly, discount allowed really means interest paid. Discount received is a gain and is credited to the Profit and Loss Account. Discount allowed is debited to this account.

There is another term – Rebate. It is the allowance given to a customer when his purchases during a period, say one year, total up to a certain figure. Suppose a firm allows a rebate of 4% to those customers whose purchases during the year are at least ₹5,000. One Customer's purchases are ₹4,500, he will not get any rebate. Another customer's purchases total ₹5,100, he will get a rebate of ₹204. The entry for rebate is made only at the end of the year. The Rebate is adjusted from sales. Various customers who have earned the rebate are credited.

- (iv) **Bad Debts:** When a customer does not pay the amount due from him and all hopes of recovering the amount are lost, it is said to be a bad debt. It is a loss to the firm. Therefore, the bad debts account is debited, which is later on written in the Profit and Loss Account on the debit side. Since it is no use showing the amount due still as an asset, the account of the customer concerned is closed by being credited. The entry:

Bad Debts Account	Dr.
To Debtor's (by name) Account	

If later on, the amount is recovered, it should be treated as a gain. It should not be credited to the party paying it. It should be credited to Bad Debts Recovered Account. It will be entered in the Profit and Loss Account on the credit side.

- (v) **Closing entries:** The entries that have to be made in the Journal for preparing the Trading and the Profit and Loss Account, that is for transferring the various accounts to these two accounts, are known as closing entries. We have already seen the entries required for preparing the Trading Account and for transferring the Gross Profit to the Profit and Loss Account. Now to complete the Profit and Loss Account, the undermentioned three entries will be necessary.



- (b) Income accrued and accruing, e.g., Interest on Government Loans, Discounts on Bill, Professional fees, Rents and Premiums on leases, etc.

Interest/Fees etc. Accruing Account           Dr.

To 'Appropriate' Income Account

**Notes:** (1) The term "accrued" signifies that an amount has been incurred as expense or earned as income, the due date of payment of which falls in the next trading period. If the due date of payment occurs in the accounting period, the term used should be "*Outstanding*" or "*Accrued and Due*".

- (c) The expression '*accrued and accruing*' signifies items which though not due for payment but pertain to the period of account, a provision for which has been made. Converse is the position so far as items of income are concerned.

- (d) Carrying forward income received in advance e.g., Subscription in the case of a club or fees in case of professional person.

'Appropriate' Income Account                           Dr.

To Income Received in Advance Account

- (e) Carrying forward of payments made in advance e.g., Telephone, Rent, Insurance etc., amounts whereof stand debited to an expense account.

Expenses Prepaid Account                           Dr.

To 'Appropriate' Expenses Account

- (f) Adjustment of stock of materials in hand, e.g., Stationery, Advertisement, Material. Manufacturing Stores, etc., the cost whereof already has been debited to expense account.

Stock of Materials   Dr.

To Appropriate Expenses Account

**Note:** Next year in the beginning entries No. (1) to (5) should be reversed.



the same function in respect of a service organization as the later account does for a firm, carrying on business or trade.

**FEATURES OF INCOME AND EXPENDITURE ACCOUNTS ARE:**

- It is a revenue account prepared at the end of the financial period for finding out the surplus or deficit of that period.
- It is prepared by matching expenses against the revenue of that period concerned.
- Both cash and non-cash items, such as depreciation, are taken into consideration.
- All capital expenditures and incomes are excluded.
- Only current years' income and expenses are considered.

**BALANCE SHEET**

3.14 In the illustration worked out above it will be seen that the under mentioned accounts have not been closed even after preparation of the Profit and Loss Account and the transfer of the net profit to the capital account.

	₹	
Cash in Hand	400	Debit balance
Cash at Bank	1,000	Debit balance
Capital Accounts	16,300	Credit balance
Machinery Account	6,000	Debit balance
Furniture and Fittings Account	1,360	Debit balance
Sundry Debtors	8,500	Debit balance
Sundry Creditors	3,700	Credit balance
Stock Account	2,700	Debit balance

Looking at these accounts, one would know that various assets: *Cash in hand, cash at bank, machinery, furniture etc.* that the firm possesses and the amounts that are owing as liability to *Sundry Creditors* and to the *proprietor as capital*. The capital, of course, will be the difference between the total of assets and of liabilities. The assets and liabilities and capital

are usually presented in a statement called the Balance Sheet. This is given below for the accounts mentioned above.

**C. WANCHOO**  
***Balance Sheet as at December 31, 2015***

<i>Liabilities</i>	₹	<i>Assets</i>	₹
Sundry Creditors	3,700	Cash in Hand	440
Capital	16,300	Cash at Bank	1,000
		Sundry Debtors	8,500
		Stock	2,700
		Machinery	6,000
		Furniture and Fittings	1,360
	<b>20,000</b>		<b>20,000</b>

The assets are shown on the right-hand side and liabilities and capital on the left-hand side.

3.15 The balance sheet may be defined as “*a statement which sets out the assets and liabilities of a firm or an institution as at a certain date.*” Since even a single transaction will make a difference to some of the assets or liabilities, the balance sheet is true only at a particular point of time. That is the significance of the word “as at.”

3.16 The balance sheet has certain characteristics, which should be noted. These are the following:

- (i) It is prepared at a particular date, rather the close of a day and not for a period. It is true only on that date and not later. Suppose, in the example given above, a part of the goods were sold on 1st January, 2015. This will mean that the value of the stock will be reduced, the cash in hand will increase and the capital account will be reduced.
- (ii) The balance sheet is prepared only after the preparation of the Profit and Loss Account. This is the reason why the Profit and Loss Account (including the Trading Account) and the Balance Sheet are together called Final Accounts (Of course, the Balance Sheet is not an account, the two sides are not the debit and the credit sides.) Without being accompanied by the Profit and Loss Account, the Balance Sheet will not be able to throw adequate light on the

financial position of the firm. For that purpose, an appreciation of the profits of the firm is necessary.

- (iii) Since capital always equals the difference between assets and liabilities and since the capital account will independently arrive at this figure, the two sides of the Balance Sheet must have the same totals. If it is not so, there is certainly an error somewhere.

***Arrangements of Assets and Liabilities***

- (1) **Assets:** Assets may be grouped in one of the following two ways:
- (i) *Liquidity:* Under this approach the asset, which can be converted into cash first, is presented first. Those assets which are most difficult in this respect are presented at the bottom.
  - (ii) *Permanence:* Assets which are to be used for long term in the business and are not meant to be sold are presented first. Assets which are most liquid, such as cash in hand, are presented at the bottom.

The various assets in order will be as follows:

<b><i>In the order of Liquidity</i></b>	<b><i>In the order of Permanence</i></b>
Cash in Hand	Goodwill
Cash at Bank	Patents
Investments	Furniture
Sundry Debtors	Machinery
Stock of Finished Goods	Stock of Partly Finished goods
Stock of Raw Materials	Stock of Raw Materials
Partly Finished goods	Stock of Finished goods
Machinery	Sundry Debtors
Furniture	Investments
Patents	Cash at Bank
Goodwill	Cash in Hand

Some of the assets may be capable of being sold easily like investment in government securities or shares of some companies. They should be treated as liquid or permanent according to the intention of the firm. One should also note that the order in which the assets of a company are to be shown is as prescribed by the Companies Act.

(2) **Liabilities:** Liabilities may also be shown according to the urgency with which payment has to be made. One way is to first show the capital, then long-term liabilities and last of all short-term liabilities like amounts due to suppliers of goods or bills payable. The other way is to start with short term liabilities and then show long term liabilities and last of all capital.

(3) **Classification of Assets and Liabilities:** Assets are basically of two types. Those that are meant to be used by the firm over a long period and not sold and those that are meant to be converted into cash as quickly as possible. Examples of the latter are book debts, stocks of finished goods and materials, etc. The latter type of assets is called current assets. These include cash also. The former type of assets is called non-current assets. It is desirable that in the balance sheet the two types of assets should be shown separately and prominently. This would give meaningful and logical information.

The liabilities to outsider will be of two types. Those that must be settled within one year and those that will be paid after one year. The former type of liability is called current or short-term liability. The latter type is non-current liability. Of course, it will include undistributed profits also.

## **PROVISIONS AND RESERVES**

3.17 *Provision* means “any amount written off or retained by way of providing for depreciation, renewal or diminution in the value of assets or retained by way of providing for any known liability of which the amount cannot be determined with substantial accuracy”.

Thus, provision may be either in respect of loss in the value of an asset provided or written off on the basis of an estimate or the one in respect of a liability for expenses incurred in respect of a claim which is disputed i.e., when it is a contingent liability. On the occurrence of a diminution in asset values due to some of them having become irrecoverable or stock items are lost as a result of some natural calamity, amounts contributed

or transferred from profit to make goods the diminution also are described as provision.

The following are instances of amount retained in the business out of earning for different purposes that are described as provisions.

- (1) Amount provided for meeting claims which are admissible in principle, but the amount whereof has not been ascertained.
- (2) An appropriation made for payment of taxes still to be assessed.
- (3) Amount set aside for writing off bad debts or payment of discounts.

3.18 Reserve is defined as the portion of earnings, receipts or other surplus of an enterprise (whether capital or revenue) appropriated by the management for a general or a specific purpose other than a provision for depreciation or diminution in the value of assets or for a known liability.

Also, provisions in excess of the amount considered necessary for the purposes these were originally made, are to be considered as reserves. It is thus evident that provisions are a charge against profits, while reserve is an appropriation of profits. Also, provisions that ultimately prove to be in excess of amounts required or have been made too liberally are reserves. Such a distinction is essential for truly disclosing in the Balance Sheet, the amount by which the equity of shareholders has increased with the accumulation of undistributed profits.

3.19 *Reserve Fund*: It signifies the amount standing to the credit of the reserve that is invested outside the business in securities which are readily realisable e.g., when the amounts set apart for replacement of an asset are invested periodically, in government securities or shares. The account to which these amounts are annually credited is described as the Reserve Fund.

## **LIMITATIONS OF FINANCIAL STATEMENTS**

3.20 Financial statements suffer from a number of limitations. These must, therefore, be studied with care, in order that correct inferences may be drawn. The limitations are less serious if the objective is only to appraise the performance of a single company over a period of years. Where, however, a comparison of the working of different companies for the same period is to be made. It can be misleading unless the companies concerned have followed the same system and basis of accounting. On the

account, a comparison of the profitability of different industries on the basis of financial statements should be undertaken only if it is not practicable to make such a comparison on any other basis.

The principal limitations affecting financial statements are the following:

- (a) **Historical Cost:** Accounting records and, on that account, the financial statements are prepared only on the basis of the money value prevailing at the time the transactions were entered into. Thus, the effect of subsequent changes in the value of money is not taken into account. At times this has the effect of making the statements of account quite misleading. Take the obvious example of a house built in 1945, say at the cost of ₹15,000, in 2000 the benefit receivable from its occupation will be as much as that of a house created in 2000, say at a cost of ₹4,50,000. If the house is included in the financial statements at its original cost, as normally it would not convey a true picture except to a knowledgeable person.

The limitations can be serious in the case of other fixed assets that have been working over a long period over which prices have changed radically. It is, however, not easy to get over this difficulty, since revaluation of fixed assets, apart from being costly is not practicable when the value of money is continuously falling. On this account, historical cost continues to be the accepted basis for the preparation of financial statements.

- (b) **Intangible Strengths and Weaknesses:** A company may have number of strengths and weaknesses which cannot be shown in the balance sheet e.g., the quality and caliber of its staff. These must be kept in mind while judging the financial position of the company.
- (c) **Different Accounting Policies:** It is permissible for a company within certain limits to adopt different policies for the preparation of accounts-valuation of various assets and distribution of expenditure over different periods of account. For example, a company may decide to depreciate an asset on straight line basis or written down value basis

Whatever basis of accounting is decided upon the same must be followed consistently, from year to year. Whenever it is departed from, the effect of it would have the effect of obscuring the profit of the year in which the change in the basis of accounting is made.

However, through issuance of Accounting Standards on various subjects, efforts are being made to harmonise the accounting policies being followed.

(d) **Management Policies:** There is general impression that each undertaking endeavors to earn as much profit as it can. This is not wholly correct. The management often attempts not to allow its profit to rise above a level that it considers appropriate, in the circumstances it is functioning, due to a variety of reasons. This may be:

- (i) Disinclination to undertake new risks and responsibilities on account of high rates of taxation;
- (ii) Fear of the odium of profiteering a bad reputation that prices charged by the concern for its goods are not reasonable;
- (iii) Fear that larger profits may give rise to demand for higher wages which may throw the costs and prices relationship out of gear or impression may gain ground that there has been an increased workload on the workers which may lead to discontentment amongst them;
- (iv) Fear that the concern may be considered to have developed monopolistic tendencies;
- (v) Consideration to maintain efficiency; and
- (vi) Unwillingness to expand, unduly on account of uncertainty of the future.

3.21 To conclude, on these considerations. Financial statements need to be studied with great care. The information disclosed by them has to be judged in the light of the economic change, such as inflationary condition over the short period, as well as, over the long period (like one witnessed in India after 1971) and the nature of management and its basic motives. Despite the limitations, the financial statements, verified by independent

auditors, often are the only tangible evidence available as regards the profitability and the financial position of the company. Their importance, therefore, cannot be under-estimated. If properly analyzed, they are capable of yielding a flood of information.

**CASE STUDY**

3.22 From the following trial balance of a manufacturing concern prepare the Manufacturing Account, Profit & Loss Account and Balance Sheet:

*Arvind Textiles*  
**Trial Balance as at 31<sup>st</sup> March 2016**

<i>Particulars</i>	<i>Dr.</i>	<i>Cr.</i>
<i>Liabilities:</i>		
1. Capital		10,00,000
2. Capital Reserve Account		6,50,000
3. Profit and Loss Account		12,60,000
4. Term Loan from SBI		25,00,000
5. Cash Credit from SBI		2,50,000
6. Secured Loan from PNB		15,00,000
7. Sundry Creditors		1,50,000
8. Deposits from customers		15,00,000
<i>Fixed Assets:</i>		
10. Goodwill	3,87,000	
11. Land	94,00,000	
12. Plant and Machinery	8,00,000	
<i>Investments:</i>		
13. Shares in X Ltd.	70,500	
<i>Current Assets:</i>		
14. Sundry Debtors	1,22,000	
15. Current a/c with SBI	48,000	
16. Stock in trade (opening stock)	2,50,000	

<i>Particulars</i>		<i>Dr.</i>	<i>Cr.</i>
17.	Advances to suppliers	1,25,000	
18.	Cash in hand	7,55,000	
	<i>Expenses:</i>		
19.	Purchases	51,85,000	
20.	Purchases returns		22,000
21.	Wages	15,000	
22.	Electricity expenses	2,12,000	
23.	Packaging expenses	1,53,000	
24.	Advertising and Publicity	15,50,000	
25.	Warranty charges	19,600	
26.	Marketing expenses	1,86,000	
27.	Sales promotion expenses	82,000	
28.	Servicing expenses	25,200	
29.	Commission	1,21,000	
30.	Freight	35,000	
31.	Discounts	22,000	
32.	Installation and Commissioning expenses	58,000	
33.	Telephone expenses	31,000	
34.	Central excise	22,000	
35.	GST	32,000	
36.	Octroi	15,000	
37.	Interest on loans	5,20,000	
38.	Charity expenses	1,500	
39.	Salaries	1,85,000	
40.	Refreshments	25,200	
41.	Training expenses	12,000	
42.	Rent for the godown	35,000	
43.	Interest on deposits	25,000	
44.	Insurance	35,000	

## 82 Background Material on Training Program for Government Officials

<i>Particulars</i>		<i>Dr.</i>	<i>Cr.</i>
45.	Outward handling	23,000	
46.	Rent for returnable containers	1,35,000	
47.	Processing charges	22,000	
48.	Travelling expenses	72,000	
<i>Income:</i>			
49.	Sales		112,67,000
50.	Sales returns	2,50,000	
51.	Commission received		7,50,000
52.	Rent from property		1,20,000
53.	Discount received		53,000
54.	Miscellaneous Income		18,000
55.	Interest on advances		22,000
<b>TOTAL</b>		<b>210,62,000</b>	<b>210,62,000</b>

*Closing Stock as on 31.03.2016 was ₹25,48,500*

*Provide for the following:*

Outstanding salaries	55,000
Provision for bad debts	12,000

**Solution:**

### Arvind Textiles *Manufacturing Account for the year ending 31.03.16*

<i>Particulars</i>		<i>Amount</i> ₹	<i>Particulars</i>		<i>Amount</i> ₹
To opening Stock		2,50,000	By sales	112,67,000	
To purchases	51,85,000		Less: Returns	<u>2,50,000</u>	110,17,000
Less: Returns	<u>22,000</u>	51,63,000	By Closing Stock		25,48,500
To wages		15,000			
To electricity		2,12,000			
To Gross Profit c/d		<b>79,25,500</b>			
		<b>135,65,500</b>			<b>135,65,500</b>

<i>Particulars</i>		<i>Amount</i> ₹	<i>Particulars</i>		<i>Amount</i> ₹
To Salaries	1,85,000		By Gross profit b/d		79,25,500
<i>Add:</i> Outstanding	55,000	2,40,000			
To Outward handling		23,000	By Commission received		7,50,000
To Telephone expenses		31,000	By Rent from property		1,20,000
To Interest on loans		5,20,000	By discount received		53,000
To Charity expenses		1,500	By misc. income		18,000
To Packing expenses		1,53,000	By interest on advances		22,000
To advertising and publicity		15,50,000			
To warranty charges		19,600			
To Marketing expenses		1,86,000			
To Sales Promotion		82,000			
To Servicing expenses		25,200			
To Commission		1,21,000			
To Freight		35,000			
To Discounts		22,000			
To Installation and commissioning		58,000			
To Central excise		22,000			
To GST		32,000			
To Octroi		15,000			

**84 Background Material on Training Program for Government Officials**

<i>Particulars</i>		<i>Amount</i> ₹	<i>Particulars</i>		<i>Amount</i> ₹
To refreshments		25,200			
To Training expenses		12,000			
To Rent for godown		35,000			
To Interest on deposits		25,000			
To insurance		35,000			
To rent for returnable containers		1,35,000			
To processing charges		22,000			
To travelling expenses		72,000			
To provision for bad debts		12,000			
To net profit		53,79,000			
<b>Total</b>		<b>88,88,500</b>			<b>88,88,500</b>

**Arvind Textiles**  
**Balance Sheet as on 31.3.16**

<i>Particulars</i>		<i>Amount</i> ₹	<i>Particulars</i>		<i>Amount</i> ₹
Capital		10,00,000	Goodwill		3,87,000
			Land		94,00,000
			Plant and machinery		8,00,000
Profit and loss account	12,60,000		Shares in X Ltd.		70,500
Add: profit for the year	53,79,000	66,39,000	Sundry debtors	1,22,000	
Capital Reserve account		6,50,000	<i>Less:</i> provision for bad debts	<u>12,000</u>	1,10,000

<i>Particulars</i>	<i>Amount</i> ₹	<i>Particulars</i>	<i>Amount</i> ₹
Term Loan from SBI	25,00,000		
Cash credit from SBI	2,50,000	Current a/c with SBI	48,000
Secured loan from PNB	15,00,000	Stock in trade	25,48,500
Sundry creditors	1,50,000	Cash in hand	7,55,000
Deposits from customers	15,00,000	Advances to suppliers	1,25,000
Outstanding salaries	55,000		
<b>Total</b>	<b>142,44,000</b>		<b>142,44,000</b>

### **CASE STUDY 2**

3.23 From the following trial balance of a service concern prepare the Income and Expenditure and Balance Sheet:

**ABC Courier Company**  
**Trial Balance as at 31<sup>st</sup> March 2016**

<i>Particulars</i>	<i>Dr.</i>	<i>Cr.</i>
<i>Liabilities:</i>		
Capital		1,285,000
Secured Loan from PNB		404,750
Sundry Creditors		226,445
<i>Fixed Assets:</i>		
Land	1,021,575	
Office Equipments	413,500	
<i>Current Assets:</i>		
Sundry Debtors	347,155	
Current A/c with SBI	99,175	
Cash in hand	82,015	
National Saving Certificate	165,000	

**86 Background Material on Training Program for Government Officials**

<i>Particulars</i>	<i>Dr.</i>	<i>Cr.</i>
<i>Expenses:</i>		
Salary	786,167	
Electricity expenses	544,269	
Handling and Clearing Charges	181,423	
Contribution to provident and other funds	102,986	
Printing, Stationary and Consumables	51,900	
Staff Welfare Expenses	72,720	
Office Expenses	133,044	
Communication Expenses	99,294	
Repair and maintenance- others	71,143	
Insurance	78,480	
Domestic Network operating cost	151,186	
Interest on Secured Loan	44,523	
Bad Debt	6,075	
<i>Income:</i>		
Service Charges		2,418,975
Interest Income		9,900
Rent from property		78,560
Miscellaneous Income		28,000
<b>TOTAL</b>	<b>4,451,630</b>	<b>4,451,630</b>

*Provide for the following:*

Outstanding salaries 67,000

**ABC Courier Company**  
**Income and Expenditure Account for the year ending 31.03.16**

<i>Particulars</i>		<i>Amount</i>		<i>Particulars</i>	<i>Amount</i>
		₹			₹
To Salary	786,167			By Service Charges	2,418,975
Add <i>Outstanding Salary</i>	67,000	853,167		By Interest Income	9,900
To Contribution to provident and other funds		102,986		By Rent from Property	78,560
To Staff Welfare Expenses		72,720		By Misc. Income	28,000
To Electricity expenses		544,269			
To Handling and Clearing Charges		181,423			
To Printing, Stationary and Consumables		51,900			
To Office Expenses		133,044			
To Bad Debt		6,075			
To Communication Expenses		99,294			
To Repair and maintenance- others		71,143			
Insurance		78,480			
To Domestic Network operating cost		151,186			
To Interest on Secured Loan		44,523			
To Depreciation on Office Equipments		62,025			
To Surplus		83,200			
<b>Total</b>		<b>2,535,435</b>			<b>2,535,435</b>

**ABC Courier Company**  
**Balance Sheet as on 31.3.2016**

<i>Particulars</i>		<i>Amount</i> ₹	<i>Particulars</i>		<i>Amount</i> ₹
Capital	1,285,000		Land		1,021,575
Add Surplus	83,200	1,368,200	Office Equipments	413,500	
			Less Depreciation	62,025	351,475
			Sundry Debtors		347,155
Secured Loan from PNB		404,750	Current A/c with SBI		99,175
Sundry Creditors		226,445	Cash in hand		82,015
Outstanding Salary		67,000	National Saving Certificate		165,000
Total		2,066,395			2,066,395

# 4

## ANALYSIS OF SCHEDULE III (EARLIER REVISED SCHEDULE VI)

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4.1 With the emergence of multinational corporations and rapid increase in cross border transactions, it is essential that our financial statements speak the global language for attracting foreign funds into India. Internationally, the observance of universally accepted reporting norms is perceived as an important measure of good corporate governance, ensuring financial transparency to the stakeholders of the company. The transparency in financial statements of a company has a significant bearing on the decision of a stakeholder to invest, as well as the quantum of his investment.

With India moving towards Convergence to International Financial Reporting Standards (IFRS), there was an urgent call to revise the old Schedule VI, as it was not compatible to meet either the disclosure requirements or the provisions of the upcoming accounting standards. Though the revised Schedule VI has been framed as per the existing non-converged Indian Accounting Standards notified under the Companies (Accounting Standards) Rules, 2006 and has nothing to do with the converged Indian Accounting Standards, it has taken into consideration the classification accepted internationally.

The Companies Act, 1956 was replaced by Companies Act, 2013 in totality with effect from 1<sup>st</sup> April,2014. **As a result, Schedule VI was renumbered as Schedule III as per Companies Act, 2013. The contents of revised schedule VI and the new Schedule III are the same.**

In this chapter, an attempt has been made to throw some light on the need to understand salient features of the Schedule III (2013) and the issues which may initially arise while preparing financial statements as

per Schedule III (2013). The aim of this chapter is just to give an outline on the topic in order to make you aware of the Companies Act along with the limited applicability of GST in light of revised schedule.

## **SALIENT FEATURES**

4.2 Following are the salient features of Schedule III.

### **Applicability**

- This Schedule III is applicable to all companies to which existing non-converged notified Accounting Standards are applicable.

### **Flexibility**

- As and when there will be any change in the requirements of the Act including notified Accounting Standards in the treatment or disclosure including addition, amendment, substitution or deletion in the head, sub-head or any changes *inter se* in the financial statements, the Schedule III (2013) will be modified accordingly leaving no scope for any divergence or disagreement with the Accounting Standards.
- The disclosure requirements of Schedule III are in addition to the disclosure requirements specified in the notified Accounting Standards. Additional disclosures (other than specified in the Schedule III (2013)) required by the notified accounting standards may be made either in the notes to account or through additional statement or on the face of the financial statements. In no way, the disclosure requirements of Schedule III will substitute the disclosure requirements specified in the Accounting Standards.
- Schedule III (2013) sets out the minimum requirements for disclosure on the face of the Financial Statements and Notes to Accounts. Any addition of line or sub-line items or sub-totals shall be presented as addition/substitution to it only when it is required under specific disclosure requirements of industry/sector or for compliance with the amendments to the Companies Act, 2013 or Accounting standards.

### **Notes to Accounts**

- Notes to accounts, wherever necessary, should include narrative descriptions or dis-aggregations of items recognized on the face of the financial statements and information about items that do not qualify for recognition in the financial statements.
- Cross-reference of each item of the Balance Sheet and Statement of Profit and Loss shall be made to related information in the Notes to Accounts.

### **Unit of Measurement**

- For companies having a turnover of less than one hundred crore rupees, the figures appearing in the Financial Statements may be rounded off to the nearest hundreds, thousands, lakhs or millions, or decimals thereof.
- For companies having a turnover of more than one hundred crore rupees, the figures appearing in the Financial Statements may be rounded off to the nearest lakhs, millions, or crores or decimals thereof.
- Once a unit of measurement is used, it should be used uniformly in the Financial Statements.
- Corresponding amounts (comparatives) for the immediately preceding reporting period for all items shown in the Financial Statements including notes shall be given.

### **PREPARATION OF FINANCIAL STATEMENTS**

4.3 Every company is required to prepare financial statements as per the Schedule III of the Companies Act 2013. The Companies are required to prepare financial statements as per the format prescribed under Schedule III along with the additional disclosure requirements of the Accounting Standards.

Further, The Ministry of Corporate Affairs, in 2015, had notified the Companies (Indian Accounting Standards ([IND AS](#))) Rules 2015, which stipulated the adoption and applicability of IND AS in a phased manner beginning from the Accounting period 2016-17. The MCA has since issued three Amendment Rules, one each in year 2016, 2017, and 2018 to amend the 2015 Rules.

The IND AS are basically standards that have been made in line with the IFRS to make reporting by Indian companies globally accessible and comparable. Since Indian companies have a far wider global reach now as compared to earlier, the need to converge reporting standards with international standards was felt, which has led to the introduction of IND AS.

**A COMPARATIVE STUDY - SCHEDULE III OF THE COMPANIES ACT, 2013 ALONG WITH THE GOODS & SERVICES TAX STUDY.**

4.4 A comparative chart between the old and new format has been prepared. The chart is divided in two parts:

Part I: Balance Sheet

Part II: Statement of Profit and Loss

<b>Schedule III of Companies Act, 2013</b>	
	<b>ASSETS</b>
(1)	<b>Non-current assets</b>
	(a) Property, Plant and Equipment
	(b) Capital work-in-progress
	(c) Investment Property
	(d) Goodwill
	(e) Other Intangible assets
	(f) Intangible assets under development
	(g) Biological Assets other than bearer plants
	(h) Financial Assets
	(i) Investments
	(ii) Trade receivables
	(iii) Loans
	(iv) Others (to be specified)
	(i) Deferred tax assets (net)
	(j) Other non-current assets

(2)	<p><b>Current assets</b></p> <p>(a) Inventories</p> <p>(b) Financial Assets</p> <p style="padding-left: 20px;">(i) Investments</p> <p style="padding-left: 20px;">(ii) Trade receivables</p> <p style="padding-left: 20px;">(iii) Cash and cash equivalents</p> <p style="padding-left: 20px;">(iv) Loans</p> <p style="padding-left: 20px;">(v) Others (to be specified)</p> <p>(c) Current Tax Assets (Net)</p> <p>(d) Other current assets</p>
	<b>Total Assets</b>
	<b>EQUITY AND LIABILITIES</b>
(1)	<p><b>Equity</b></p> <p>(a) Equity Share capital</p> <p>(b) Other Equity</p>
(2)	<p><b>LIABILITIES</b></p> <p><b>Non-current liabilities</b></p> <p>(a) Financial Liabilities</p> <p style="padding-left: 20px;">(i) Borrowings</p> <p style="padding-left: 20px;">(ii) Trade payables</p> <p style="padding-left: 20px;">(iii) Other financial liabilities (other than those specified in (b) below, to be specified)</p> <p>(b) Provisions</p> <p>(c) Deferred tax liabilities (Net)</p> <p>(d) Other non-current liabilities</p> <p><b>Current liabilities</b></p> <p>(a) Financial Liabilities</p> <p style="padding-left: 20px;">(iv) Borrowings</p> <p style="padding-left: 20px;">(v) Trade payables</p> <p style="padding-left: 20px;">(vi) Other financial liabilities (other than those specified in (c) below)</p>

	(b) Other current liabilities (c) Provisions (d) Current Tax Liabilities (Net)
	<b>Total Equity and Liabilities</b>

<b>II. ASSETS</b>	
Non-Current Assets	
<b>(1) (a) Fixed Assets</b>	
<b>(i) Tangible Assets-Classification</b>	
	Land Building Plant & Machinery Furniture & Fitting Vehicles <b>Office Equipment's</b> <b>Others (Specify Nature)</b> Note: Assets under lease shall be separately specified for each class of Assets.
<b>(ii) Intangible Assets-Classification</b>	
	Goodwill Brands/Trademarks <b>Computer Software</b> <b>Mastheads &amp; Publishing Titles</b> <b>Mining Rights</b> Copyrights & Patents Recipes, Formulae Licenses & Franchise Others (Specify Nature)
<b>(iii) Capital Work-in-Progress</b>	
<b>(iv) Intangible Assets under development</b>	

**EXPLANATIONS**

Where sums have been written off on a reduction of capital or revaluation of assets or where sums have been added on revaluation of assets, every balance sheet subsequent to date of such write-off, or addition shall show the reduced or increased figures as applicable and shall by way of a note also show the amount of the reduction or increase as applicable together with the date thereof for the first five years subsequent to the date of such reduction or increase.

**Gross:**

Opening Balance

Additions

***Acquisitions through  
Business combination***

Other Adjustments\_\_\_\_\_

Sub-total

Less: Disposals\_\_\_\_\_

Gross block at year end\_\_\_\_\_

Less: Depreciation/Amortization

Opening depreciation/amortization

Depreciation/Amortization of the year

Impairment loss/Reversal of

Impairment Loss \_\_\_\_\_

Total depreciation at year end\_\_\_\_\_

Net Carrying Value

**(b) Non-Current Investments*****Non-current Investments*** to be classified as:

1. Trade Investments
2. Other Investments – and further classified as:-
  - (a) Investment Property
  - (b) Investment in Equity Instruments
  - (c) Investment in Preference Shares
  - (d) Investment in Government or trust securities.

<p>(e) Investments in debentures or bonds.</p> <p>(f) Investments in Mutual Funds</p> <p>(g) Investment in Partnership firms.</p> <p>(h) Other Non-current Investments (Specify Nature)</p>
<p>(a) Under each classification, details shall be given of names of the bodies corporate (indicating separately whether such bodies are (i) subsidiaries, (ii) associates, (iii) joint ventures, or (iv) controlled special purpose entities) in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.</p>
<p>(b) <b><i>Investments carried at other than COST should be separately stated specifying the basis for valuing them.</i></b></p>
<p>(c) The following shall also be disclosed:</p> <p>(i) Aggregate amount of quoted investments and market value thereof;</p> <p>(ii) Aggregate amount of unquoted investments;</p> <p>(iii) Aggregate provision for diminution in value of investments</p>
<p>(d) Where in respect of an issue of securities <b><i>made for a specific purpose</i></b>, the whole or part of the amount has not been used for the specific purpose at the balance sheet date, there shall be indicated by way of note how such unutilized amounts have been used or invested.</p>
<p>(c) Deferred Tax Assets (Net) Under the head Non-Current Assets.</p>
<p>(d) <b><i>Long Term Loans &amp; Advances</i></b></p> <p>(a) <b><i>Capital Advances</i></b></p> <p>(b) <b><i>Security Deposits</i></b></p> <p>(c) <b><i>Loans and Advances to Related Parties (giving details thereof)</i></b></p> <p>(d) <b><i>Other Loans &amp; Advances (Specify Nature)</i></b></p>

<p>To be separately sub-classified as:</p> <p>(a) Secured, considered good</p> <p>(b) Unsecured, considered good</p> <p>(c) Doubtful</p> <p>Allowances for bad and doubtful loans &amp; Advances shall be disclosed under relevant heads separately.</p>
<p>Loans and advances due by directors or other officers of the company or any of them either severally or jointly with any other persons or amounts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.</p>
<p><b>(e) Other Non-Current Assets</b></p> <p>(i) Long term Trade Receivable (Including trade receivable on defined credit terms)</p> <p>(ii) Others (Specify Nature)</p>
<p><b>CLASSIFICATION</b></p> <p>To be separately sub-classified as</p> <p>(a) Secured, considered good</p> <p>(b) Unsecured, considered good</p> <p>(c) Doubtful</p> <p>Allowances for bad and doubtful debts shall be disclosed under relevant heads separately</p>
<p><b>(2) Current Assets (See Note Below)</b></p>
<p><b>(a) Current Investments</b></p> <p><i>Current Investments to be classified as:</i></p> <p><i>(a) Investment in Equity Instrument</i></p> <p><i>(b) Investment in Preference Shares</i></p> <p><i>(c) Investment in Government or trust securities</i></p> <p><i>(d) Investments in debentures or bonds.</i></p> <p><i>(e) Investments in Mutual Funds</i></p>

<p><i>(f) Investment in Partnership firms.</i></p> <p><i>(g) Other Investments (Specify Nature)</i></p> <p><i>Under each classification, details shall be given of names of the bodies corporate (indicating separately whether such bodies are (i) subsidiaries, (ii) associates, (iii) joint ventures, or (iv) controlled special purpose entities) in whom investments have been made and the nature and extent of the investment so made in each such body corporate (showing separately investments which are partly-paid). In regard to investments in the capital of partnership firms, the names of the firms (with the names of all their partners, total capital and the shares of each partner) shall be given.</i></p> <p><i>The following shall also be disclosed:</i></p> <p><i>(a) The basis of valuation of individual investments</i></p> <p><i>(b) Aggregate amount of quoted investments and market value thereof</i></p> <p><i>(c) Aggregate amount of unquoted investments</i></p> <p>Aggregate provision made for the diminution in value of investments.</p>
<p><b><u>NOTE:</u></b></p> <p><i>An asset shall be classified as <u>current</u> when it satisfies any of the following criteria:</i></p> <p><i>(a) It is expected to be realized in, or is intended for sale or consumption in, the company's normal operating cycle;</i></p> <p><i>(b) It is held primarily for the purpose of being traded;</i></p> <p><i>(c) It is expected to be realized within twelve months after the reporting date; or</i></p> <p><i>(d) It is cash or cash equivalent unless it is restricted from being exchanged or used to settle a liability for at least twelve months after the reporting date.</i></p> <p><i>All other assets shall be classified as <u>non-current</u>.</i></p>
<p><i>(b) Inventories</i></p>

## CLASSIFICATION

- (a) Raw-Materials
- (b) Work-in-Progress
- (c) Finished Goods
- (d) Stock-in-Trade (in respect of goods acquired for trading)
- (e) Stores and Spares
- (f) Loose tools
- (g) Others (Specify Nature)

## NOTES:

- (i) ***Goods in transit shall be disclosed under the relevant sub-head of inventories.***
- (ii) Mode of valuation shall be stated.

**(c) Trade Receivables**

- (i) Aggregate amount of Trade Receivable outstanding for a period exceeding six months from the date they are due for payment should be separately shown.
- (ii) Trade-Receivable shall be sub-classified as
  - (a) Secured-Considered good
  - (b) Unsecured-Considered good
  - (c) Doubtful
- (iii) Allowances for bad and doubtful debts shall be disclosed under the relevant heads separately.
- (iv) Debts due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.

A receivable shall be classified as a "Trade Receivable" if it is in respect of the amount due on account of goods sold or services rendered in the normal course of business.

<p><b>(d) Cash and Cash Equivalents</b></p> <p><i>Classified as:</i></p> <p><b>(a) Balances with Bank</b></p> <ul style="list-style-type: none"><li>• <i>Unpaid Dividend</i></li><li>• <i>Margin Money</i></li><li>• <i>Bank deposits with more than 12 months maturity</i></li></ul> <p><b>(b) Cheque, Drafts on hand.</b></p> <p><b>(c) Cash-on-Hand</b></p> <p><b>(d) Others (Specify)</b></p>
<p><b>(e) Short-Term Loans &amp; Advances</b></p> <p><b>(a) Loans and advances to related parties (giving details thereof)</b></p> <p><b>(b) Others (specify name)</b></p> <p>Sub-classification:</p> <p>(i) The above loans &amp; advances shall be sub-classified as</p> <ul style="list-style-type: none"><li>(a) Secured-Considered good</li><li>(b) Unsecured-Considered good</li><li>(c) Doubtful</li></ul> <p>(ii) Allowances for bad and doubtful loans &amp; advances shall be disclosed under the relevant heads separately.</p> <p>(iii) Loans &amp; Advances due by directors or other officers of the company or any of them either severally or jointly with any other person or debts due by firms or private companies respectively in which any director is a partner or a director or a member should be separately stated.</p>
<p><b>(f) Other Current Assets</b></p> <ul style="list-style-type: none"><li>• Incorporates current assets that do not fit into any other asset category. (Specify Nature)</li></ul>
<p>Contingent Liabilities and Commitments (to the extent not provided for)</p>
<p><b>(i) Contingent Liabilities</b></p> <p>Contingent liabilities classified as:</p>

<ul style="list-style-type: none"><li>(a) Claims against the company not acknowledged as debt.</li><li>(b) Guarantees.</li><li>(c) Other money for which the company is contingently liable.</li></ul> <p><b>(ii) Commitments to be classified separately as:</b></p> <ul style="list-style-type: none"><li>(a) Estimated amount of Contracts remaining to be executed on Capital Account and not provided for.</li><li>(b) Uncalled liability on shares and other investments which are partly paid.</li><li>(c) Other commitments (Specify Nature)</li></ul>
<p><b><i>The amount of dividend proposed to be distributed to equity and preference shareholders for the period and the related amount per share shall be disclosed separately.</i></b> Arrears of fixed cumulative dividends on preference shares shall also be disclosed separately.</p>
<p>If, in the opinion of the Board, <b><i>any of the assets other than fixed assets and non-current investments</i></b> do not have a value on realization in the ordinary course of business at least equal to the amount at which they are stated, the fact that the Board is of that opinion, shall be stated.</p>
<p><b>Critical points to be considered while going through the assets side of the financial statements with regard to Goods &amp; Services Tax:</b></p> <ol style="list-style-type: none"><li>1) <b>Business use</b> - As per the provisions of section 16 of CGST Act, Input Tax credit (ITC) is available to the registered person, if capital goods are used in course or furtherance of business. There could be need to understand whether non-current assets which are used by the registered person are used in business or not. Normally, when the assets are capitalized in the Balance Sheet, these must be accepted to be in the course of business unless contrary is established.</li><li>2) <b>Capital Goods</b> - If any capital asset is used for effecting taxable and non-taxable supply, then ITC to be availed taking Rule 43 of the Act.</li><li>3) <b>Blocked Credit</b> - Any goods or services which are capitalized under the category of building having civil structure, no ITC is available as per the provisions of Section 17(5).</li></ol>

- 4) **Investments** - In case of transactions in securities (Investments) as appearing in Financial Assets, registered person is required to treat transaction in securities as exempt supply and ITC to be reversed in such cases as per the provisions of section 17(3).
- 5) **Inventories** –
  - (a) ITC in respect of Inventories (Inputs) is available to the registered person, Inputs must be used for business purpose.
  - (b) Not to claim ITC in respect of Goods which are in Transit, as ITC is available only when the goods are received by the registered person.
- 6) **Common use** - Further, if Inputs are used for Taxable and Non-Taxable purpose, ITC to be availed as per the provisions of Rule 42 of the Act.
- 7) **Loans** – If a registered person is a Banking Company or an NBFC, ITC is available to the registered person as per Rule 42/Rule 43 or 50% of the eligible ITC on inputs, capital goods and input services on monthly basis.
- 8) **Trade Receivables** – As per the provisions of IGST Act, a particular service is categorized as export of service, if the payment for such service has been received by the supplier of service in convertible foreign exchange. In case of debtors on account of export services, if the same is not realized in foreign currency, taxes to be paid on such services.
- 9) **Other current / Non-Current Assets** –
  - (a) **ITC Balance:** Input Tax Credit of the registered person as appearing in the financial statements to be reconciled with the ITC appearing on the GST Portal. In case of deviation in both the figures, reconciliations to be taken.
  - (b) **Advances given to suppliers:** In case of advances given to suppliers of services on which Reverse Charge Liability to be discharged, needs to be taken care off. As in case of services GST to be discharged on advances and further, RCM liability to be discharged on such advances paid to the vendors.
  - (c) **Deposits** – As per the provisions of CGST Act, deposits which are

adjustable against any supply would be considered as consideration for that supply. GST to be discharged on such deposits at the time of adjustment of deposits against the consideration for the supply.

***I. EQUITY & LIABILITIES***

- Permits only **VERTICAL** form of presentation.
- Uses “**Equity & Liabilities**” and “**Assets**” as Headings.

**(1)** Shareholders’ funds are classified as –

- a. Share Capital
- b. Reserves & Surplus
- c. Money received against Share Warrant.

**(a)** Share Capital

For each class of share capital (different classes of preference shares to be treated separately):

- a) the number and amount of shares authorised;
- b) the number of shares issued, subscribed and fully paid, and subscribed but not fully paid;
- c) par value per share;
- d) a reconciliation of the number of shares outstanding at the beginning and at the end of the reporting period;
- e) the rights, preferences and restrictions attaching to each class of shares including restrictions on the distribution of dividends and the repayment of capital;
- f) shares in respect of each class in the company held by its holding company or its ultimate holding company including shares held by or by subsidiaries or associates of the holding company or the ultimate holding company in aggregate;
- g) shares in the company held by each shareholder holding more than 5 per cent. shares specifying the number of shares held;
- h) shares reserved for issue under options and contracts/ commitments for the sale of shares/disinvestment, including

<p>the terms and amounts;</p> <p>i) for the period of five years immediately preceding the date as at which the Balance Sheet is prepared:</p> <p>(A) Aggregate number and class of shares allotted as fully paid-up pursuant to contract(s) without payment being received in cash.</p> <p>(B) Aggregate number and class of shares allotted as fully paid-up by way of bonus shares.</p> <p>(C) Aggregate number and class of shares bought back.</p> <p>j) terms of any securities convertible into equity/preference shares issued along with the earliest date of conversion in descending order starting from the farthest such date;</p> <p>k) calls unpaid (showing aggregate value of calls unpaid by directors and officers);</p> <p>l) forfeited shares (amount originally paid-up).</p>
<p><b>(b) Reserves and Surplus</b></p> <p>(i) Reserves and Surplus shall be classified as:</p> <p>(a) Capital Reserves;</p> <p>(b) Capital Redemption Reserve;</p> <p>(c) Securities Premium Reserve;</p> <p>(d) Debenture Redemption Reserve;</p> <p>(e) Revaluation Reserve;</p> <p>(f) Share Options Outstanding Account;</p> <p>(g) Other Reserves– (specify the nature and purpose of each reserve and the amount in respect thereof);</p> <p>(h) Surplus <i>i.e.</i>, balance in Statement of Profit and Loss disclosing allocations and appropriations such as dividend, bonus shares and transfer to/ from reserves, etc.;</p> <p>(Additions and deductions since last balance sheet to be shown under each of the specified heads);</p> <p>(ii) A reserve specifically represented by earmarked investments shall be termed as a “fund”.</p> <p>(iii) Debit balance of statement of profit and loss shall be shown as a negative figure under the head “Surplus”. Similarly, the</p>

<p>balance of “Reserves and Surplus”, after adjusting negative balance of surplus, if any, shall be shown under the head “Reserves and Surplus” even if the resulting figure is in the negative.</p>	
<p><b>(2) Share application money pending allotment</b></p>	
<p>➤ <b>Non – Current Liabilities (NCL)</b>          ➤ <b>Current Liabilities (CL)</b> (See note below)</p>	
<b>(3) Non – Current Liabilities</b>	<b>(4) Current Liabilities</b>
<b>(a) Long term borrowings (sub-classify as Secured Loans/ Unsecured loans)</b>	<b>(a) Short term borrowings</b>
(a) Bonds/Debentures	
(b) Term Loans ➤ From Banks ➤ From Others	Loans Repayable on Demand ➤ From Banks ➤ From Others
(c) <b>Deferred Payment Liabilities</b>	
(d) Deposits	Deposits
(e) <b>Loans and Advances from Related Parties</b>	<b>Loans and Advances from Related Parties</b>
(f) <b>Long term maturities of Finance lease obligations</b>	
(g) Other Loans & Advances (Specify Nature)	Other Loans & Advances (Specify Nature)
<p><b>NOTE:</b>  <i>A liability shall be classified as current when it satisfies any of the following criteria:</i>  <b>(a) It is expected to be settled in the company’s normal operating cycle;</b></p>	

<p>(b) <i>It is held primarily for the purpose of being traded;</i></p> <p>(c) <i>It is due to be settled within twelve months after the reporting date; or</i></p> <p>(d) <i>The company does not have an unconditional right to defer settlement of the liability for at least twelve months after the reporting date. Terms of a liability that could, at the option of the counterparty, result in its settlement by the issue of equity instruments do not affect its classification.</i></p> <p><i>All other liabilities shall be classified as non-current.</i></p>	
<p>EXPLANATIONS</p> <p>(a) Borrowings to be sub classified as Secured and Unsecured. Nature of security shall be specified separately in each case.</p> <p>(b) Loans guaranteed by the directors and others – aggregate amount of such loans under each head shall be disclosed.</p> <p>(c) <i>Bonds/debentures (along with the rate of interest and particulars of redemption or conversion, as the case may be) shall be stated in descending order of maturity or conversion, starting from farthest redemption or conversion date, as the case may be. Where bonds/debentures are redeemable by installments, the date of maturity for this purpose must be reckoned as the date on which the first installment becomes due.</i></p> <p>(d) Particulars of any redeemed bonds/ debentures which the company has power to reissue shall be disclosed.</p> <p>(e) <i>Terms of repayment of term loans and other loans shall be stated.</i></p> <p>(f) <i>Period and amount of continuing default as on the balance sheet date in repayment of loans and interest shall be specified separately in each case.</i></p>	
<p>(b) Deferred Tax Liabilities (Net) Under the head Non-Current Liabilities.</p>	
(c) Other Long- Term Liabilities	(c) Other Current Liabilities
(a) Trade Payable - A	(a) <i>Current maturities of long-term debt</i>

<p><i>payable shall be classified as a trade payable if it is in respect of the amount due on account of goods purchased or services rendered in the normal course of business.</i></p> <p>(b) Others</p>	<p>(b) <b>Current maturities of finance lease obligations</b></p> <p>(c) Interest Accrued but not due on borrowing</p> <p>(d) Income accrued and due on borrowings.</p> <p>(e) Income received in advance</p> <p>(f) Unpaid dividend</p> <p>(g) Application money received for allotment &amp; securities and due for refund <b>&amp; interest accrued thereon.</b></p> <p>(h) Unpaid matured deposits and <b>interest accrued thereon.</b></p> <p>(i) Unpaid matured debentures <b>&amp; interest accrued thereon.</b></p> <p>(j) Other Payables (specify Nature)</p>
<p><b>(d) Long term Provisions</b></p> <p>(a) Provision for employees' benefits.</p> <p>(b) Others (Specify Nature)</p>	<p><b>(d) Short term Provisions</b></p> <p>(a) Provision for employees' benefits.</p> <p>(b) Others (Specify Nature)</p>
<p><b>Critical points to be considered while going through the liabilities side of the financial statements with regard to Goods &amp; Services Tax:</b></p> <p>1. <b>Trade Payable</b> – As per the provisions of section 16 of CGST Act, a registered person being the recipient, is required to pay to the supplier of goods or services the amount towards the value of supply along with the tax payable thereon within a period of 180 days, ITC to be reversed if payment is not made in the prescribed time. Further, after payment is made to the supplier, ITC can be reclaimed by the registered person. Outstanding creditors to be examined for applicability of this provision.</p> <p>2. <b>Advance received from customers</b> – GST not to be discharged in cases of supply of goods notified vide notification no 66 / 2017 – Central Tax dated 15<sup>th</sup> November 2017. However, in case of Services, if the registered person has received any advance in relation to supply of services, GST to be paid on such receipt of advance.</p>	

<p>3. <b>Contingent Liability –</b></p> <p><b>Guarantees given to related parties –</b> In case, the registered person has provided the guarantees to the related person and nothing is charged from the related person, the same is appearing under the head Contingent liabilities. As per the provisions of schedule I of the CGST Act, GST to be discharged in cases where supply is provided to the related person even without consideration.</p> <p>4. <b>Other current Liabilities –</b></p> <p>Output Tax liability – The liability on account of GST appearing in the financial statements to be reconciled with the Electronic Liability Register on the GST Portal. Differences in both to be reconciled.</p>
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## PART II

Schedule III STATEMENT OF PROFIT AND LOSS	POINTS TO BE CONSIDERED IN RELATION TO GOODS & SERVICES TAX
<p><i>Form of Statement of Profit &amp; Loss</i></p> <p><b>(I) Revenue from Operations</b></p> <p><b>(i) Revenue from operations in respect of non-finance company:</b></p> <p><b>(a) Sale of Products</b></p> <p><b>(b) Sale of Services</b></p> <p><b>(c) Other Operating Revenues</b></p> <p>Less: Excise Duties</p> <p><b>(ii) Revenue from operations in respect to Finance company:</b></p> <p><b>(a) Interest</b></p> <p><b>(b) Other Financial Services</b></p> <p>Revenue under each of the above heads shall be disclosed separately</p>	<ol style="list-style-type: none"> <li>1. A Reconciliation of Revenue appearing in the Financial Statements with the GSTR Returns of the Registered Person.</li> <li>2. Classification under GST of each Goods or Services to be checked along with the applicable GST Rate at the time of supply of particular goods or services.</li> <li>3. Revenue includes unbilled revenue in statement of Profit and Loss. No GST to be discharged on such revenue reported in the financial statement.</li> <li>4. There may be the cases where adjustments in the value of revenue on case of companies preparing financial statements</li> </ol>

<p>by way of notes to Accounts to the extent applicable.</p> <p>In case of company rendering or supplying services, gross income derived from services rendered or supplied under broad-head.</p> <p>In case of other companies, gross income derived from broad heads</p>	<p>as per IND AS. The amount of Revenue as per Financial statements and the GST Returns may deviate in such cases like schemes provided to customers to be deducted from Revenue in the Statement of Profit and Loss as per IND AS 115.</p> <p>5. Nature of Revenue to be identified, i.e. the supply is Taxable or Exempt or Non-GST Supply.</p> <p>6. In case of Exports, whether the same is under LUT or made with payment of IGST to be checked.</p>
<p><b>II. Other Income</b></p> <p>(a) Interest income (other than a finance company)</p> <p>(b) (i) Dividend from subsidiary companies (ii) Dividend Income</p> <p>(c) Net Gain/Loss on sale of investment.</p> <p>(d) Other non-operating income (net of expenses directly attributable to such income)</p> <p>(e) Adjustments to the carrying value of investments (Write-back)</p> <p>(f) <i>Net gain/loss on foreign currency translation and transaction (other than considered as finance cost)</i></p>	<p>1. Supply test as per the provisions of Section 7 to be considered to check whether any Income is taxable as per the GST or not.</p> <p>2. Income in nature of sale of Investments – It refers to the situation where the transactions in securities (Investments) has been made by the registered person, ITC to be reversed in such cases as per the provisions of section 17(3) since the same is exempt supply under GST.</p>

<p><b>III. Expenses</b></p> <p>(i) Cost of Materials consumed (Manufacturing Companies) – Raw Materials under broad heads. In this case, if a company falls under more than one category, it shall be sufficient compliance with the requirements, if purchases, sales and consumption of raw material and gross income from services rendered is shown under broad-heads.</p> <p>(ii) Goods purchased (Trading Companies) – goods traded in by the company under the broad-head.</p> <p>(iii) In case, if a company falls under more than one category, it shall be sufficient compliance with the requirements, if purchases, sales and consumption of raw materials and gross income from services rendered is shown under <b><i>broad heads.</i></b></p> <p>(iv) In case of Work-in Progress, Work-in-Progress under broad heads.</p> <p>Employee benefits expense shall disclose information regarding aggregate expenditure on:-</p> <p>(a) Salaries and Wages</p> <p>(b) Contribution to Provident &amp; Other Funds</p> <p>(c) <b><i>Expense on employee stock</i></b></p>	<p>1. Input Tax Credit availed by the registered person need to be evaluated from the fact that the same is used in course or furtherance of business. If any expenses on which GST is charged by supplier or RCM is discharged, the same should be related to the business of the registered person.</p> <p>2. Section 17(5) of the CGST Act has specifically mention certain cases where a registered person is not eligible to take credit even the same is used in course or furtherance of business such as:</p> <p>(a) motor vehicles (seating less than 13 persons), vessels, aircraft with some exceptions including cost of maintenance and security of such conveyances;</p> <p>(b) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, rent/ lease of above conveyances and life/ health insurance;</p> <p>(c) membership of a club, health and fitness center;</p> <p>(d) travel benefits extended to employees on vacation such as leave or home travel concession;</p> <p>(e) works contract services when</p>
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<p><b>option scheme (ESOP) and Employee Stock Purchase Plan (ESPP)</b></p> <p>Staff Welfare Expenses.</p> <p><b>Finance Cost</b></p> <p><b>(a) Interest Expense</b></p> <p><b>(b) Other borrowing costs</b></p> <p><b>Applicable net gain/loss on foreign currency translations &amp; transactions.</b></p> <p>Expenses on each of the following items, separately for each item:</p> <p>(a) Consumption of Stores &amp; Spares.</p> <p>(b) Power &amp; Fuel</p> <p>(c) Rent</p> <p>(d) Repairs to Building</p> <p>(e) Repairs to Machinery</p> <p>(f) Insurance</p> <p>(g) Rates &amp; Taxes (excluding Income Tax)</p> <p>(h) Miscellaneous Expenditure</p> <p>Note: Any item under which income or expenses exceed 1 per cent of <b>revenue from operations or ₹1,00,000</b> whichever is higher, shall be shown separately and distinct item against an appropriate account head in P&amp;L account and <b>shall not be combined with any other item.</b></p> <p>(i) Net loss on foreign currency transaction and translation (other than considered as finance cost)</p>	<p>supplied for construction of an immovable property</p> <p>(f) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery)</p> <p>(g) goods or services or both on which tax has been paid under section 10;</p> <p>(h) goods or services or both received by a non-resident taxable person except on goods imported by him;</p> <p>(i) goods or services or both used for personal consumption;</p> <p>(j) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples.</p> <p>3. Generally, the expenses are debited to the statement of profit and loss statement, however there may be cases where a particular expense ledger is credited like recovery of expenses incurred where some may show it as separately under Other Income head and others may credited the same to the corresponding expense head. These type of credit entries in the profit and loss to be checked.</p> <p>4. Prior Period items -</p> <p>(a) If prior period expenses are debited to profit and loss,</p>
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<p>(j) Payment to Auditors</p> <ul style="list-style-type: none"> <li>• As Auditor</li> <li>• For Taxation Matters</li> <li>• For Company Law Matters</li> <li>• For Management Services</li> <li>• For Other Services</li> <li>• For reimbursement of expenses.</li> </ul> <p><b>(k) Provision for losses of Subsidiary companies.</b></p> <p><b>(l) Adjustment to the carrying amount investments.</b></p> <p><b>(m) Net loss on sale of investments.</b></p> <p><b>(n) Details of exceptional and extraordinary items.</b></p> <p><b>(o) Prior period items</b></p> <p>(i) The aggregate, if material, of any amounts set aside or proposed to be set aside, to reserve, but not including provisions made to meet any specific liability, contingency or commitment known to exist at the date as to which the balance-sheet is made up</p> <p>(ii) The aggregate, if material, of any amounts withdrawn from such reserves.</p> <p>(i) The aggregate, if material, of the amounts set aside to provisions made for meeting specific liabilities, contingencies or commitments.</p>	<p>then in those cases the time limit to claim ITC to be kept in mind, i.e., return for the month of September following the end of the related financial year or filing Annual return whichever is earlier.</p> <p>Illustration: In the Financial statement of year ended 31<sup>st</sup> March 2020, prior period expenses are debited to P&amp;L. It is pertinent to note that ITC in relation to such expenses can be claimed only up to the monthly GST return for September 2019 or filing date of Annual return for March 2019.</p> <p>(b) If any taxable Income is credited to the P&amp;L as Prior period income, the Interest Liability on the same to be paid if taxes are also not paid on due dates.</p> <p>5. There is a disclosure requirement in the financial statement relating to expenditure in foreign currency. The same disclosure would help in identifying the cases of import of services, if any.</p>
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<p>(ii) The aggregate, if material, of the amounts withdrawn from such provisions, as no longer required.</p>	
<p><b>BY WAY OF A NOTE</b> the following information shall be disclosed.</p> <p>a) Value of imports calculated on C.I.F basis by the company during the financial year in respect of –</p> <p style="margin-left: 20px;">I. Raw materials;</p> <p style="margin-left: 20px;">II. Components and spare parts;</p> <p style="margin-left: 20px;">III. Capital goods;</p> <p>b) Expenditure in foreign currency during the financial year on account of royalty, know-how, professional and consultation fees, interest, and other matters;</p> <p>c) Total value of all imported raw materials, spare parts and components consumed during the financial year and the total value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;</p> <p>d) The amount remitted during the year in foreign currencies on account of dividends, with a specific mention of the total number of non-resident shareholders, the total number of shares held by them on which the dividends were due and the year to which the dividends related;</p> <p>e) Earnings in foreign exchange classified under the following heads, namely:-</p> <p style="margin-left: 20px;">I. Export of goods calculated on F.O.B. basis;</p> <p style="margin-left: 20px;">II. Royalty, know-how, professional and consultation fees;</p> <p style="margin-left: 20px;">III. Interest and dividend;</p> <p style="margin-left: 20px;">IV. Other income, indicating the nature thereof</p>	

**Annexure*****PART I –BALANCE SHEET****Name of the Company.....**Balance Sheet as at .....*

(Rupees in.....)

	<b>Particulars</b>	<b>Note No.</b>	<b>Figures as at the end of current reporting period</b>	<b>Figures as at the end of the previous reporting period</b>
	1		2	3
(1)	<b>ASSETS</b> <b>Non-current assets</b> (a) Property, Plant and Equipment (b) Capital work-in-progress (c) Investment Property (d) Goodwill (e) Other Intangible assets (f) Intangible assets under development (g) Biological Assets other than bearer plants (h) Financial Assets (v) Investments (vi) Trade receivables (vii) Loans (viii) Others (to be specified) (i) Deferred tax assets (net) (j) Other non-current assets			

(2)	<b>Current assets</b> (a) Inventories (b) Financial Assets (i) Investments (ii) Trade receivables (iii) Cash and cash equivalents (iv) Loans (v) Others (to be specified) (c) Current Tax Assets (Net) (d) Other current assets			
	<b>Total Assets</b>			
(1)	<b>EQUITY AND LIABILITIES</b> <b>Equity</b> (a) Equity Share capital (b) Other Equity			
(2)	<b>LIABILITIES</b> <b>Non-current liabilities</b> (a) Financial Liabilities (vii) Borrowings (viii) Trade payables (ix) Other financial liabilities (other than those specified in (b) below, to be specified) (b) Provisions (c) Deferred tax liabilities (Net) (d) Other non-current liabilities <b>Current liabilities</b> (a) Financial Liabilities (i) Borrowings (ii) Trade payables (iii) Other financial liabilities			

**116 Background Material on Training Program for Government Officials**

	(other than those specified in (c) below)			
	(b) Other current liabilities			
	(c) Provisions			
	(d) Current Tax Liabilities (Net)			
	<b>Total Equity and Liabilities</b>			

See accompanying notes to the financial statements

**STATEMENT OF CHANGES IN EQUITY**

Name of the Company.....

Statement of Changes in Equity for the period ended .....

(Rupees in.....)

**a. Equity Share Capital**

Balance at the beginning of the reporting period	Changes in equity share capital during the year	Balance at the end of the reporting period



Total Comprehensive Income for the year														
Dividends														
Transfer to retained earnings														
Any other change (to be specified)														
Balance at the end of the reporting period														

**Note:** Remeasurement of net defined benefit plans, fair value changes relating to own credit risk and share of Other Comprehensive Income in Associates and Joint Ventures shall be recognized as a part of retained earnings with separate disclosure of such items along with the relevant amounts in the Notes.

**PART II – STATEMENT OF PROFIT AND LOSS**

*Name of the Company.....*

*Profit and loss statement for the year ended .....*

(Rupees in.....)

	<b>Particulars</b>	<b>Note No.</b>	<b>Figures as at the end of current reporting period</b>	<b>Figures as at the end of the previous reporting period</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
I	Revenue from operations		xxx	xxx
II	Other income		xxx	xxx
III	Total Revenue (I + II)		xxx	xxx
IV	Expenses: Cost of materials consumed Purchases of Stock-in-Trade Changes in inventories of finished goods work-in-progress and Stock-in-Trade Employee benefits expense Finance costs Depreciation and amortization expense Other expenses Total expenses		Xxx Xxx Xxx xxx	Xxx Xxx Xxx Xxx
V	Profit before exceptional and extraordinary items and tax (III - IV)		xxx	xxx
VI	Exceptional items		xxx	xxx
VII	Profit before extraordinary items and tax (V - VI)		xxx	xxx

VIII	Extraordinary items		xxx	xxx
IX	Profit before tax (VII- VIII)		xxx	xxx
X	Tax expense: (1) Current tax (2) Deferred tax		Xxx Xxx	Xxx Xxx
XI	Profit (Loss) for the period from continuing operations (VII-VIII)		xxx	xxx
XII	Profit/(loss) from discontinuing operations		xxx	xxx
XIII	Tax expense of discontinuing operations		xxx	xxx
XIV	Profit/(loss) from Discontinuing operations (after tax) (XII-XIII)		xxx	xxx
XV	Profit (Loss) for the period (XI + XIV)		xxx	xxx
XVI	Earnings per equity share: (1) Basic (2) Diluted		Xxx xxx	Xxx xxx

### Comparison of Relevant Accounting Standard and some GST Provisions

Arrival of GST is not limited to the changes in the Indirect tax, but it has affected the business in every aspect like finances, accounting and reporting functions. There are some impacts of the GST on the Accounting standards which are described below:

Accounting Standard	Basics of Accounting Standard	Impact of GST
AS 1/ Ind AS 1: Disclosure of Accounting	AS 1 deals with the disclosure of significant accounting policies	Currently, accounting treatment of various indirect taxes varies based on their

## 122 Background Material on Training Programme for CBEC Officials

Policies	<p>followed in the preparation and presentation of financial statements.</p> <p>Fundamental accounting assumptions in any Financial statements are that the financial statements prepared are based on Going Concern, Consistency and Accrual system concepts</p>	<p>nature and point of levy. Under IND AS, excise duty is required to be included in revenue, since it is a (manufacture) production-based tax. GST is not included in revenue, since it is levied at the time of sales. GST is a destination-based tax, which is levied at the point of supply. Hence, it is likely that revenue will not be presented including GST. For the first three months of 2017-18 revenue would be presented at Gross for Excise Less Excise Duty paid, and for the subsequent period it would be shown only Net, hence this would bring some distortion in reading of the numbers for the users and also comparative for the previous years would be different.</p>
AS 2/IND AS2 Valuation of Inventory	<p>As per AS-2 the costs of purchase of inventories comprise the purchase price, import duties and other taxes (other than those subsequently recoverable by the entity from the taxing authorities), and transport, handling and other costs directly attributable to the</p>	<p>The CGST Act and the corresponding SGST / UTGST Act provides for availment of input tax credit or refund of input tax credit in specified situations. Thus, to the extent credit is availed or refund is claimed, it will not form part of cost of inventory. Input tax credit is not available (some situations) when:</p>

	<p>acquisition of finished goods, materials and services. Trade discounts, rebates and other similar items are deducted in determining the costs of purchase.</p>	<p>(a) Input / input services / capital goods are used for personal purposes;                  (b) Tax paid under section 10 (inward supplies from composition registrations;                  (c) Restricted credits u/s 17(5) of the CGST Act;                  (d) Depreciation claimed on tax portion / element;                  (e) Input/input services/ capital goods used for exempted supply</p> <p>Thus, a systematic evaluation and process is required to determine “what” credit is claimed and “what is” part of cost of inventory as per applicable accounting standard.</p>
<p>AS 9/Ind AS 115: Revenue Reconciliations</p>	<p>Revenue recognition according to Ind AS may not coincide with turnover for the purpose of GST. For example, in case of multiple element contracts, total consideration will be allocated to each component based on fair value of each element.</p>	<p>The difference between revenue/ turnover as per books of account and GST Act is very likely in most of the assessee. A detailed discussion has been made on the same in the Reconciliation chapter.</p>
<p>AS 10 / Ind AS 16: Accounting for Fixed Assets / Property,</p>	<p>The cost of fixed Asset comprises of its purchase price including import duties and other nonrefundable taxes or</p>	<p>As per Section 18(3) where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and</p>

## 124 Background Material on Training Programme for CBEC Officials

Plant and Equipment	levies and any directly attributable cost of bringing the asset to its working condition for its intended use. Administration and other general overhead expenses are usually excluded from the cost of fixed assets because they do not relate to a specific fixed asset. However, in some circumstances, such expenses as are specifically attributable to construction of a project or to the acquisition of a fixed asset or bringing it to its working condition, may be included as part of the cost of the construction project or as a part of the cost of the fixed asset.	machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.  In nutshell, input tax credit shall not be allowed on the tax component of the cost of capital goods and plant and machinery if depreciation on such tax component has been claimed under the provisions of the Income Tax Act, 1961
AS 12/Ind AS 20: Accounting for Government Grants	Government grants are assistance provided by the Government in cash or kind to an entity for past or future compliance with certain conditions. Accounting treatment of Government Grants in Income based approach, provides for an appropriate amount in respect of such earned benefits, estimated on a	Under the GST Laws, as per Sec 15(2)(e) of the CGST Act “the value of supply shall include subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments”.  Going by the above discussion it may be inferred that Government Grants would not be treated supply for the purpose of GST.

	<p>prudent basis, to be credited to income for the year even though the actual amount of such benefits may be finally settled and received after the end of the relevant accounting period.</p>	
<p>Accounting standard – 18 : Related Party disclosures</p>	<p>This Standard should be applied in reporting related party relationships and transactions with related parties. The requirements of this Standard apply to the financial statements of each reporting enterprise as also to consolidate financial statements presented by a holding company.</p> <p>Name of the related party and nature of the related party relationship where control exists should be disclosed irrespective of whether or not there have been transactions between the related parties.</p>	<p>It would be relevant to note that Related Party as per Accounting standard 18 and related party as defined under valuation provision under GST may not be the same, but GST auditor can refer notes to accounts where related party disclosures have been made to identify possible related party transaction from valuation perspective. Since, in case of related party transaction, section 15 of the GST Act read with valuation rule 28 will apply, Auditor may check whether auditee has carried out transactions with related party as per valuation rule 28 or not.</p>

**Some specific points to be considered while understanding the financial statements of an Indian Accounting Standard Complied Company**

Every Company to which Ind AS apply is required to prepare its financial

statements in accordance with Schedule III. Modifications are permitted in certain circumstances where modification is required to comply with Ind AS. Some basic points to be considered for Ind AS complied companies are:

- **A complete set of financial statements comprises:**
  - (a) a balance sheet as at the end of the period ;
  - (b) a statement of profit and loss for the period;
  - (c) Statement of changes in equity for the period;
  - (d) a statement of cash flows for the period;
  - (e) notes, comprising a summary of significant accounting policies and other explanatory information; and
- **An entity shall present a single statement of profit and loss, with profit or loss and other comprehensive income presented in two sections. The sections shall be presented together, with the profit or loss section presented first followed directly by the other comprehensive income section.**
- **The components of other comprehensive income include:**
  - changes in revaluation surplus (see Ind AS 16, Property, Plant and Equipment and Ind AS 38, Intangible Assets)
  - remeasurements of defined benefit plans (see Ind AS 19, Employee Benefits);
  - gains and losses arising from translating the financial statements of a foreign operation (see Ind AS 21, The Effects of Changes in Foreign Exchange Rates);
  - gains and losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with paragraph 5.7.5 of Ind AS 109, Financial Instruments;
  - gains and losses on financial assets measured at fair value through other comprehensive income in accordance with paragraph 4.1.2A of Ind AS 109.
  - the effective portion of gains and losses on hedging instruments in a cash flow hedge and the gains and losses on hedging

instruments that hedge investments in equity instruments measured at fair value through other comprehensive income in accordance with paragraph 5.7.5 of Ind AS 109 (see Chapter 6 of Ind AS 109);

- for particular liabilities designated as at fair value through profit or loss, the amount of the change in fair value that is attributable to changes in the liability's credit risk (see paragraph 5.7.7 of Ind AS 109)
- changes in the value of the time value of options when separating the intrinsic value and time value of an option contract and designating as the hedging instrument only the changes in the intrinsic value (see Chapter 6 of Ind AS 109);
- changes in the value of the forward elements of forward contracts when separating the forward element and spot element of a forward contract and designating as the hedging instrument only the changes in the spot element, and changes in the value of the foreign currency basis spread of a financial instrument when excluding it from the designation of that financial instrument as the hedging instrument (see Chapter 6 of Ind AS 109).

- **Owners are holders of instruments classified as equity**
- **Profit or loss is the total of income less expenses, excluding the components of other comprehensive income.**
- **Reclassification adjustments are amounts reclassified to profit or loss in the current period that were recognised in other comprehensive income in the current or previous periods.**
- **Total comprehensive income is the change in equity during a period resulting from transactions and other events, other than those changes resulting from transactions with owners in their capacity as owners.**
- **A financial instrument is any contract that gives rise to a financial asset of one entity and a financial liability or equity instrument of another entity.**

- A financial asset is any asset that is:
  - cash;
  - an equity instrument of another entity;
  - a contractual right:
    - to receive cash or another financial asset from another entity; or
    - to exchange financial assets or financial liabilities with another entity under conditions that are potentially favourable to the entity; or
  - a contract that will or may be settled in the entity's own equity instruments and is:
    - a non-derivative for which the entity is or may be obliged to receive a variable number of the entity's own equity instruments; or
    - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose the entity's own equity instruments do not include puttable financial instruments classified as equity instruments in accordance with paragraphs 16A and 16B, instruments that impose on the entity an obligation to deliver to another party a pro rata share of the net assets of the entity only on liquidation and are classified as equity instruments in accordance with paragraphs 16C and 16D, or instruments that are contracts for the future receipt or delivery of the entity's own equity instruments
- A financial liability is any liability that is:
  - a contractual obligation :
    - to deliver cash or another financial asset to another entity; or
    - to exchange financial assets or financial liabilities with

another entity under conditions that are potentially unfavourable to the entity; or

- a contract that will or may be settled in the entity's own equity instruments and is:
  - a non-derivative for which the entity is or may be obliged to deliver a variable number of the entity's own equity instruments; or
  - a derivative that will or may be settled other than by the exchange of a fixed amount of cash or another financial asset for a fixed number of the entity's own equity instruments. For this purpose, rights, options or warrants to acquire a fixed number of the entity's own equity instruments for a fixed amount of any currency are equity instruments if the entity offers the rights, options or warrants pro rata to all of its existing owners of the same class of its own non-derivative equity instruments. Apart from the aforesaid, the equity conversion option embedded in a convertible bond denominated in foreign currency to acquire a fixed number of the entity's own equity instruments is an equity instrument if the exercise price is fixed in any currency. Also for these purposes the entity's own equity instruments do not include puttable financial instruments that are classified as equity instruments in accordance with paragraphs 16A and 16B, instruments that impose on the entity an obligation to deliver to another party a pro rata share of the net assets of the entity only on liquidation and are classified as equity instruments in accordance with paragraphs 16C and 16D, or instruments that are contracts for the future receipt or delivery of the entity's own equity instruments.

# 5

## HOW TO SCRUTINIZE – JOURNAL AND LEDGER

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### SCRUTINY OF JOURNAL VOUCHERS

5.1 The transactions which cannot be accounted through sales, purchase, payment, receipt vouchers etc. namely "*Rectification Entries*", "*Adjustment Entries*", "*Closing or Opening Entries*" and making or providing for *estimates* are passed through **Journal Voucher (JV)**. Even though primary purpose of journal vouchers is to account miscellaneous transactions, journal voucher may use different series of ledger according to type of transaction on double entry system of accounting; hence, probability of compensating error is much higher in comparison of other transaction, which may impact the GST liability.

### IMPORTANCE OF STUDY OF JOURNAL VOUCHERS (JVS)

5.2 Study of JVs reflects the entire working of a assessee. It may also help in identifying the various accounting systems and procedures adopted for various transactions. **For example**, if a company is following a system of cost centers for all the main divisions of a unit, in that case, purchases, expenses, sale, and other incomes relating to each such cost center would be accounted for separately. A study of JVs in such system may help a tax auditor in finding out use of various inward supply of goods or services in cost centers not engaged in making outward supply or engaged in making supplies exempt under GST. In case of a manufacturing company, if construction department, repairs and maintenance department and training center are separate cost centers, in that case, use of inward supplies in these departments would be accounted for separately and study of JVs may show such ineligible items if input tax credit has been taken. Similarly, taxes paid on inward supplies used in R&D department may be eligible for input tax credit, but

company may not be availing credit on such items, and study of JV may help an auditor in advising the company to avail the credit.

Numbers of adjustment entries are also passed through JVs. Most of adjustment and rectification entries are also passed through JVs at the year-end or on a monthly basis. Therefore, these year-end and one or two month-end JVs must be studied by a tax auditor.

Following case studies may explain the importance of study of a JV.

### **CASE STUDY – 1**

5.3 A company is manufacturing machineries, where steel is one of the inputs and steel waste is generated during the production of final product. Following two JVs were found at the year-end.

JV-1

Machinery A A/c	... Dr.
Building A/c	... Dr.
Machinery B A/c	... Dr.
Sales Promotion A/c	... Dr.
To Steel control A/c	

(Being accounting of steel consumption during the year to various revenue and capital jobs as per annexure)

JV-2

Factory building construction A/c	...Dr.
To Steel scrap A/c	

(Being accounting to steel scrap generated by E.1 Plant used for construction of chimney and flooring of factory building - E.10).

Explanation: Following facts were noticed on study of above mentioned two JVs and annexures.

**(a) JV-1**

- (i) Steel items have been used for manufacturing machinery A, manufacturing machinery B, building construction (angles and frames), and sales promotion (steel sheet used for making signboards).

- (ii) Steel control A/c was debited on purchase of steel items meant for production activities. On the basis of monthly issues made by store department to various manufacturing divisions in the factory, a monthly JV for following entry was passed to account for raw material consumption.

E.1 R.M. consumption A/c ...Dr.

E.2 -- A/c ...Dr.

E.3 -- A/c ...Dr.

E.4 - - A/c ...Dr.

To Steel Control A/c

(Monthly consumption of four production centers booked as per statement received from stores department)

- (iii) Steel items issued to other divisions like building construction were not booked on monthly basis because most of the material required by these sections were generally purchased separately but whenever materials like steel were available in the plant, same was used and its accounting was done at the year end.
- (iv) On all steel items purchased for production centers, input tax credit was availed. But, input tax credit was not reversed on the steel used for building construction (assuming capitalized in the books of account). Hence, a tax auditor could detect wrong availment of credit by study of said JV.

**(b) JV – 2**

- (i) Steel scrap was generated in each manufacturing divisions and it was transferred to a common scrap yard. Value of steel scrap (estimated basis) transferred to the scrap yard was given as credit to the concerned division by passing the following JV:

Steel scrap stock A/c ... Dr.

To Raw material consumption – Plant E.1 A/c

(15 MT of scrap generated by E-1 plant transferred to scrap yard during April 2018, valued at ₹6 per kg. and credit given to raw material consumption A/c of E-1 plant)



**Explanation:**

- (i) During 2018-2019, credit on capital goods was available in full. Therefore, the company followed a system where based on monthly issues of capital goods items (including spares), the input tax credit was availed.
- (ii) On going through the JV and its annexure, it was noticed that even though capital goods were issued to divisions like electric *vehicle division (exempt)*, the credit on such items were availed which appears to be wrong.
- (iii) Study of one JV for each month could show use of capital goods in divisions engaged in making exempt supply and therefore study of these ledger accounts like electric *vehicle division (exempt)* (A/c No. 71310) could show wrong availment of credit for entire period.

**CASE STUDY-3**

5.5 A Company manufacturing milk based nutrients drink for children introduced a new variety of product and initially supplied the same as free samples to its depots located in different states so as to analyze the market preferences. As, no comparable price was available, the company paid GST on such supply based on a 110% of cost of production which comes out to be @ ₹3.30 (3+ 0.30) per packet and has also obtained a certificate from Chartered Accountant to support this valuation.

Following two JVs were found

JV-1	Marketing expense A/c	...Dr.	1,20,000
	To Free sample A/c		1,20,000

(Cost of free sample of 30,000 packets cleared during January to March 2018 charged to marketing expenses)

JV-2	Free sample A/c	...Dr.	1,20,000
	To Raw Material consumption A/c		70,000
	To Packing material consumption A/c		20,000
	To Labour A/c		10,000
	To Other manufacturing overhead A/c		12,000
	To Office overhead A/c		8,000

(Cost of free samples allocated to various costs as per statement of production planning Dept.)

***Explanation:***

- (i) From the above JV it was noticed that cost of manufacture of free samples was charged to Marketing expenses A/c. In the absence of said accounting treatment the cost of production of goods sold would have increased.
- (ii) From the cost-sheet enclosed with JV, it was noticed that actual cost of such samples was ₹4 per packets. Moreover, notional profit of 10% of cost of production was also required to be added to arrive at correct assessable value as per the Valuation Rules.
- (iii) CA certificate had shown total raw material and packing cost per unit at ₹2.50, all over head at ₹0.50 and profit of ₹0.30 (10%) whereas as per company's own statement, actual costs were much higher.
- (iv) When the manufactured item has been disposed of as sample, there could be requirement of reversal of credits under section 17. The review of JV could reveal the instances where such reversal might have been missed out.

**CASE STUDY – 4**

5.8 A company manufacturing machineries as per the specification provided by the customer passed following JV:

Customer A/c	...Dr. 67,375
To Interest A/c	67,375

(Interest charged for non-payment of amount as per the agreed payment schedule by M/s ABC as per details below)

Amt	Agreed due date	Date of payment	Days	Interest Amt @ 16%
5 lakh	1.1.2018	30.6.2018	180	39,452
7 lakh	1.4.2018	30.6.2018	91	27,923
				67,375

***Explanation:***

- (i) In the Profit & Loss Account, interest income was shown but generally no further explanation is called for such income by auditors because interest income is earned on investments made by a company.
- (ii) Study of JV showed that the company had the system of taking contract amount in two installments. In case of non-payment of amount, the company was charging interest. The said interest amount is an additional consideration, which may be required to be added in the assessable value in terms of section 15 of the CGST Act, 2017.

**CASE STUDY – 5**

5.9 Following JV was found while scrutinizing records of a company.

XYZ Ltd., New York, USA A/c	...Dr	57 lakhs
To Custom duties paid A/c		57 lakhs

(Being the amount of customs duties to be recovered from XYZ Ltd.(supplier), USA because of damage of DG set imported by us and got damaged in transit from Mumbai Port to factory, as per condition of agreement and insurance policy).

***Explanation:***

- (i) On going through the LC (letter of credit) and other correspondences with the supplier of machinery, it was noticed that insurance was taken by the supplier and insurance cover was for delivery upto the factory. In this case after payment of customs duties at Mumbai Port, the machinery got damaged in transit from the Port to the factory. Hence, as per the conditions of the insurance policy, even the customs duties paid were required to be reimbursed by the insurance company. Hence, the JV was passed.
- (ii) Further scrutiny of INPUT TAX credit revealed that company had availed input tax Credit on said machinery,
- (iii) In fact, the said machine was exported, and a free replacement was received, on which company had paid customs duties and availed the INPUT TAX credit also.

The above-mentioned case studies clearly show that scrutiny of JVs is very important, and number of tax related issues can be discovered. Such issues could escape the attention of a tax auditor in case of their failure to study the financial records.

## **SCRUTINY OF GENERAL LEDGER**

### ***Which ledger to be seen***

5.10 A company maintains different types of ledgers like Debtor's ledger, Creditor's ledger and General Ledger. A General Ledger contains the accounts of assets, liabilities, incomes and expenditures. A tax auditor may be interested in finding out whether a unit has paid taxes on the correct value or the input tax credit availed by them is in order. These aspects can be verified by a study of income and expenditure accounts. Since the General Ledger contains all the income and expenditure accounts, its study is most important as a part of audit. Study of the debtor's ledger and the creditor's ledger may also reveal important points to a tax auditor. The study of General Ledger has been discussed in detail in this chapter along with important aspects of debtor's and creditor's ledgers.

### ***Which Accounts to be scrutinized?***

5.11 A General Ledger may contain 100-500 accounts depending upon the size of a company and also depending upon the accounting policy followed by a company. For example, a company may account for the purchases of all types of raw material in one account, whereas another company may maintain separate accounts for each major raw material. As the General Ledger contains a large number of accounts, and a tax auditor may not be interested in all accounts, therefore selection of accounts for scrutiny is very important. The first step in this direction is to obtain the list of accounts in the ledger. The list of accounts is normally available as an index in the General Ledger. Account numbers are generally allotted keeping all similar account in same series. For example, all assets accounts may be given 500 series, liabilities accounts may be given 600 series, expenditure accounts may be given 700 series and so on. An understanding of the account code logic helps an auditor in identifying the nature of a particular account. Another method for finding out the account number is to ask for the trial balance. The trial balance contains the

account number, description of account, debit amount, credit amount and the balance. In other words, a list of all accounts having a balance is available in the trial balance. It is advisable to obtain the trial balance showing total debits and trial credit amount for each account in the ledger because if the company furnishes a trial balance, where only net balance (debit or credit) is given, in that case it is possible that some accounts, whose balance at the end of the year is NIL, may not be reflected in the trial balance and there may escape the auditors scrutiny. For example, if a company is recovering packing charges from customers and crediting in an account viz. Packing Material Recovery Account, but if at the end of the month the balance in that account is transferred to the Packing Material Purchase Account in that case the Packing Material Recovery Account may not be shown in trial balance showing only net balances. For a tax auditor the said account could be very important for determining correct value for payment of GST. Therefore, it should be ensured that a trial balance showing the total debit and credits should be obtained for audit purposes.

***General Rules for Selection of Accounts for Scrutiny***

5.12 There are no fixed rules as to which accounts should be selected for scrutiny by a tax auditor because companies manufacture different products, follow different accounting policies, different marketing policies, or use different types of accounting software packages. The selection of accounts also depends upon the audit plan. Following general rules may be kept in mind while selecting the accounts for scrutiny.

- (a) Credit entries in raw material or other input purchase account
- (b) Credit entries in expense account
- (c) Income accounts
- (d) Unusual accounts

**CASE STUDY 6**

5.13 Let us consider the following ledger account of a company manufacturing aluminum pipes and maintaining computerized accounts.

<i>Date 2018</i>	<i>Document reference</i>	<i>Description</i>	<i>Debit Amount</i>	<i>Credit Amount</i>
01.04	P.Inv.5802	To HINDALCO	5,50,000	
02.04	P.Inv.5880	To HINDALCO	1,40,000	
02.04	D/N.150	By HINDALCO		35,000
28.04	D/N 158	By HINDALCO		8,440
30.04	JV-121	By INPUT TAX A/c		96,000
30.04	JV-122	By R.M. Consumption A/c		5,25,000
30.04	JV.123	By Building A/c		5,000

From the above account, please state what is your understanding of each entry:-

**Solution:**

<i>Entry No</i>	<i>Transaction</i>
<i>Entry 1</i>	Company purchased aluminum from Hindalco for ₹5,50,000.
<i>Entry 2</i>	Company purchased aluminum from HINDALCO for ₹1,40,000.
<i>Entry 3</i>	Debit note No.150 dated 02.04.2018 issued to HINDALCO for ₹35,000/-.It means company has to collect ₹35,000/- from HINDALCO. Debit note might have been issued for reasons like :- (a) Rejection and return of goods. (b) Price charged more by HINDALCO (c) Quality not proper, hence prices reduced (d) Discount not given by HINDALCO in purchase invoice as agreed by them in purchase order confirmation.
<i>Entry 4</i>	Debit Note No.158 dated 28.04.2018 issued to HINDALCO for recovering ₹8440 for various reasons discussed above.
<i>Entry 5</i>	Journal Voucher No.121 dated 30.04.2018 passed for transferring an amount of ₹96,000 to input tax credit A/c. It means, initially Purchase Account is debited for full value including GST and at the end of the month, GST amount is transferred to input tax credit Account..



(Being the input tax credit availed for the month of April 2018 on purchase of Aluminum transferred to input tax credit Account)

Exercise 13-E: As a tax auditor what would you like to verify to confirm the correctness of above information?

Exercise: 13-F: As per the GST return filed with the department the total Credit availed on Aluminum Ingot is ₹1,20,000. What would you like to verify further and why?

- (d) JV.122 –Following entry has been passed

R.M. Consumption A/c	Dr. 5,25,000/-
To Aluminum Purchase A/c	5,25,000/-

(Being consumption of Aluminum for April 2018 as per statement of Stores Department).

From this JV, one fact comes to the knowledge of the tax auditor that the company has a regular system of determining consumption of raw-material based on total issues made by the store department to production departments. Therefore, he may find out what are the statements/report generated by stores and production department about raw-material consumption, wastage, damage and obsolete items. This may help him in determining the input-output ratio, any unusual happening like theft of material or destruction of material or percentage of wastages etc.

- (e) JV No. 123 – The description in the JV shows that some of the aluminum item namely rods were used for construction of a building, Therefore, the value of such pipes has been debited to the building account. A tax auditor should verify whether credit was reversed on such goods or not.

### ***Scrutiny of Other Income Accounts***

5.14 A quick study of description of income accounts from the trial balance may help a tax auditor to select relevant accounts for further scrutiny. For example, accounts like interest on investment, or dividend may not be of much relevance from the GST point of view. For other accounts, a detailed scrutiny of nature of these incomes is very important. The scrutiny of these accounts should be done from the following two angles:

- (i) Whether the nature of income is such that GST is liable to be paid or which is required to be added to the assessable value of supply of goods or services affected by them.
- (ii) If (i) is yes, whether all such supplies have suffered payment of GST.

***Nature of Account***

5.15 After selection of accounts, the first task of a tax auditor is to find out the exact nature of transactions covered by such account. Study of details in source documents like description in invoice or narration in voucher or study of other related documents like copies of agreements may help in finding out correct nature of transaction.

***Unusual Accounts***

5.16 Before commencement of audit, a tax auditor should acquaint himself with the working of the unit. Once the broad working of the unit is known to the auditor, study of the trial balance become easier. With the experience, a tax auditor may know as to what type of accounts are commonly prepared by a particular industry. Therefore, sometimes, study of a trial balance may reveal some unusual accounts, which are commonly not found in a particular industry or the nature of account itself may show some relevance to the determination of the tax liability.

# 6

## **HOW TO STUDY FINANCIAL DOCUMENTS**

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### **STUDY OF ANNUAL REPORT OF A COMPANY**

#### ***What is Annual Report***

6.1 As per the provisions of the Companies Act all companies are required to prepare an annual report for submission to the shareholders for consideration in the annual general meeting. The Annual report is prepared every year and it contains the following:

- (i) Directors' Report
- (ii) Statutory auditor's Report
- (iii) Financial statements i.e., Balance Sheet, P & L A/c, notes and Cash Flow Statements etc.
- (iv) Disclosure as required under SEBI Act.
- (v) Financial statements of subsidiary companies, *if any* (~~Section 212~~)
- (vi) Corporate Governance report
- (vii) Management discussion and analysis report

Whenever copies of Balance Sheet and profit and loss account are called for from the assessee, they submit the said annual report only. To a GST auditor not only the Balance Sheet and the Profit and Loss Account but all other information available in the annual report is useful.

#### ***General Information***

6.2 Details such as names of directors, addresses of manufacturing plants, registered office, corporate office, name of auditors etc. are available on first few pages of the annual report. Composition of the board

of director may show whether the company is closely held company (mostly family members) or otherwise. Information about location of service provider/ manufacturer may be used to find out some more details about type of services provided or products manufactured.

***Director's Report (Section 134 of the Companies Act, 2013)***

6.3 Directors are required to submit certain reports to the stakeholders about the activities and progress of the company, one such report is Directors Report. This report is given by the directors of the company to the shareholders and it is given after statutory audit of the company is completed. It contains the following information:

- (i) Financial highlights;
- (ii) Amounts proposed for transfer to reserves;
- (iii) Proposed dividend;
- (iv) the extract of the annual return as provided under sub-section (3) of section 92;
- (v) a statement on declaration given by independent directors under sub-section (6) of section 149;
- (vi) explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the auditor in his report; and by the company secretary in practice in his secretarial audit report;
- (vii) particulars of loans, guarantees or investments under section 186;
- (viii) particulars of contracts or arrangements with related parties referred to in sub-section (1) of section 188 in the prescribed form;
- (ix) Important happenings, trends, future plans;
- (x) Explanation on auditor's qualification;
- (xi) Details of conservation of energy, technology absorption, foreign exchange earnings and outgo
- (xii) Key Managerial Personnel

(xiii) Corporate Social Responsibility (CSR)

Overall financial results like income (Turnover of Goods or Services and other income), total expenditure, gross profit, depreciation, interest, tax expense, net profit or loss are reported in summarized form in the director's report. The director's may also inform the shareholders about any important events or development or material charges and commitments affecting financial position of the company during the year. The auditor may go through the reports to see whether any of the remarks of the authority of the assessee has any adverse aspect on the GST valuation and tax liability. Report also contains the director comments on adverse report of statutory auditor.

### CASE STUDY – 1

6.4 Following observations were found in the director's report in the Annual Report of three companies:

**Illustrations (a):** *"During the year a major fire broke out at our Pune plant in August 2005 resulting in substantial damage to the paper making plant and the burning of raw-material and finished goods. The company has lodged the insurance claim. However, we were able to repair the plant and manufacturing activities were restarted by end of February 2016. Due to stoppage of this plant our profits have reduced substantially".*

**Explanation:**

The above remarks in director's report could be very useful to a GST auditor to find out following aspects:-

- (i) Whether Input tax credit was reversed on input or input contained in work in progress and finished goods destroyed by fire.
- (ii) Whether any of the capital goods, which got damaged, have been cleared as scrap and whether Input tax credit was availed in the past on the said capital goods.

Copies of insurance claim should be obtained to find out the details of the claim lodged with insurance company. One important area to be verified is whether tax element has also been claimed from insurance company. If so, whether provisions of Section 76 can be invoked.

Similarly, any other major happening like theft, loss by flood etc. may also find place in director's report and it may be useful to a GST auditor. A Company may acquire shareholding in other company by which it may become a holding company or some other company may acquire majority shares, whereby, this company may become a subsidiary company would be mention in the director's report.

### **CASE STUDY – 2**

6.5 *“In order to strengthen marketing activities, your company have acquired majority shares in ABC Marketing Ltd., which had become a subsidiary company from this year”.*

***Explanation :***

The above information is very important to a GST auditor and he may inquire the matter further from valuation angle. He may like to find out whether the company is supply of services or goods to the subsidiary company or *vice-versa*. In the present valuation provisions, holding and subsidiary company have been treated as “*related person*” and the rate at which the buyer company is supplying goods or services is considered as the transaction value for payment of GST. The same is also to be examined from the perspective of second proviso to Rule 28.

### **CASE STUDY – 3**

6.6 Please read the following excerpts from a director's report. What further information should be called for by a GST auditor and why?

*“Your company has initiated various actions to meet the challenges of the market. Among the steps taken are introduction of state-of-the-art new products, provision of technical and engineering services and starting of e-commerce marketing. Your company is among the first few in the country to start trading though web-site”.*

***Explanation:***

- (i) Exact nature of engineering services provided to customer should be inquired into to determine the nature of supply as to whether the same qualifies as two standalone different supplies, composite

supply or mixed supply. The rate of tax of GST may vary in all such cases on goods and services.

- (ii) Exact system of trading on e-com basis should be found out to verify correctness aspects like time of supply, replacement policy for credit notes etc.

#### **CASE STUDY – 4**

6.7 Please read following excerpts from director's report of a machinery-manufacturing unit. As a GST auditor which important areas you may like to inquire into.

*“Performance and profitability: During the year under reference your Company has incurred a loss of ₹ 9002.73 lakhs (for 18 months) on a turnover of ₹ 8785.39 Lakhs The expenses to the extent of ₹ 3589.20 lakhs has been charged to the profit and loss account pertaining to earlier years. The loss is mainly attributable to higher depreciation, write off of slow and non-moving and obsolete inventory, as suggested by the concurrent auditors appointed by the lead bank and higher interest burden. In addition, there has been increase in cost of raw materials and components consumed which could not be absorbed in the selling price.”*

#### **Explanation:**

- (i) Details of write-off of slow, non-moving and obsolete inventory and whether input tax credit under Section 17(5) of CGST Act has been reversed thereof. Whether these have been sold subsequently and treatment of Input Tax Credit thereof made by the assessee.
- (ii) What is the impact of increase in raw-material cost to Payment of tax by Cash/ Payment of Tax by Credit ratio.
- (iii) Expenses of previous years- Does it include inputs on which credit was availed in the past.

#### **CASE STUDY – 5**

6.8 Following facts are available to a GST auditor about a unit.

M/s. A Ltd is engaged in manufacture of PFY, texturized yarn and weaving of man-made fabric. The woven fabric is sent to another company

## 148 Background Material on Training Program for Government Officials

*viz.*, Process and Print Ltd (PPL) for processing and printing who pays the GST on processed fabric.

While taking round of factory of A Ltd it was noticed that processing house of PPL was situated adjacent to its plant in the same compound.

Following excerpts are noticed from the director's report of A Ltd for the year 2014- 2015

(₹ In Lakhs)

<b>Financial Results</b>	<b><u>2017-18</u></b>	<b><u>2016-17</u></b>
<i>Total Income</i>	38073.37	35655.44
<i>Profit before Depreciation &amp; Tax</i>	2688.27	4200.30
<i>Less: (i) Depreciation</i>	1652.20	1247.87
<i>(ii) Tax</i>	0.50	0.50
<b>Net Profit</b>	<b><u>1035.57</u></b>	<b><u>2951.93</u></b>
<i>Add: Balance brought forward from Earlier years</i>	3123.37	1653.02
<i>Balance available for appropriation</i>	<b><u>4158.94</u></b>	<b><u>4604.95</u></b>
<i>Appropriations</i>		
(a) <i>Debenture Redemption Reserve</i>	42.00	221.90
(b) <i>Proposed Dividend</i>	973.10	959.68
(c) <i>Investment Allowance Reserve</i>	1115.00	---
(d) <i>General Reserve</i>	105.00	300.00
(e) <i>Balance carried forward</i>	1923.84	3123.37
	<b><u>4158.94</u></b>	<b><u>4604.95</u></b>

### **Dividend**

Your Board of Directors recommends a dividend at the rate of 10% on its equity capital of ₹ 97.31 Crores. In view of the fall in net profits, the Board of Directors finds it appropriate to conserve its resources and accordingly reduce the rate of dividend from 19% declared for the year 2013-14 on the capital of 50.51 Crores. The total outflow of dividend for the year 2014-15 will be ₹ 973.10 lakhs.

### **Fixed Deposits**

During the year the company accepted Fixed Deposits from the public amounting to ₹ 6 crores.

### ***Operations***

The Company's business was adversely hit by a continued and substantial increase in the cost of raw materials. This compounded by sluggish indigenous demand of polyester filament yarn which put pressure on the profit margins of the Company.

On the traditional synthetic fabric front, the Company was hit by the introduction of GST on texturized yarn, which hitherto was exempt. The increased cost of texturized yarn, which is an input component for manufacture of good quality fabric, for which the company has earned its brand value, increased the cost of production of fabric. The Company was, in the short run, unable to pass on the increase to its consumers due to demand recession experienced in this business, thereby further eroding the operating profits.

The year saw a steep across the board increase in international prices of paraxylene, PTA and MEG which unfavourably affected the prices of polyester chips, the core raw material for making of polyester filament yarn.

This increase in the input cost, accompanied with a stagnant demand for polyester filament yarn in India, evidenced by subdued yarn prices in the domestic market squeezed the Company of its operating profits in yarn manufacturing activity, which otherwise was expected to contribute to the overall profitability of the Company.

The Company, however, continued to concentrate on its inherent strengths and introduced new qualities, weaves and prints, during the year to counter the unfavourable outcome of the hostile external factors.

The Micra and Micrel range of dress materials and sarees received a good response from the consumer as well as the ready-made garment industry.

The exports of the company fell marginally during the year due to international demand recession. The company, however, for the first time exported ready-to-wear garments, which were received well. The company is exploring possibilities of export of its traditional fabrics as well as ready-to-wear garments to new and virgin markets.

### ***Future Outlook***

The company has invested in a highly sophisticated state-of-the-art CAD-CAM system used for printing of fabrics. This will not only allow the

company to introduce superior, precise and intricate designs but will also enable the company to respond to quick trend changes in a highly competitive market.

The company is in the process of developing new microfilament and blended qualities to increase its market share in premium silk- like polyester fabrics. New printing styles like "flock" and "rubber" print developed by the company will go a long way in maintaining the appeal the consumer has always had for the company's products.

The company has franchised eight outlets in different cities to market its Men's Designer Wear under the brand name "K CLOTHING" and the response is promising.

The company expects to improve its performance in the current year in view of stabilized raw material prices, aggressive product innovation and strict cost control.

#### ***Environment & Pollution Control***

The management has undertaken the upkeep of the areas surrounding its factories and offices and made efforts to keep the nearby habitat healthy and hygienic. It also supports local groups which function to make the environment cleaner and pollution-free.

The major part of the company's activities does not generate any effluents. Steps to minimize the damage to the environment and ecology caused by printing and processing of synthetic textiles are being taken by the management.

#### ***Energy, Technology and Foreign Exchange***

Information on conservation of energy, technology absorption, adoption and innovation and foreign exchange earnings and outgo, as required by Section 134 of the Companies Act, 2013 read with the Companies (Disclosure of particulars in the report of Board of Directors) Rules, is annexed to the Directors Report marked as Annexure "A".

#### ***Personnel***

A statement giving details of the employees in accordance with section 134 read with companies (Particulars of Employees) Rules, , as amended, is annexed to the report marked as Annexure "B".

***Directors***

Shri. S.K.Chandra, Shri. K.P. Ramnan and Smt. K. Subramani retire at the forthcoming Annual General Meeting and being eligible, offer themselves for reappointment.

***Auditors***

The company's Auditors Messrs. Vasudev & Co. Chartered Accountants retire at the forthcoming Annual General Meeting and being eligible offer themselves for reappointment.

***Comments on The Auditors Report***

The observations made in the Auditors Report are self-explanatory and therefore do not call for any further comments under Section 134 of the Companies Act, 2013.

**ANNEXURE “A”**

Information as per Section 134 read with the Companies (Disclosure of Particulars in the Report of Board of Directors) Rules and forming part of the Directors Report.

1. CONSERVATION OF ENERGY

(a) Energy Conservation measures taken:

- (i) Warm water generated through the heat exchanger during the cooling process in jet dyeing machines is re-used for other processes requiring warm water, thereby saving on steam and fuel.
- (ii) Installation of press switches on jet dyeing machines for view glass illumination lamp, thereby saving on electricity.
- (iii) Installation of FRP sheets on the factory roofs to facilitate penetration of sunlight, thereby saving on artificial lighting and electricity.
- (iv) Use of electronic ballast to reduce power consumption
- (v) Efficient use of 100 KVA sub-station for uninterrupted power supply.

(b) Additional investments and proposals being implemented for reduction of consumption of energy :

- (i) The Company has entered into an association with National Productivity Council (NPC), Government of India and United Nation Industrial Development Organization (UNIDO) for control of industrial waste.
- (ii) Efforts are going on across the company for achievement of international standard for water consumption per linear meter,
- (c) Impact of measures (a) & (b) above for reduction of energy consumption and consequent impact on cost of production:

With the various measures undertaken and proposed to be undertaken, the energy consumption is likely to go down and result in reduction in cost of production.

**ANNEXURE “A”**

**“FORM A”**

From of Disclosure of Particulars with respect to Conservation of Energy

	2014-15	2013-14
<b>A. Power and fuel consumption</b>		
1. Electricity		
(a) Purchased Units in lakhs	533	484
Total amount ₹ in lakhs	1419	1232
Rate/Unit ₹	2.66	2.54
(b) Own Generation :		
(i) Through Diesel Generator		
Units in lakhs	6.12	7.56
Units per Ltr. of Diesel Oil	2.73	2.86
Cost/Unit ₹	3.35	2.73
(ii) Through Stem turbine/Generator Units	NIL	NIL
Units per Ltr. of Oil/gas	NIL	NIL
Cost/Unit ₹	NIL	NIL

2.	Coal/Lignite for Generation of Steam for Jet dyeing:		
	Usage in Boilers and Thermo-Pack. Quantity used "C" Grade		
	Quantity (M.T)	24917	20725
	Total Cost ₹ in lakhs	387.24	278.99
	Average rate ₹ /M.T	1554	1346
3.	Furnace Oil		
	Quantity (K Lts)	NIL	NIL
	Total Amount	NIL	NIL
	Average rate ₹ /Tonne	NIL	NIL
4.	Others/Internal generation		
	Quantity	NIL	NIL
	Total cost	NIL	NIL
	Rate/ Unit ₹	NIL	NIL
<b>B.</b>	<b>Consumption per unit of production</b>		
	Product : Textile Fabrics	Mtr.	Mtr.
	* Electricity (Unit)	1.17	1.14
	Furnace Oil	NIL	NIL
	* Coal / Lignite (kg)	0.67	0.51
	Others	N.A.	N.A

\* Increase in Consumption per unit of production for textile fabrics is due to change in product mix and installation of additional printing machinery for product improvement.

**What important points can be noticed by a GST auditor from reading of above director's report and what further information would he like to obtain.**

***Key learning:***

- (i) Para on Future Outlook mention that company has invested in CAD-CAM system used for printing of fabric.
- (ii) Para on Environment and Pollution Control mention about steps taken to minimise damage to environment by printing and processing.
- (iii) Annexure A on Conservation of Energy mention about use of jet-dyeing machine.
- (iv) Power and Fuel Consumption report shows use of coal/lignite for Jet-dyeing machine.

All the four factor show that even though A Ltd. was not having textile processing and printing facilities still they were spending on such activities and invested in such facilities, *prima facie* it shows that A Ltd., and Process and Print Ltd., are functioning as one unit.

Further information to be called for from A Ltd & PPL:

- (a) Share holding pattern of both company and common director's shareholding.
- (b) Details of plant and machinery used by PPL – who owns it and whether there can be said to be a supply of use of such machine to other company.
- (c) Actual use of coal/lignite? Expenditure for running of Jet-dyeing machine of PPL incurred by whom- whether supply and GST levy thereon?
- (d) Comparison of transaction value of processed fabric declared by PPL and sale price of A Ltd – transaction Value from the perspective of related parties.
- (e) Whether PPL is undertaking processing only for A Ltd or any other customer also?
- (f) Processing charges charged by PPL to A Ltd and to other customer.
- (g) Any other transactions between A Ltd and PPL.

The investigation revealed following points:

- (i) Difference between transaction value of fabric adopted by PPL for payment of GST and sale price of fabric by A Ltd (excluding GST) was in the range of 60% to 80%. This need to be examined from the perspective of related party valuation.
- (ii) Both companies were promoted by same group of directors. More than 50% directors were common.
- (iii) Scrutiny of details in Balance Sheet showed that PPL had sold part of the processing house to A Ltd but still the said plant and machineries were used by PPL for processing of fabric of A Ltd.
- (iv) A Ltd had undertaken R & D activities for PPL in the areas of printing designs, etc., and all expenses were incurred by A Ltd.
- (v) Entire quantity of coal/lignite used by PPL were purchased by A Ltd and paid by them.
- (vi) Process charges recovered from A Ltd were 30% to 40% lower than charged to other customers by PPL.
- (vii) Common facilities were provided by A Ltd without compensation.
- (viii) Profits were diverted to PPL by way of trading in yarn and showing sale of goodwill by PPL to A Ltd.

All of the above points need to be examined from the perspective of related party transactions and supplies exigible to GST.

## **STUDY OF INDEPENDENT AUDITOR'S REPORT**

### ***Statutory Audit***

6.9 This audit is mandatory for all companies incorporated under the Companies Act like Private Limited or Public Limited Company. Only a Chartered Accountant is authorized to carry out such audit. The statutory auditor is appointed by the shareholders in the annual general meeting. The report is given by the auditor after thorough examination of the book of accounts and all related records and documents. Once this report is

given, the accounts of the company are finalized and thereafter no changes can be made in the accounts of a company.

6.10 Based on study of the records of a company, a statutory auditor is required to give his opinion on following important aspects:

Whether the financial statements give the information required by the Companies Act in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India, of the state of affairs of the Company.

***A specimen format of Independent auditor's report is given below:***

***“Independent Auditor's Report to the members of ABC Ltd.”***

**Report on the Financial Statements**

*We have audited the accompanying financial statements of of ABC Ltd., which comprise the Balance Sheet as at March 31, 2016, the Profit and Loss, the Cash Flow Statement for the year then ended, and a summary of the significant accounting policies and other explanatory information.*

**Management's Responsibility for the Financial Statements**

The Company's Board of Directors is responsible for the matters stated in Section 134(5) of the Companies Act, 2013 (“the Act”) with respect to the preparation and presentation of these standalone financial statements that give a true and fair view of the financial position, financial performance and cash flows of the Company in accordance with the accounting principles generally accepted in India, including the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014. This responsibility also includes maintenance of adequate accounting records in accordance with the provisions of the Act for safeguarding the assets of the Company and for preventing and detecting frauds and other irregularities; selection and application of appropriate accounting policies; making judgments and estimates that are reasonable and prudent; and design, implementation and maintenance of adequate internal financial controls, that were operating effectively for ensuring the accuracy and completeness of the accounting records, relevant to the

preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement, whether due to fraud or error.

### **Auditor's Responsibility**

Our responsibility is to express an opinion on these standalone financial statements based on our audit. We have taken into account the provisions of the Act, the accounting and auditing standards and matters which are required to be included in the audit report under the provisions of the Act and the Rules made thereunder. We conducted our audit in accordance with the Standards on Auditing specified under Section 143(10) of the Act. Those Standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and the disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal financial control relevant to the Company's preparation of the financial statements that give a true and fair view in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of the accounting estimates made by the Company's Directors, as well as evaluating the overall presentation of the financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion on the standalone financial statements.

### **Opinion**

In our opinion and to the best of our information and according to the explanations given to us, the aforesaid standalone financial statements give the information required by the Act in the manner so required and give a true and fair view in conformity with the accounting principles generally accepted in India, of the state of affairs of the Company as at 31 March 2016 and its profit and its cash flows for the year ended on that date.

### **Report on Other Legal and Regulatory Requirements**

1. As required by the Companies (Auditor's Report) Order, 2016 ("the Order") issued by the Central Government of India in terms of sub-section (11) of section 143 of the Act, we give in the Annexure A, a statement on the matters specified in the paragraph 3 and 4 of the order.
2. As required by Section 143 (3) of the Act, we report that:
  - (a) we have sought and obtained all the information and explanations which to the best of our knowledge and belief were necessary for the purposes of our audit.
  - (b) in our opinion proper books of account as required by law have been kept by the Company so far as it appears from our examination of those books;
  - (c) the balance sheet, the statement of profit and loss and the cash flow statement dealt with by this Report are in agreement with the books of account;
  - (d) in our opinion, the aforesaid standalone financial statements comply with the Accounting Standards specified under Section 133 of the Act, read with Rule 7 of the Companies (Accounts) Rules, 2014;
  - (e) on the basis of the written representations received from the directors as on 31 March 2016 taken on record by the Board of Directors, none of the directors is disqualified as on 31 March 2016 from being appointed as a director in terms of Section 164 (2) of the Act;
  - (f) with respect to the adequacy of the internal financial controls over financial reporting of the Company and the operating effectiveness of such controls, refer to our separate report in "Annexure B"; and
  - (g) with respect to the other matters to be included in the Auditor's Report in accordance with Rule 11 of the Companies (Audit and Auditors) Rules, 2014, in our opinion and to the best of our information and according to the explanations given to us:
    - i. the Company has disclosed the impact of pending litigations on its financial position in its financial statements – Refer Note (No) to the financial statements;

- ii. the Company did not have any long-term contracts including derivative contracts for which there were any material foreseeable losses.
- iii. There has been no delay in transferring amounts, required to be transferred, to the Investor Education and Protection Fund by the Company.

*CHARTERED ACCOUNTANTS*

***Qualified Opinion***

6.11 Sometime, an auditor may not be satisfied with the profit/loss determined by the unit or with the financial position of a unit reflected in the balance sheet on account of reasons like making of insufficient provisions for expenses or non-verification of stock or non-receipt of confirmations of amount due from other unit etc. In that case, auditor gives his opinion subject to certain reservations and he is said to have given a qualified opinion. For example, an auditor may state “subject to non-provision of gratuity amounting to ₹ 120 lakhs (note 8 in notes on account), non- provision for obsolete items for ₹ 328 lakhs (note 12 in notes on account) we report that the balance sheet shows a true and fair view ....”. In other words, auditor has given his opinion that balance sheet shows true and fair view of the affairs of the company subject to the fact that company has not made provisions for said two liabilities and accordingly profits of the company have been over reported to the extent of said amounts.

Some more examples of qualification given in auditors report are given below:-

- (a) *“Subject to note No. 9 regarding non-reconciliation of certain stocks of finished goods between stock records and GST records at one of the units and subject to note No. 13 regarding non-provisions for diminution in value, if any, in respect of slow/non-moving inventory, effect of which is not ascertainable by us, the balance sheet gives true and fair view of the state of affairs as at 31<sup>st</sup> March, 2016: and .....*”

- (b) *“In our opinion and to the best of our information and according to the explanations given to us, the Balance Sheet, subject to our remarks in paragraph 2.1 below, also gives a true and fair view of the state of the Company’s affairs as at March 31, 2016.”*

Para 2.1 reads as under:-

“2.1 As explained in Note 10 in Schedule 8, no provision has been made in the accounts towards the installments of Technical Know-how fee payable aggregating to ₹ 3,97,45,000 which however, does not have any effect on the net worth of the Company.”

**A careful reading of auditor’s report reveals number of important point to a GST auditor. In the case of illustrations given above following areas are of interest to a GST auditor: -**

- (i) Obsolete items – whether credit reversal is necessary.
- (ii) Non-reconciliation of stock as per GST records and stock records- reason to be examined.
- (iii) Technical know-how fee – why provision not made? Whether GST paid by service provider? Whether service provider is also a customer of the company.

### ***Disclaimer of Opinion***

6.12 Sometimes, an auditor may fail to obtain sufficient records or evidences to satisfy himself about correctness of certain transactions in that case he may make a disclaimer opinion. For example, an auditor may report that *“due to a major fire at the administrative office of the company most of the records were destroyed but these were reconstructed. In view of non-availability of original records, we are unable to state whether the balance sheet shows a true and fair ....”*

A GST auditor should carefully read the statutory auditors report and if any qualified opinion or disclaimer of opinion has been given, he should examine these opinions carefully and draw up his audit plan accordingly.

## FINANCIAL STATEMENT

Financial Statements will have Balance Sheet, Statement of Profit and Loss as also cash Flow Statement. Notes attached and forming part of the above gives significant information which can be of interest to the GST auditor such as segment wise results and related party transactions.

### Study of Balance Sheet

6.13 In financial accounting, a Balance sheet is a summary of the financial balances of a Business organization. It may be defined as “a statement which sets out the assets and liabilities of an organization at a certain date. However, since the balance sheet is prepared on a particular date, the same does not constitute the summary of the activities of the assessee. Traditionally, the balance sheet used to be prepared in horizontal form (tabular format) showing assets and liabilities on two sides. In the revised format of Schedule III, the balance sheet is prepared in vertical form showing “Sources of Funds” and “Application of Funds”. These two headings are same as liabilities and assets of a company as we have already study in details under *Chapter 4*.

The auditor may review the balance sheet to examine the following implications under different heads as described below:

a. Share Capital

Details of Shares issued may be examined to examine if any Shares were issued for consideration other than cash and GST implications in the hands of the purchaser.

b. Loans (Liability)

Loans taken or given may be reviewed, so that the impact of the same on valuation may be investigated.

c. Sundry Creditors

Sundry Creditors may be reviewed to determine non-moving creditors and their reversal of Input tax Credit under Rule 37. Total credit side of transactions summary of Sundry Creditors reflect the transaction of

purchases (including GST) made by an entity during the year. Any major deviation from the total purchases may be examined.

d. Other Liabilities

Other Liabilities are also to be examined from the perspective of levy of GST. For eg., deferred revenue needs to be examined from the perspective of time of supply and such amount may be exigible in the current year itself, security deposits and its adjustments are important from the perspective of levy of GST, GST liability balances should reconcile with GST balances as per returns etc.

e. Fixed Assets

Details of Fixed Asset may be examined to ensure that Input Tax Credit availed on capital goods has not been reflected as cost of fixed assets and correct Input Tax Credit has been availed on the capital goods. Sale of fixed assets is to be examined to determine the levy of GST on such supply and also, if any Input tax Credit is to be reversed in cases where Capital Goods are sold within 60 months from the date of purchase.

f. Investments

Details of Investments to be examined to determine exigibility of GST on returns therefrom. Also, certain investments may require reversal of Input tax Credit under Rule 42 and 43 of CGST Rules.

g. Sundry Debtors

Total debit of transaction summary of Sundry Debtors reflects the total supplies made by an entity and any major deviation from the value of Supplies in profit and loss account along with GST need to be looked into by the GST auditor. Sundry Debtor are also to be examined to understand the credits made therein (Credit Notes) and their allowability under Section 34 of CGST Act.

h. Other Assets

Other assets include items which are important to be looked into from the perspective of GST likability. For eg., prepaid expenses are to be looked to determine availability of Input Tax credit as per Section 16(2) of CGST Act, any advances given for purchases should include GST part also etc.

i. Overall

The auditor may also compare the balance sheet with the previous year's details to find out whether there are any major developments in the financial structure of the assessee and if there are any, the auditor may enquire into the same.

**CASE STUDY – 6**

6.14 Please read the following excerpts from a Balance Sheet Schedule.

What further information should be called for by a GST auditor and why?

(₹ in Thousands)

**Schedules forming part of the Balance sheet as at 31<sup>st</sup> March, 2016**

	31 <sup>st</sup> March, 2016	31 <sup>st</sup> March, 2015
<b>Schedule '1'</b>		
<b>Share capital:</b>		
<b>Authorised:</b>		
32,000,000 Equity Shares of ₹ 10 each	₹ 320,000	₹ 320,000
<b>Issued and Subscribed:</b>		
31,568,000 Equity Shares of ₹ 10 each	₹ 315,680	₹ 315,680
<b>Paid-up @ ₹ 5 each for 31,568,000 Equity Shares of the above shares</b>	₹ 157,840	₹ 157,000
(i) 31,301 shares are allotted as fully paid-up to Roxel Inc., USA to in consideration of supply of technical know-how.		
(ii) 23,360,000 shares are held by the Holding Company, S.S. Company New Jersey, U.S.A.		

From the study of share capital schedule in the balance sheet, a GST auditor may find out whether the company is a subsidiary company and who is the holding company of this company. *Moreover, the extent of shares held by the holding company or the ultimate holding companies can also be found out. This aspect becomes very important if the goods or services have been supplied or received from such a holding company, in that case the valuation aspect need to be examined in detail in view of the valuation provisions in the GST law.*

### CASE STUDY-7

6.15 Following details of reserve and surplus as found in the balance sheet of a company is given below:

(₹ In Lakhs)

<b><i>Reserves &amp; surplus:</i></b>	<b><i>31.3.2016</i></b>	<b><i>31.3.2015</i></b>
1. Capital Reserve (on sale of Fixed Assets) As per last Balance Sheet	125	125
2. General Reserve As per last Balance Sheet Add: Transfer from Profit & Loss Account	305 80	250 55
3. Debenture Redemption Reserve Transfer from Profit & Loss Account	-- 30	-- --
4. Surplus as per profit and loss account.	329	267

From the above details it will be noticed that during the year certain amount has been transferred from the Profit & Loss account to the General Reserve. Debenture Redemption Reserve has also been created during the year by transferring an amount of ₹ 30 lakhs from Profit & Loss Account because debentures valued at ₹ 30 lakhs have to be redeemed in the next year. Similarly, a capital reserve has been created out of the profit earned on sale of fixed assets and this reserve is to be utilized in future for purchase of a new plant by the company. *A Tax auditor may get an idea about the financial health of the company by reading the changes taken place under the head "Reserves and Surplus". If*

*the company is profit making, their balances under this head would be on the increasing trend. But if the company is making losses, reserves may show negative amount.*

## **Non-Current Liabilities**

**Non-Current Liabilities consists of the following items:**

- 1. Long Term Borrowings**
- 2. Bonds/Debentures**
- 3. Term Loans from Banks and Others**
- 4. Deferred Payment Liabilities**
- 5. Deposits**
- 6. Loans and Advances from Relative Parties**
- 7. Long term maturities of Finance lease obligations**

## **Classification of Assets and Liabilities into Current and Non-Current**

Concept of classified balance sheet was introduced, according to which all assets and liabilities are classified into current and non-current categories applying the definitions of Current / Non-current asset / liability and operating cycle provided in the Schedule itself.

In case the company has a practice of taking advances from the customer, whether service tax liability has accrued under the Point of Taxation Rules requires to be looked into. Other Current liabilities include Income received in advance, Statutory remittances, Payables on purchase of Fixed Assets, Advances from Customers, Security deposits received, etc.

The amounts due to Micro, Small and Medium Enterprises have to be disclosed whether Input Tax Credit has been reversed if not paid within the prescribed period may be verified by the GST auditor.

## ***Contingent Liabilities***

6.18 As per the provisions of Schedule III to the Companies Act, 2013, contingent liabilities are required to shown as a note to the Balance Sheet. Contingent Liabilities mean any liability which may accrue in the future subject to the happening of certain events. In other words, as on

the date of balance sheet these liabilities are not confirmed but there is probability of these liabilities being confirmed in the future. Following are some of the commonly known contingent liabilities:-

- (a) Claims against the company not acknowledged as debt such as demand raised by GST department where the department had issued a show cause notice which is pending decision. Similarly, a customer may have filed a compensation case against the company which is pending before the court.
- (b) Unexpired letter of credit/guarantees issued by the company.
- (c) Estimated amounts of contracts remaining to be executed on capital account. Under this category all the outstanding demands on the capital account are covered where the company has placed order for capital equipment which are still pending execution or supply.

A GST auditor should carefully go through the items mentioned under contingent liability and sometimes very interesting aspects may be found out. Details like pending cases of income tax or GST or customs should be inquired into. It is possible that sales tax department had booked an offence case which might have a direct bearing on GST liability also.

Details of contingent liabilities in the Balance Sheet of a company is given below:

<b>Contingent liabilities not provided for:</b>	<b>31<sup>st</sup> March, 2016</b>	<b>31<sup>st</sup> March, 2015</b>
(a) Estimated amounts of contracts remaining to be executed on capital account and not provided for (net of advances)	25,75,000	28,00,000
(b) Claims against the Company/disputed liabilities not acknowledged as debts	5,75,000	4,00,000
(c) Bills discounted and remaining outstanding.	70,00,000	60,00,000
(d) Sales Tax/Excise matters in dispute.	25,50,000	23,00,000
(e) Bank guarantees/corporate guarantees/ outstanding letter of credit for which the company has given counter guarantees.	50,00,000	50,00,000

### ***Fixed Assets***

6.19 Fixed assets are classified into Tangible and Intangible Assets. Tangible assets consist of Buildings, Plant & Machinery, Furniture & Fixtures, Office Equipments, etc. The Intangible Assets consists of Goodwill, Computer Software, Trademarks and Designs, Mining Rights, Licences and Franchise, etc. A separate schedule is required to be given as part of the Balance Sheet in which under each head the original cost, the additions made during the year, the deductions during the year, the total depreciation provided and closing balance value is required to be given. The details of additions made during the year and sale/disposals made during the year should be scrutinized carefully by the GST auditor for the heading 'Plant and Machinery'. Credit of duty paid on the purchase of capital goods is allowed under the GST law. For the plant and machinery sold/disposed off during the year, the GST auditor should find out whether the capital goods credit was availed on such machineries in the past and whether at the time of its disposal credit has been reversed or appropriate duty has been paid or not. For this purpose, details of all such plant and machinery sold during the year may be obtained by scrutinizing the plant and machinery account in the general ledger and relevant vouchers like sales invoice or journal voucher should be called for and studied.

### **CASE STUDY – 8**

6.20 Please study the following schedule of Fixed Assets for plant and machinery obtained from the Balance Sheet of a company. As per the information available, the unit has availed capital goods credit of ₹ 1.89 crs. during the year. What is your observation as a GST auditor?

(₹ in crores)

Particulars	GROSS BLOCK				DEPRECIATION				
	As at 1.4.17	Additi on during the year	Deduc tion	Total as at 31.3.18	As at 1.4.17	For the year	Adjust Ment	Total	As at 31.3.18
Plants & Machinery	210.50	13.54	12.10	211.94	110	12.94	5	117.94	94

**Key Learning :**

- (i) The rate of central GST on all the plant and machinery is 18% during the year 2017-2018. As per the Schedule, the company has made an addition of ₹ 13.54 crs. for plant and machinery during the year. Assuming that all the plant and machinery purchased by the company is eligible for capital goods credit, the maximum amount of capital goods credit available would be ₹ 1.62 crores. As against this the company has availed the credit of ₹ 1.89 crores. On further investigation, it was noticed that some of the machines on which assessee have taken the credits were in fact installed in factory of another company of the same group and the said company was undertaking only job-work, hence were not entitled to avail capital goods credit.
- (ii) Full details about disposal of machinery of ₹ 12.10 crores should be called for to examine whether capital goods credit was availed on any of such machines in the past and whether appropriate GST have been paid on such clearances.

**Claiming of depreciation under Section 32 of the Income Tax**

6.21 As per Section 16(3) of CGST Act, capital goods credit is allowed subject to the condition that depreciation under Sec.32 of the Income Tax Act is not availed on the GST element ( which has been taken credit) of the said capital goods. The aspect about verification of availment of depreciation is an important verification. But this verification cannot be made only from the study of balance sheet or even by the study of financial records of the company because the depreciation in the books of account is generally provided as per the provisions of the Companies Act and not as per the provisions of Income Tax law. Therefore, this aspect can be verified only on the scrutiny of income tax return filed by the company with the income tax department and on study of income tax audit report under Sec.44AB of the Income Tax Act (commonly known as form 3 CD report). In the income tax return following details are generally available.

Profit as per Profit and Loss A/c	-----	
Add: Depreciation as per Profit and Loss A/c	-----	
Less: Depreciation as per Income Tax Law	-----	
(As per schedule attached)		-----
Taxable Profit		-----

Reasons for different amount of depreciation as per books of account and as per income tax law is that rate of depreciation adopted by the company for working out profit and rate as per income-tax law generally vary. Since the rate of depreciation varies, the value of an asset after depreciation also varies. The GST auditor should therefore scrutinize the worksheet for calculation of depreciation for income tax purpose. Firstly, the value of asset shown in the said work sheet should be verified with the value as per books of account. If the company is taking the value for newly acquired assets same as the value shown in the Plant and Machinery Account in ledger, in that case, the said ledger account may be scrutinized to find out whether value of GST has been deducted from total value of machinery or not. Generally, companies book the total value of machinery in the ledger account and at the end of month, total amount of capital goods credit availed is deducted by passing a Journal entry. Following illustration explains the accounting method.

**Machinery A/c**  
**A/c.No. 310**

Date 2018	Particulars	Document Ref.	Debit Amount	Credit Amount	Balance
¼	O.B	-	5,00,000	-	5,00,000
20/4	To WIDIA Ltd.	PV.202	2,32,000	-	7,32,000
21/4	To Finolex Cables Ltd.	PV 1527	58,000	-	7,90,000
22/4	To M M Metal	PV 210	5,000	-	7,95,000
30/4	By Input Tax Credit A/c	JV – 30	-	40,000	7,55,000

In the above account it would be seen that machineries have been purchased from three firms and initially full value as per purchase invoice has been debited to Machinery Account. At the end of the month, total amount of credit availed as per GST record of ₹ 40,000 has been deducted and balance of 7,55,000 is available. If the company consider the said

amount for calculating depreciation for income tax purpose, it is correct. In the above-mentioned example, following accounting entry has been passed for purchase of machinery from WIDIA Ltd. (Basic value ₹ 2,00,000 and GST ₹ 32,000)

Machinery A/c	Dr.	2,32,000	
	To WIDIA Ltd.		2,32,000

Alternative method for passing accounting entry is as below:

Machinery A/c	Dr.	2,00,000	
Input Tax A/c	Dr.	32,000	
	To WIDIA Ltd.		2,32,000

In the second method, the Machinery A/c have been debited only by net value of ₹ 2,00,000 and if this value is considered for claiming depreciation for income tax purpose, it is correct. It is important to note that an amendment has also been made in the Income Tax Act, 1961 (which was given retrospective effect from 1.3.94) and as per the said section an income tax payer cannot claim depreciation for income tax purpose on the value of GST credit availed by them. In spite of said amendment some of the assesseees have been found to be availing both the benefit. It should also keep in mind that assessment in the income tax are done on selective basis covering less than 5% assesseees every year. Therefore, a GST auditor should examine this aspect in detail.

## **INVESTMENT**

6.22 Investment have to be disclosed as Current Investments and Non-Current Investments separately in the Balance Sheet. Under Schedule III the current and non-current investments are to be shown separately under relevant heads. Accordingly, Current Investments are shown under Current Assets and Non-current investments are shown under head non-current assets.

Current Investments shall be classified as Investments in Equity Instruments, Preference Shares, Government or Trust Securities, Debentures or Bonds, Mutual Funds, Partnership Firms and other Investments. As per disclosure requirements, details of investment such as class of shares, partly paid or fully paid up, market value of shares are

required to be given separately. Details of investment in subsidiary company and companies under the same management are also required to be shown separately.

Non-Current Investment shall be classified as Trade investments and other investments.

A GST auditor may come to know the names of companies/partnership firms in which investment have been made or names of subsidiary company and if the assessee has business transactions like receipt on account of service render with these units, he may like to examine these transactions in greater details.

The Investment shall also play a major role in identifying exempt incomes like interest, commission etc., which is important from the perspective of both determination of levy of GST as well as reversal requirement under Rule 42 and 43 of CGST Rules.

### **CASE STUDY – 9**

6.23 X Ltd. was engaged in the manufacture of computers. From a study of investment details in the balance sheet it was noticed that they have invested in 25 shares of Y Ltd. (a company under the same management and not registered in GST). Scrutiny of depot sale invoices showed that about 80% sales were made to Y Ltd. Study of Share Capital details of X Ltd. also showed that it was a subsidiary company of Z Ltd. Being a subsidiary company, balance sheet of X Ltd. was available in annual report of Z Ltd. On further study of investment details of Z Ltd., it was noticed that they have also invested in 75 shares of Y Ltd and it was their subsidiary company. In fact, total share capital of Y Ltd was only 100 shares, out of which 25 shares were held by X Ltd and 75 shares hold by Z Ltd. Detailed investigation revealed that Y Ltd. was a fictitious company created only to market the goods of X ltd., and to pay less GST by way of under-valuation. Investigation further revealed that all the dealers of Y Ltd were dealers of X Ltd. prior to the formation of Y Ltd., and there were also no office premises of Y Ltd.

**CURRENT ASSETS**

6.24 Under this heading, assets like Current Investments, Inventories, Trade Receivables, Cash and Cash Equivalents, Short-term Loans and advances and other Current assets are shown.

Schedule III of the Companies Act also requires a separate disclosure for debts or loans and advances due from following categories of person:

- (i) dues from directors or other officers of the company either severally or jointly with any other person
- (ii) dues from firm or private companies in which any director is a partner or director

In all the above cases, even though at the end of the year no balance may be due but still disclosure about maximum amount due during the year is required to be made in the balance sheet.

The above information may be very useful to a GST auditor to find out dealing with related companies and if necessary, these transactions may be examined in detail.

One of the illustration of details of sundry debtors shown in the balance sheet of a company is given below:-

**S.S. Pharmaceuticals Ltd.**

	<b>For the year ended 31<sup>st</sup> March, 2018</b>	<b>For the year ended 31<sup>st</sup> March, 2017</b>
SCHEDULE '9'		
Trade Receivables *		
(Unsecured, considered good)		
Debts outstanding for a period exceeding six months from the date they are due for payment	89,61,420	76,78,202
Other Trade Receivables	Nil	Nil
(Unsecured, considered good)		

* Includes due from Companies under the same management/Managing Director (a) ₹ NIL (Previous year ₹ 5 Lakhs) from SS Pharmacaps Pvt. Ltd. (b) ₹ 124567 (Previous year ₹ 21308) from SM Medicare Ltd. (c) ₹ 901900 (Previous year ₹ NIL) from SS Pharmcaps Inc., (d) ₹ 250000 (Previous year ₹ NIL) from Managing Director of the Company		
	89,61,420	76,78,202

From the above details it would be seen that the company have sold goods to related companies under the same management. The transactions with these units may be examined in detail from related persons angle.

## INVENTORIES

6.25 This heading shows closing stock of all types of goods viz., raw materials, component, stores, spares, finished goods, work-in-progress and trading goods.

A GST auditor should compare the stock of last 2-3 years and if variation is large, he should examine the case in greater detail. It is possible that in order to avail Input tax credit, a unit may have shown purchase of raw material but goods would not have been received.

One more aspect which needs proper verification is "stock in transit". It covers items which have been sent by the supplier but have not been received in the factory and for which either payment has been made or liability for payment has been created. As the purchase documents have been received by the unit there are chances of assessee availing credit prior to receipt of goods. This aspect should be verified by calling details of goods in transit and verify the credit availment.

## CASE STUDY – 10

6.26 Following information are available under the head "Inventories" in the balance sheet of a company manufacturing aluminum wires.

[₹ In Lakhs]

	<b>31<sup>st</sup> March 2018</b>	<b>31<sup>st</sup> March 2017</b>
Aluminum Wire-Rod	170	40
Finished Goods	60	52

Since raw-material stock had increased substantially in the current year the quantitative information about purchase, consumption and stock as found in the balance sheet was referred and following details were noticed by the GST auditor.

**Details of Raw Material (in MT)**

	<b>Op. Stock</b>	<b>Purchase</b>	<b>Consumption</b>	<b>Closing Stock</b>
Aluminum Wire-Rod	44	635	430	199
	(38)	(530)	(524)	(44)

[Figures in bracket are for previous years]

Sales: Aluminum Wires - 490 MT

What are your findings on the basis of above-mentioned details?

**Key Learning :**

Monthly consumption of Aluminum Wire Rod is about 40 MT, whereas closing stock is 199 MT which is inventory for 5 months. The said quantity appears to be unusual. Therefore, purchase made in last few months need to be verified with stores and other records. If necessary, physical stock taking at the time of audit can also be undertaken. Investigation in this case resulted in establishing that inputs were not received by the unit and only purchase invoices were received on which credit was availed.

**STUDY OF PROFIT AND LOSS ACCOUNT/ INCOME STATEMENT**

6.28 It is a company's Income statement that indicates how the revenue (money received from the sale of products and services) is transformed into Net Profit (the result after all revenues and expenses have been accounted for). It displays the revenues recognized for a specific period, and the cost and expenses charged against these revenues, including write-offs and taxes. The purpose of the income statement is to show managers and investors whether the company made or lost money during

the period being reported. Income statement is prepared as required under the Companies Act 2013 or for any other statutory purpose.

6.29 The auditor may review this account to see whether there is any miscellaneous income in the credit side as recognized by the assessee on which tax liability may be attracted. The auditor may also review the expenditure pattern of the assessee to ascertain whether the Input Tax Credit availed is in proportionate to the expense reflected in debit side of account. The auditor may also review as to whether service tax has been paid under reverse charge mechanism in respect of the specified services e.g., if the income statement shows cab charges being paid to a non-corporate assessee, legal charges etc. auditor may check that service tax has been paid by the assessee on such charges or not.

Profit and Loss account of a company is given below.

***Profit and Loss Account for the Year ended 31<sup>st</sup> March, 2016***

Particulars	Note No.	Year ended 31.03.2018	Year ended 31.03.2017
<b>Income</b>			
Revenue from Operations	12	5375.55	5243.36
Other Income	13	47.75	47.52
		<b>5423.30</b>	<b>5290.88</b>
<b>Expenditure</b>			
Purchase of finished goods		894.82	1045.81
Materials consumed	14	2017.87	1993.73
Changes in Inventories of finished goods and work-in-process		(95.01)	70.84
Excise Duty	15	302.50	168.71
Manufacturing Expenses	16	160.38	171.40
Employee Benefits Expense	17	111.61	102.28
Finance Costs	18	165.34	
Depreciation and amortization expense		1545.30	54.69

## 176 Background Material on Training Program for Government Officials

Other Expenses			1390.24
Depreciation			54.69
		<b>5102.81</b>	<b>4997.70</b>
Profit for the year		320.49	293.18
Less: Tax expense		128.13	100.08
i) Current Tax	xxx		xxx
ii) Deferred Tax	xxx		xxx
Profit for the year		<b>192,36</b>	<b>193.10</b>
<b>Earnings per Equity Share</b>			
Basic			
Diluted			
Notes to accounts and Significant Accounting Policies forming integral part of accounts	20		

6.30 Following are some of the important points which should be kept in mind while studying a Statement of Profit and Loss Account.

- (i) There are different Notes for most of the headings, therefore Profit and Loss Account needs to be studied by referring to these schedules.
- (ii) Details of Profit and Loss Account should be studied along with other notes to the accounts forming part of the final accounts
- (iii) A comparative study of figures with previous year should be made to find out unusual variation.

### CASE STUDY – 11

6.31 Please study details available in the Profit and Loss account of a company manufacturing Chewing gum, medicated tablets and breath freshners.

What is your first reaction, without referring to details in schedules?

**Statement of Profit and Loss Account for the Year ended 31<sup>st</sup> March, 2018**

	Schedule	2017-18 Rupees ₹ in Lakhs	2016-17 Rupees ₹ in Lakhs
<b>Income</b>			
Revenue from Operations	11	5,891	6,116
Miscellaneous Income	12	<u>102</u>	<u>56</u>
		<b><u>5,993</u></b>	<b><u>6,172</u></b>
<b>Expenditure</b>			
Cost of Materials Consumed	13	1,697	2,154
Expenses	14	5,295	5,835
Interest	15	511	514
Depreciation		<u>214</u>	<u>139</u>
		<b><u>7,717</u></b>	<b><u>8,642</u></b>
Loss Before Tax		(1,723)	(2,470)

**Key Learning:**

Revenue from operations during 2017-18 has decreased marginally whereas cost of material has decreased by 25%. A GST Auditor may like to study purchases of raw material and Input Tax availment in detail. There may be unusual loss of materials by way of spoilage, loss during trial production or input becoming obsolete. This case study would be further discussed in the next chapter dealing with "Quantitative details under Schedule VI."

Some of the important headings of Profit and Loss Account are discussed below:

**SALE OF PRODUCTS**

6.32 It includes all types of sales such as sale of manufactured goods, trading goods parts & accessories, scrap and export. Some companies may even include job work income or income from activities related to sales of

goods like erection and commissioning charges also as part of sales in the Profit and Loss Account. As per the Accounting Standards issued by the Institute of Chartered Accountants of India, the said accounting practice is not recommended, and statutory auditors are required to confirm this fact in the statement on accounting policies annexed to the Profit and Loss account. Study of Note on Income from Operations in the Profit and Loss account provide an overall view of the main activities of the unit and help a GST auditor to find out whether company is also engaged in trading activities, job work activities, sale of parts etc. The said information is very useful to study the dossier of a unit before the start of an audit and to prepare an audit plan.

### **OTHER INCOMES**

6.36 This is one of the most important area which a GST auditor is required to analyse very carefully. It may include income under following heads:

- (i) Sale of Scrap
- (ii) Insurance claims
- (iii) Profit on sale of fixed assets
- (iv) Interest/Dividend
- (v) Commission received
- (vi) Royalty
- (vii) Tech- know how or tech consultancy charges
- (viii) Erection and Commissioning charges
- (ix) Training Income
- (x) Miscellaneous Income
- (xi) Freight/Insurance recovered

Sometimes a detailed breakup of various items of other income may not be available in the schedule of other income in the Statement of Profit and Loss. In that case ledger account grouping should be obtained from the assessee. Study of trial balance also shows different heads of other income. Exact nature of each income account should be ascertained from

the company. This should be verified with the study of the ledger account. These ledger accounts should be scrutinized with reference to documents like invoices or debit notes or journal vouchers used for passing entries in the ledger accounts. It may happen that exact nature of these income may be different than what has been declared. With the introduction of Negative list under service tax, it is possible that these incomes may attract levy of service tax also.

6.37 Some of the above-mentioned items of other income are discussed below:

**(a) Sale of scrap:** A GST auditor should ascertain the series of sales invoice used for sale of scrap. Other documents like debit notes or journal voucher may also be used for recording sale of scrap. This fact can be found out from the study of the ledger account. A GST auditor should examine these documents to confirm payment of GST at appropriate rate, moreso, where many assessee fail to appreciate that rate of tax on goods and scrap is different. If a common series of sales invoice is maintained, in that case, scrap sale account in the ledger should be scrutinized along with vouchers to confirm whether GST has been paid or not. Apart from above, it may be to check that whether any GTA services has been utilized for sale of scrap and service tax has been paid on the same, if any.

**(b) Insurance claim:-** Insurance claim may be lodged for damage or destruction of raw material, work in process, finished goods or capital goods. A GST auditor should examine exact details of such claims. Following type of insurance claim cases should be examined in detail.

- (i) damage of raw material before receipt in the factory
- (ii) damage of raw material in the factory
- (iii) damage of work in progress or finished goods in the factory
- (iv) damage of capital goods in the factory

It is important to note that the auditor should not only examine the cases where insurance claims have been received by the assessee but he should examine all cases where claims have been lodged even though the claims have not been finally sanctioned by the insurance company. Insurance claim applications should be studied to find out details of quantity claimed to have been damaged, value and GST claimed in the insurance claim.

One more area which a GST auditor should examine is whether GST has also been claimed in case of loss of finished goods lying in the factory as GST claimed and received from insurance company becomes payable under the section 76 of the CGST Act.

**(c) Profit/loss on sale of fixed assets:** This income shows profit or loss earned on sale of a fixed asset. The ledger account should be scrutinized by a GST auditor to find out the details of fixed assets sold during the year. If sale of machineries or other capital goods have been made, the voucher should be studied to find out complete details such as year of purchase, depreciation availed and profit or loss on sale. If machinery have been purchased after 1994, whether capital goods credit was availed should be ascertained and at the time of sale, whether appropriate tax have been paid or not, should be verified as per the provisions of CGST Rules.

**(d) Development/Design Charges:** Some time a manufacturer is required to use a particular mould or die for manufacture of an item for the customer. The said mould or dies can be made by him or can be purchased from other person. The cost of such die or mould made may be charged separately from the customer and it is shown as income of the company. The said income has direct relation to the goods manufactured by the assessee. Therefore, a GST auditor should examine the exact nature of such charges and decide as to whether the full value needs to be added in the transaction value or only amortized value of dies or mould should be added to the transaction value of the final product manufactured them.

**(e) Technical knowhow fee or Engineering service charges or Training charges:** Such incomes are earned for providing technical services like design engineering, feasibility study, technical know-how for manufacture of a product. Training for operation of machines supplied by the assessee may also be given on charging training income. Exact nature of such recoveries should be inquired into by verifying agreement copies and other correspondences. If such incomes have any relation to the goods manufactured and sold by the company, these may be required to be added to the transaction value in terms of definition of transaction value under new valuation provision. Alternatively, payment of service tax may also be examined.

**(f) Interest/Commission received:** Generally, interest income arises from investment made by the company. Commission may be on account of sale of certain products of other company. But if interest or commission is received from customers of the company, such transaction of interest/commission should be examined in detail to find out whether additional consideration is being received in the guise of interest or commission from same customer.

**(g) Commission Income:** In the case of a unit manufacturing steel products such as S.S. Flats, the Profit and Loss account showed receipt of Commission/Service charges to the extent of about ₹ 30 crores in 5 years. On scrutiny of ledger account it was found that company had received commissions from well-known companies like TELCO, DEAWO MOTORS, TRIVENI ENT etc., for providing services of obtaining export orders for and for arranging certain machineries etc., Since the business of company was totally different than the areas where commission was charged, further investigation were made with companies who were supposed to be have paid commission and it revealed that, these companies did not pay any commission charges. In fact, said amount pertained to sale proceed of S.S. Flats removed without payment of duty. The amounts were recovered from assessee by demand drafts and credited to the income account showing receipts from fictitious companies. The value of the said commission also tallied with the value of finished goods manufactured out of excess consumption of raw materials or differently, service tax has been paid on the commission charged.

**(h) Recovery of Advertisement Charges, Crate Hiring Charges and Delivery Charges.**

An assessee was engaged in the manufacture of aerated water. Ongoing through the schedule for 'Other Incomes' forming part of Profit and Loss account it was noticed that they have shown following three items under the heading 'other income'.

- (i) Advertisement and management service charges
- (ii) Crate Hiring Charges
- (iii) Net delivery charges on re-sale of goods

Ongoing through the ledger accounts of these incomes and supporting vouchers it was noticed that the company was recovering additional

charges from their customer for sale of aerated water in the guise of above referred three charges. Advertisement and management service charges were recovered at a fixed rate for each crate of aerated water. Further they were recovering crate hiring charges for an amount much more than the actual cost of the crates (about 15 times of the actual cost of crates). Delivery charges were supposed to be recovered for actual expenses on transportation of goods, from depots to dealers. Ongoing through the details, it was noticed that such charges accounted to about 45% of the sale value of the goods. Hence, these charges were also recovered in much excess of actual charges. The study of groupings also showed that the amount shown in Profit and Loss account was after deducting actual expenses on transportation and therefore the word “net” was used. In fact, the manufacturer had created another company who was collecting these charges on behalf of them and paying to them.

#### **CASE STUDY – 14**

6.38 A is manufacturing laminated sheet (LAMIWEB) made of aluminum foil and P.P Sheet. The said Lamiweb is supplied only to ‘B’ who is using it for manufacture of collapsible tubes for packing of tooth paste. The study of revenue pattern showed that A was paying all most full duty through input credit (about 98%) for the last 2 years. The study of the Profit and Loss account showed a substantial amount of ‘Other Income’ and it included a heading ‘Facility Charges’. On inquiry company informed that this amount represented recoveries made by them from B on account number of common facilities provided by them to B like security, canteen, supervisory staff, transport facility etc., which were incurred by them and part of the expenditures were recovered from 'B'. As an GST auditor what further inquiries, you may like to make.

#### **Key learning :**

- (i) Raw material to Sales value ratio - A quick method is to find out ratio of cost of material consumed to the value of goods sold. In the present case, based on the figures of Profit and Loss account the ratio was about 63%. In other words, out of total value of goods sold, 63% was accounted for by way of raw material cost and balance 37% was value addition on account of labour cost, manufacturing overhead and all other costs. Therefore, assuming

raw material and finished goods rate of duty as same, in normal circumstances, the company should have paid at least 37% of duty in cash.

- (ii) Cost of product and its comparison to sales value - In the present case cost was about ₹ 120 per Kg., whereas they were selling at ₹ 104 per Kg. Further, inquiries revealed that 2 years ago sale price was ₹ 130 per Kg., which was reduced to ₹ 104 per Kg.
- (iii) Trend of facility charges - It was noticed that amount of facility charges recovered from 'B' was very less two years ago and only in last 2 years the amount of facility charges had increased substantially.
- (iv) Scrutiny of all Journal vouchers passed for recovery of facility charges revealed that every month one voucher was passed for recovery of facility charges for sale of Lamiweb to B and voucher clearly showed rate per Kg., for goods sold to "B" during the month. In fact one more voucher was passed every month for recovery of common expenses and when auditor asked to show the voucher, they deliberately showed few of these voucher showing recovery of such common expenses from B.
- (v) Comparison between actual expenditure incurred on such common series and amount recovered from B showed that actual amount incurred was much less than amount collected from B

Similar procedure can also be follow, in the case of service provider.

## **EXPENDITURES**

6.39 Initially, a GST auditor may glance through the particulars of Profit and Loss account to find out which are the major expenditures of the company and what is their share in total expenses. In case of any unusual expenditure the auditor may like to examine the case in detail. For example, in pharmaceutical industries or other consumer goods industries, the marketing and sales promotion expenditure contributes towards a major portion of the expenditure. Hence, if the expenditure on such item is very less, the case needs further investigation. In case of one company manufacturing cosmetics, study of the Profit and Loss account revealed that the company was incurring a very small amount on

marketing expenditure. The scrutiny of ledger account for expenses revealed that the company was recovering marketing expenses from their customers and only net expenses were shown in the Profit and Loss Account. They were not paying GST on such recoveries.

Another analysis which should be done by a GST auditor on reading of details of Profit and Loss Account is comparison with figures of the previous year. If increase or reduction in expenditure is not commensurate with variation in supply of goods or services, further inquiries should be made.

### ***Expenditure accounts having credit entries***

6.40 Even though study of details of expenditures in profit and loss account may not show the accounts having credit entries but some of the expenditure accounts where recoveries are possible from customers like packing expenses, freight expenses, advertisement expenses, after sales service expenses etc., should be scrutinized in the ledger. In case of services for example recoveries from employee etc. become chargeable to service tax so accounts having credit entries become important including in the case of payment of service tax under reverse charge.

### ***Cost of Material Consumed***

6.41 This heading covers consumption of raw materials, components, packing material etc. used for the manufacture of finished goods. As per the disclosure requirement of Schedule III of the Companies Act, details of main raw materials consumed are required to be given as part of the Profit and Loss Account. All materials which in value individually account for 10% or more of the total value of the raw material consumed should be shown as separate and distinct items. Companies having a good accounting system accounts for consumption based on issues made by the stores department to the production department for manufacture of goods. But in a number of small units generally the value of the raw materials consumed is calculated by: Opening Balance + Purchases – Closing Stock. As per the Accounting Standards issued by the Institute of Chartered Accountants of India raw material used for manufacture of finished goods should only be considered under this heading. Therefore, if

the raw material has been used for other purposes or the material has been lost for activities not related to manufacture in those cases companies are required to show such value thereof separately. It is the duty of statutory auditors to verify this aspect. In practice the statutory auditors examine this point and wherever they find that raw material has not been used for the purpose of manufacture they ask the company to make a separate disclosure for the same. In case of their failure to make the disclosure, this point can also be given as a qualification in the auditor's report. The following are examples of situations where raw materials have not been used for the purpose of manufacture of the finished goods:

- (a) Raw material used for construction activities like steel used for construction or cement used for construction.
- (b) Raw material used for repairing activities.
- (c) Raw material sold as such or given on loan.
- (d) Obsolete items or damaged goods.
- (e) Material destroyed by fire or lost by theft.
- (f) Shortage found at the time of physical verification.

6.42 Information under the head 'cost of material consumed' is very useful and it can be used for verifying Input Tax Credit availed on the inputs by a unit. Assuming that most of the raw materials and packing materials consumed by a unit are eligible for availing Input Tax Credit and if the rate of duty on the inputs and outputs is same, in that case, a quick ratio of cost of goods consumed with the sales value (adjusted for GST) can be worked out to find out whether Input Tax Credit availment appears to be reasonable or not. The above aspect can be explained from following illustration.

### **CASE STUDY – 15**

6.43 The following information were obtained from the Profit & Loss Account of a company.

	(₹ in lakhs)
1. Raw material cost	₹ 50
2. Labour	₹ 20
3. Manufacturing & Administrative overheads	₹ 30
4. Marketing and other Overheads	₹ 20
5. Profit	₹ 30
TOTAL	
6. (Selling price excluding GST).	₹ 150

Out of the total selling price of ₹ 150, raw material cost is ₹ 50 i.e. 33% of the price of the product. Assuming that most of the raw material attracts duty of 12% and final product also attracts same rate of duty, the ratio of PLA and Input Tax Credit should be about 2:1 (Input Tax Credit of ₹ 6 is available on raw material and total duty on final product is ₹ 18). Hence, duty payment should be ₹ 12 through PLA and ₹ 6 through Input Tax Credit. If the Cash & Input Tax credit ratio is varying, it needs further investigation. In this connection, it is important to note that quantity and value of closing stock as compared to the quantity and value of opening stock also needs to be considered while working out this ratio because if there is substantial increase in the quantity of closing stock, this may result in to extra availment of Input Tax Credit. Other factors like export may also distort the said ratio. It is important to note that if exports are made on payment of GST (claiming rebate of duty paid on exported goods), in that case export will not affect Cash– Credit tax payment ratio. Similar ratio may be calculated in the case of supply of services and Input Tax Credit availed against those services. It is suggested that this exercise should always be carried out as a first step during audit.

### ***Expenditure Attracting GST***

6.44 There are a number of services like technical and engineering service, advertisement service, manpower recruitment service, clearing and forwarding services etc. on which service providers are liable to pay GST. The payment vouchers along with bills of the service provider should be examined to verify whether service tax has been paid by them or not. If service tax has not been paid, in that case exact nature of services provided by them should be examined to ascertain whether

service tax is payable or not. Especially in the case of new manufacturing unit or the companies which have expanded their manufacturing activity, this aspect needs to be looked into. In the case of a new unit, generally, a number of services are provided by consulting engineers in the field of setting up of plant or development of product or by architects etc. and in that case the payment of service tax needs to be examined critically because the amount involved may be quite large. Sometimes even these expenses may be capitalized as part of plant and machinery and may not figure as a revenue expenditure. In that case an inquiry may be made about all the expenditures capitalized or shown as deferred revenue expenditure.

***Illustration:***

During the audit of a A Ltd., it was noticed from the study of the Trial Balance that they have incurred an expenditure of more than ₹ 30 crores towards technical and engineering services. On inquiry it was noticed that the said expenditure was on account of consultancy provided by a foreign company for setting up of the steel plant and no service tax was paid on the said amount.

**CASE STUDY – 16**

6.45 Evaluate under which categories is the company liable to pay service tax under reverse charge mechanism on the basis of the given financial statements for the financial year 2015-16.

	<b>Annexure</b>	<b>31-Mar-16</b>	<b>31-Mar-15</b>
<b>Annexure: Other Expenses</b>			
1 Power & Fuel			
Electricity Charges		22,969,205	13,780,348
Petrol Expenses		588,910	111,760
2 Rent			
Rent & Other amenities Charges		90,165,477	56,701,304
3 Repairs & Maintenance			
Plant & Machinery		5,289,395	2,189,586

**188 Background Material on Training Program for Government Officials**

Furniture & Fixtures	3,306,344	2,088,455
Others	2,291,257	1,777,133
(a) Civil Work of office (material + labour charges)	2,000,000	
(b) AMC charges for Air Conditioner (comprehensive contract)	200,900	
(c) AMC charges for Computer (non- comprehensive contract)	90,357	
4 Insurance		
Insurance Charges	482,117	360,134
5 Rates & Taxes		
License & Legal Fees	556,639	253,647
NMMC Cess and LBT Expenses	250,770	220,468
Octroi Charges	905,338	689,384
Profession Tax-Company	2,500	2,500
Profession Tax Expense	200	0
Property Tax	143,355	0
GST Expenses	644,047	177,054
Stamp Duty Charges	403,240	781,845
TDS Expenses	36,275	10,100
VAT Expenses	64,782	1,947
6 Other Expenses		
Advertisement Expenses	4,871,825	8,683,240

Affiliation Charges	103,461	0
Auditors' Remuneration	623,500	352,500
Cable charges	220,960	147,434
Call Centre charges	847,384	0
Car Leasing Charges	589,458	513,825
Valet Parking Charges	3,426,037	809,038
Cleaning Charges	303,360	300,910
Commission & Brokerage	12,368,000	8,517,672
Conveyance	2,732,907	1,452,104
Courier Charges	875,128	212,811
Delivery & Transport Charges	318,841	350,124
Transport charges - Kangaroo Transport Ltd	150,000	
Pawan Transport	161,841	
Donation	41,197	9,101
Festival Expenses	482,473	812,570
Fines and Penalties	409,400	0
Foreign Travelling Charges	370,785	391,910
General & Miscellaneous Expenses	2,573,529	2,503,864
Guest House Expenses	202,312	0
Hospitality & Promotional Expenses	2,557,665	1,279,873
House Keeping Charges (Housekeepers supplied by M/s Globe Services, a proprietary concern)	18,673,180	1,137,676
Interest on NMMC CESS &	19,236	0

**190 Background Material on Training Program for Government Officials**

LBT		
Interest on GST	2,969	20,733
Interest on TDS	41,594	18,546
Interest on VAT	15,174	10,725
Laundry Expenses	2,658,774	1,976,179
Legal Expenses	32,927	0
Lodging & Boarding Expenses	696,815	0
Membership & Subscription	40,075	54,000
Newspapers & Periodicals	152,971	129,801
-	861,474	0
Pest Control Expenses	327,509	49,052
Printing & Stationery	1,455,645	1,075,378
Professional Fees	15,428,261	13,619,904
(a) ₹ 50000/- paid to Advocate Mr. Goyal		
(b) ₹ 30000/- paid to Mr. Rahul Khanna towards ESIC, PF consulting		
(c) ₹ 10000/- paid for obtaining shop establishment license		
ROC Filing Fees	10,310	4,500
Sales Promotion Expenses	8,261,998	7,202,558
Security Charges	4,738,869	3,552,488
(Paid to Dragon Security Ltd)	1,400,000	
(Paid to Ram Avatar Securities)	265,348	

Software License Fees	1,665,348	225,000
Sponsorship Fees (Includes sponsorship of ₹ 2 Lacs given to ABC Ltd)	307,000	0
Staff Recruitment Charges (Paid to Central Enterprises)	1,710,702	292,381
Staff Training Expenses (Training programme conducted in UK)	394,685	0
Sundry drs/crs write off	18,910	(69,250)
Sundry Expenses	71,306	20,465
Telephone & Internet Charges	4,632,513	2,274,392
Travelling Charges	2,953,039	1,713,309
Uniform Expenses	859,033	1,200,861
Water Charges	1,996,966	763,425
	<b>230,045,355</b>	<b>140,754,765</b>

**TIPS**

1. Repairs & Maintenance
2. Professional Fees
3. Security Charges
4. Staff Recruitment Charges
5. Staff Training Expenses
6. Transport Charges
7. Sponsorship Expenses

## **STUDY OF NOTES TO THE ACCOUNTS**

6.46 Notes to financial statements (accounts) are additional information added to the end of financial statements. It helps in explaining specific items in the financial statements as well as provides a more comprehensive assessment of a company's financial condition. It may include information on debt, going concern criteria, accounts, contingent liabilities or contextual information explaining the financial numbers (e.g., indicate a lawsuit).

These notes are part of Balance Sheet and Profit and Loss account of a company. The auditor may go through notes to accounts to see whether any notes have any bearing on the GST liability. The information contained in the notes to accounts is important to the auditor since the same contains the relevant information which cannot be provided in the financial statements but which are required for the proper explanation of the financial statement

6.47 Some of the notes as found from the final account of companies are given below.

- (a) *“Plant and Machinery includes machinery acquired under lease/hire purchase scheme costing ₹ 1.58 crores (1.28 crores last year)”*.

**Comments:** In this case Tax Auditor may like to verify whether the unit has availed Input Tax Credit as capital goods on such machinery has been taken on lease/hire purchase and whether all the condition like non availment of depreciation by lessor and lessee have been complied with.

- (b) *“Inventories includes ₹ 7.8 crores for products under development in house (Previous year ₹ 10.25 crores)”*

**Comments:** A tax Auditor may like to verify what is the manner of disposal of these products which are developed in house for R & D purposes, and whether any credit has been availed on various material gone into manufacture of these items. If the said product were cleared without payment of duty or destroyed, in that case, Input Tax Credit availment should be examined.

- (c) *“The value of raw-material, spare parts and components consumed includes write off on account of obsolete and scrap valued at ₹ 27,167,000 (Previous year 24,201,100).”*

**Comments:** Tax Auditor may like to examine the points about the reversal of credit on the item declared as obsolete and also ensure that if any services e.g. GTA has been utilized for sale of such material, appropriate service tax has been paid..

- (d) *“Company has preferred an appeal to Sales Tax authorities involving an amount of ₹ 106 lakhs towards sales Tax dues, hence not provided in the books and shall be adjusted in the year in which the same is decided.”*

**Comments:** Auditor may like to examine nature of cases pending before Sales Tax authority and find out whether it has got any implication on payment of GST also.

- (e) *“Materials worth ₹ 120 lakhs has been considered at nil value owing to its non-suitability for production and discontinuing of certain production range. The concurrent auditors appointed by the lead institutions have opined that these amounts should be written off and accordingly management has agreed to write off such goods.”*

**Comments:** Tax auditor may like to verify whether these materials have been cleared and whether appropriate duty has been paid or not. Other points raised in the report of concurrent auditor should also be examined.

- (f) *“On 10.6.2000 a fire broke out at Mumbai premises where books of accounts were kept for finalisation of yearly accounts including those of branches and Delhi office which were destroyed beyond retrieval and the current period accounts have been presented based on available information and compilation of various data from time to time.”*

**Comments:** Since the original records are not available in the unit, the Tax Auditor should be very careful while verifying

various records and if necessary for important transaction cross verification from third parties should be carried out.

- (g) *“Purchases includes provision on account of replacement of spares and accessories of ₹ 30 lakhs.”*

**Comments:** By reading this note, Tax Auditor may come to know that company has the policy of supplying free replacement and therefore whether appropriate duty has been paid on such free replacement should be inquired into.

- (h) *“Adjustment in respect of discrepancies regarding materials with sub-contractors/on loan have not been made pending confirmation /reconciliation and the impact , if any, on the profits is not ascertainable.”*

**Comments:** Tax auditor finds that company has been sending material to job worker and there are number of cases where reconciliation with job worker have not been made. This may have direct impact on the input credit. Similarly, verification needs to be made for payment of appropriate duty wherever materials have been sent on credit.

- (i) *“Pending reconciliation, stock verification discrepancies for the year, shortages of ₹ 230 lakhs (₹ 189 lakhs) and surplus of ₹ 82 lakhs (₹ 103 lakhs) have not been adjusted in the account.”*

**Comments:** List of stock verification needs to be obtained to find out final shortages and Input Tax Credit reversal may be necessary.

- (j) *“Company have not provided for ₹ 210 lakhs on account of a demand raised by excise authorities as the matter is pending with appellate authorities. Necessary adjustment shall be made at the time of decision of appeal.”*

**Comments:** This liability was for another factory on classification matter, which was not disputed for factory under audit where audit is undertaken.

All the above referred points could be useful to a Tax Auditor and on reading such notes, he may like to inquire further about these matters.

***Quantitative Information as per the disclosure requirement provided in Part II of Schedule VI of the Companies Act:***

6.48 In the case of a manufacturing company, the following quantitative information are required to be given as notes in the final account of a Company.

- (a) Opening stock and closing stock of the raw-materials and finished goods.
- (b) Consumption of raw material.
- (c) Licensed and installed capacity of production.
- (d) Actual production of finished goods.
- (e) Turnover details of finished goods.
- (f) Purchase and sale of trading goods (if engaged in trading activities also)

Quantitative information are very important source of information and in some cases a broad input-output ratio can also be worked out. Details of major raw materials can be known before start of the audit. Similarly, details of main final products manufactured by a company can also be found out by a GST auditor. Consumption pattern over a period of time and per unit value of major material can also be worked out for analysis purposes.

Under the Companies Act 2013 quantitative details are not required to be given, but details of raw materials consumed with value have to be furnished

**CASE STUDY – 17**

6.49 Quantitative information in respect of a company manufacturing hydraulic pumps and other equipment as find from the Profit and Loss Account is given below.

**Quantitative Information as on 31.3.2015**

		2014-15		2013-14	
<b>I</b>	<b>Hydraulics division:</b>	Nos.	Nos.		
	(i) Licensed Capacity	N.A.	N.A.		
	(ii) Installed Capacity	240	180		
	(iii) Actual Production				
	(a) Pumps Production	211.00	164.000		
	(b) Pumps recovery by rectification	125	309		
	(c) Other Hydraulic Equipment	3,678	2,041		
	Information in respect of Finished Goods:				
<b>II</b>	<b>Hydraulic gear pumps:</b>	<b>Qty. Nos.</b>	<b>Value ₹</b>	<b>Qty. Nos.</b>	<b>Value ₹</b>
	Manufacturing:				
	(a) Opening Stock	8,357	12,939,600	12,602	11,224,682
	(b) Sales Pumps	197,033	339,597,310	166,724	285,814,242
	(c) Scrapped & written off	604	-	1,529	-

	(d) Captive Consumption		488	-	346	-
	(e) Closing Stock		21,687	35,995,634	8,357	12,939,600
	<b>2. Other hydraulic equipments</b>					
	A. Manufacturing					
	(a) Opening Stock		230	971,943	121	665,166
	(b) Recovery by rectification		34	-	-	-
	(c) Sales		3,704	41,479,666	1,782	11,367,304
	(d) Scrapped & Written of		2	-	150	-
	(e) Captive consumption		-	-	-	-
	(f) Closing Stock		236	1,000,446	230	971,943
	B. Trading:					
	(a) Opening Stock					
	(b) Purchases					
	(c) Sales					
	(d) Scrapped & written of					
	(e) Closing Stock					

			2014-15		2013-14	
III	Hydraulics division:	Unit	Qty. Nos.	Value ₹	Qty. Nos.	Value ₹
	Consumption of Raw					
	Materials and Components:					
	(a) Aluminum Extrusion	Kgs.	191,187	21,142,860	169,007	17,585,161
	(b) Castings	Nos.	1,364,506	32,328,884	1,098,942	23,691,089
	(c) Forgings	Nos.	482,172	14,217,488	388,658	10,576,630
	(d) Components	Nos.	8,142,068	70,163,740	5,760,186	43,117,382
				<b>137,852,972</b>		<b>94,970,262</b>

On study of above referred quantitative information following points are noticed by a GST auditor.

- (i) Company is also engaged in the activity of repairs and rectification as found from details of production [b] - Pumps recovery by rectification). Whether repair activity also involve use of credit availed input and whether rectification amount of manufacture of a new product, should be inquired by a GST auditor.
- (ii) Company has scrapped and written off pumps and other equipment also. Payment of duty or reversal of credit need to be examined.
- (iii) Company is captively consuming some of the produced goods also.
- (iv) Since detailed records are maintained for consumption of major raw material like extrusions, casting and forgings, it necessary input out ratio can be worked out for main items of production.

Under the companies act 2013 quantitative details are not required to be given but values have to be given.

### **Disclosure for foreign exchange transactions**

6.50 As per requirement of schedule III to the companies Act, the Profit and Loss Account shall also contain by way of a note the following information, namely,

- 4D. The profit and loss account shall also contain by way of a note the following information namely,
- (a) value of imports calculated on C.I.F. basis by the company during the financial year in respect of:
    - (i) raw materials; (ii) components and spare parts; (iii) capital goods;
  - (b) expenditure in foreign currency during the financial year on account of royalty, know-how, professional consultation fees, interest, and other matters;
  - (c) value of all imported raw materials, spare parts and components consumed during the financial year and the value of all indigenous raw materials, spare parts and components similarly consumed and the percentage of each to the total consumption;
  - (d) the amount remitted during the year in foreign currencies on account of dividends, with a specific mention of the number of non-resident shareholders, the number of shares held by them on which the dividends were due and the year to which the dividends related;
  - (e) earnings in foreign exchange classified under the following heads, namely:-
    - (i) export of goods calculated on F.O.B. basis;
    - (ii) royalty, know-how, professional and consultation fees;
    - (iii) interest and dividend.
    - (iv) other income, indicating the nature thereof.

## 200 Background Material on Training Program for Government Officials

Following disclosures were made in the notes to the accounts forming part of Profit and Loss Account of a company regarding foreign exchange transactions.

Note: 21	2015-16		2014-15	
	%	Value (₹ in lakhs)	%	Value (₹ in lakhs)
Value of imported and indigenous Raw Materials, Store, Spare parts and Component consumed				
(a) Raw Material				
Imported	62	25,75	68	2613
Indigenous	38	1578	32	1229
(b) Store, Spare parts and Component				
Imported	12	48	11	39
Indigenous	88	352	89	311

Note: 22 (a)	2015-16	2014-15
<b>Value of imports calculated on CIF basis</b>		
(a) Raw Material	2575	263
(b) Store, Spare parts & Component	48	39
(c) Capital goods	160	--
(d) Computer Software	35	--
(e) Goods for resale	110	120
Note: 22(b)	2014-15	2013-14
<b>Expenditure in foreign currency</b>		
(a) Instant on debenture	25	28

(b) Traveling	15	10
(c) Technical know how	82	78
(d) Royalty and engineering fee	60	72
<b>Note: 22 (c)</b>	<b>2015-16</b>	<b>2014-15</b>
<b>Earnings in foreign exchange on account of</b>		
(a) Exports in FOB basis	780	450
(b) Freight and Insurance on exports	28	13
(c) Commission	25	20

Study of foreign exchange transaction provide a overall view of import content in the cost of production, export performance and other heads of major expenditure and income of foreign exchange. In case of payment on activities like technical and engineering charges, consultation charges etc., aspect about payment of service tax, by service provider, if applicable, may be examined by a GST auditor. In case of import of plant and machinery, the payment for technical services, engineering services, design and development etc may have relevance to valuation of imported goods for payment of custom duties.

## **RATIO ANALYSIS**

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Ratio Analysis is a widely used tool of data analysis. The term ratio in it refers to the relationship expressed in mathematical terms between two individual figures or group of figures connected with each other in some logical manner and are selected from financial statements of the concern. The ratio analysis is based on the fact that a type of data expressed as a relative to some other figure may provide some significant information. Ratios look at the relationships between individual values and relate them to how a company has performed in the past and might perform in the future.

### **ANALYSIS AND INTERPRETATION OF RATIOS**

The analysis or interpretations may be of various types. The following approaches are usually found to exist:

- (a) Interpretation or Analysis of an Individual (or) Single ratio.
- (b) Interpretation or Analysis by referring to a group of ratios.
- (c) Interpretation or Analysis of ratios by trend.
- (d) Interpretations or Analysis by inter-firm comparison.

### **PRINCIPLES OF RATIO SELECTION**

The following principles should be considered before selecting the ratio:

- (1) Ratio should be logically inter-related.
- (2) Pseudo ratios should be avoided.
- (3) Ratio must measure a material factor of business.
- (4) Cost of obtaining information should be borne in mind.
- (5) Ratio should be in minimum numbers.
- (6) Ratio should be facilities comparable.

### **ADVANTAGES OF RATIO ANALYSIS**

Ratio analysis is necessary to establish the relationship between two accounting figures to highlight the significant information to the management or users who can analyse the business situation and to monitor their performance in a meaningful way. The following are the advantages of ratio analysis:

- (1) It facilitates the accounting information to be summarized and simplified in a required form.
- (2) It highlights the inter-relationship between the facts and figures of various segments of business.
- (3) Ratio analysis helps to remove all type of wastages and inefficiencies.
- (4) It provides necessary information to the management to take prompt decision relating to business.
- (5) It helps to the management for effectively discharge its functions such as planning, organizing, controlling, directing and forecasting.
- (6) Ratio analysis reveals profitable and unprofitable activities. Thus, the management is able to concentrate on unprofitable activities and consider to improve the efficiency.
- (7) Ratio analysis is used as a measuring rod for effective control of performance of business activities.
- (8) Ratios are an effective means of communication and informing about financial soundness made by the business concern to the proprietors, investors, creditors and other parties.
- (9) Ratio analysis is an effective tool which is used for measuring the operating results of the enterprises.
- (10) It facilitates control over the operation as well as resources of the business.
- (11) Effective co-operation can be achieved through ratio analysis.
- (12) Ratio analysis provides all assistance to the management to fix responsibilities.
- (13) Ratio analysis helps to determine the performance of liquidity, profitability and solvency position of the business concern.

## **VARIOUS TYPES OF GST RATIOS**

GST is a new tax law. The taxpayers are still familiarising themselves with the law. This could result in high possibility of errors by taxpayers. However, there could be a possibility that the taxpayers are non-compliant towards various provisions of the law. Further, the entire GST eco system is highly data oriented where multiple details are required to be submitted by the taxpayers to the tax authorities at the transaction level. This makes it possible for the revenue officers to have adequate data at their disposal which could be used by them for the purpose of ratio analysis.

There are several types of ratios which may be used for determining that the taxpayer has complied with the GST provisions –

1. Profitability Ratios
  - a. Net profit Ratio
  - b. Gross profit ratio
2. Revenue in books vs revenue in GST
3. Expenses and input tax ratios
  - a. Total ITC availed in GSTR-3B [Table 4(A)(5)] to Total ITC available in GSTR-2A
  - b. Expenses incurred from registered persons to total expenses (GSTR-2 expenses viz-a-viz total expenses)
  - c. Input tax utilised to input tax availed
  - d. ITC availed to Gross tax liability Ratio
  - e. ITC utilised to Gross tax liability Ratio
4. Reverse charge ratios
  - a. RCM credit availed vs RCM paid
5. Payment Ratio

These are some of the illustrative ratio. Similarly, there could be many other type of ratio which could be developed based on the specific organisation. Such ratio could give a useful insight on the compliance pattern.

<b>Ratio</b>	<b>Calculation</b>	<b>Comments</b>
<i>Net Profit Ratio</i>	Net profit / Turnover * 100	<ul style="list-style-type: none"> <li>• Compare with previous year's Net profit Ratio.</li> <li>• A significantly higher ratio can be an indicator of possible case of Profiteering. This is to be further checked with the Gross Profit Ratio</li> <li>• Any items of abnormal nature to be examined and separated to arrive at proper Net Profit Ratio.</li> <li>• This ratio could be used by the department to identify the possible instances where anti profiteering could be invoked. However, it is to be borne that merely increase in the profit cannot lead to inevitable conclusion that it is on account of anti-profiteering as many market forces could lead to rise in profit.</li> </ul>
<i>Gross Profit Ratio</i>	Gross Profit / Turnover * 100	<ul style="list-style-type: none"> <li>• Higher GP ratio could be a probable case of anti-profiteering. However, the following needs to be done and taken care of-                             <ul style="list-style-type: none"> <li>• Check for changes in Accounting treatment, if any</li> <li>• Ascertain previous taxes on purchase versus GST</li> <li>• Ascertain credits in the past versus ITC under GST</li> <li>• Method of valuation stock</li> <li>• Excise regime versus GST regime</li> <li>• The tax element is not required to be added</li> </ul> </li> </ul>
<i>Turnover in books to</i>	(Revenue from operations + Other	<ul style="list-style-type: none"> <li>• This ratio helps in identifying the difference between the term</li> </ul>

<p><i>turnover in Returns (per GSTIN)</i></p>	<p>income) / Outward supplies declared in GSTR-3B</p>	<p>“supply” and “revenue”. What may be considered to be a supply under GST may not be a revenue item in the books of accounts. This nature of transactions is to be identified to ensure that the correct treatment is done.</p> <ul style="list-style-type: none"> <li>• If the ratio is greater than 1 i.e. revenue in Books &gt; outward supplies declared in GSTR-3B, then, following may be the reasons – <ul style="list-style-type: none"> <li>• Revenue may have been recorded pertaining to advances received in past, tax for which has already been paid.</li> <li>• it may be possible that taxpayer has not disclosed some supplies. This could result in under reporting and under payment of tax liability.</li> <li>• Any other items which constitutes revenue for the financial statement purpose but may not be considered as supply under GST and hence not reported in the GSTR-1/GSTR-3B.</li> </ul> </li> <li>• If the ratio is less than 1 i.e. revenue in Books &lt; outward supplies declared in GSTR-3B, following may be the reasons for the same – <ul style="list-style-type: none"> <li>• Branch Transfers</li> <li>• Principal – agent transfers</li> <li>• Schedule I transactions</li> <li>• Advances received, for which</li> </ul> </li> </ul>
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		<p>invoices have not yet been issued.</p> <ul style="list-style-type: none"> <li>• Such other supplies which are not includible in the Books of Account in the given period for which ratio is being compared. In case of above transactions (branch transfer, schedule I transactions etc.), valuation should be checked to ensure that tax has been paid on correct value</li> </ul>
<p><i>Total ITC availed in GSTR-3B [Table 4(A)(5)] to Total ITC available in GSTR-2A</i></p>	<p>GSTR-3B (Table 4(A)(5)) / Total ITC available in GSTR-2A</p>	<ul style="list-style-type: none"> <li>• As GSTR-2 is non-functional as of now, there is no one-to-one correlation between the inward supplies taken by the taxpayer and input tax credit availed on the same.</li> <li>• This ratio would enable to ascertain if any unjust / extra input tax credit has been taken.</li> <li>• If the ratio is &gt;1, it could mean that the taxpayer has taken excess credit over and above what was available to him or some of the suppliers have not filed their GSTR-1 so corresponding credit does not auto populate in the GSTR-2A of the recipient.</li> <li>• If the ratio is &lt;1, this could lead to possibility of some credits missed out or some blocked credits which appear in the GSTR-2A but not taken in GSTR-3B.</li> <li>• This ratio may not be blindly used in the initial year as there could be challenges of data sanctity and the possibility of non-compliance</li> </ul>

		at the supplier end. Nevertheless, it could give a direction in which further examination may be undertaken.
<i>Input tax utilised to input tax availed</i>	Input tax utilized / Input tax credit availed	<ul style="list-style-type: none"> <li>• This ratio indicates the proportion of credit utilized viz a viz credit availed. The period of ratio should be defined carefully as there could always be possibility of brought forward of credits from previous period which could result in a ratio apparently appearing unusual.</li> <li>• The comparison of ratio as a trend over a period of time could indicates the credit utilization pattern of the organization.</li> </ul>
<i>Expenses incurred from registered persons to total expenses</i>	Total expenses as arising in GSTR-2A of the taxpayer / Total Expenses in Books of Accounts	<ul style="list-style-type: none"> <li>• This Ratio may be used to understand the purchasing pattern of the taxpayer.</li> <li>• It should be calculated annually as the expenses may be booked at a later date in the books of accounts.</li> <li>• This ratio could give an indication as to the average range within which the assessee may be availing the credits.</li> </ul>
<i>ITC availed to Gross tax liability Ratio</i>	ITC availed/ Gross tax liability * 100	<ul style="list-style-type: none"> <li>• This ratio is one of the most important ratio which could be used for establishing the pattern of the ITC availed with the output tax liability.</li> <li>• Higher ratio (closer to 1 or greater than 1) in a particular period could should be supported by some of the following</li> </ul>

		<p>illustrative factors</p> <ul style="list-style-type: none"> <li>- Inverted duty structure</li> <li>- Additions to movable fixed assets or capital expenditure</li> <li>- Significant transitional credits</li> <li>- Higher inward supply compared to outward supply resulting in the stock accumulation</li> <li>- Credit availed in the pre-operating stage</li> </ul>
<p><i>ITC utilised to Gross tax liability Ratio</i></p>	<p>ITC utilised/ Gross tax liability * 100</p>	<ul style="list-style-type: none"> <li>• This ratio indicates the pattern of payment of tax. If the ratio is near to 1, it indicates that the tax liability is discharged by the assessee primarily by utilizing the input tax credits.</li> <li>• There could be many industries which may be working on thin margin or operating in the inverted duty structure. The ratio could always be higher in such industries.</li> <li>• The ratio over a period could be compared to evaluate the credit utilization pattern of the assessee as unusual fluctuation could give rise to some suspicion.</li> <li>• However, mere higher ratio does not indicates that there is non-compliance or adoption of mala fide means by the taxpayers in discharge of their liabilities. Hence, the decision should not be made purely based on this ratio unless corroborated with other evidence.</li> </ul>

## 210 Background Material on Training Program for Government Officials

<i>Reverse charge credit availed to reverse charge liability discharged</i>	ITC pertaining to reverse charge (excluding ITC claimed on imports of goods or services) / Total RCM liability discharged (excluding GST paid on imports of goods or services)	This ratio should not be greater than 1. If it is greater than 1, it means that the taxpayer has claimed incorrect / ineligible amount as ITC.
<i>Payment Ratios</i>	Liability discharged in cash / Total Liability (both excluding reverse charge liability)	Lower ratio should be substantiated with higher ITC to Gross liability ratio and higher expenses incurred from registered persons to total expense ratio. This would indicate the percentage of liability which is discharged by the taxpayers by paying the liability in cash.

### OTHER FINANCIAL RATIOS

In addition to the above ratios, there are various other financial and operational ratios which may be used in understanding the financial and operational position of a company. In the following section, we have given the ratios which would be useful from Goods and Services Tax point of view:

<b>Ratio</b>	<b>Calculation</b>	<b>Comments</b>
<i>Capital Turnover Ratio</i>	Sales / Capital employed (or) Cost of Sales / Capital employed	A measure of total asset utilisation. Helps to answer the question - What sales are being generated by each rupee's worth of assets invested in the business? This ratio establishes the relationship between the Cost of sales or sales and Capital employed or Shareholders' funds Note: when combined with the return

<i>Ratio</i>	<i>Calculation</i>	<i>Comments</i>
		on sales, it generates the primary ratio – (Return on Capital Employed) ROCE.
<i>Fixed Assets Turnover Ratio</i>	Cost of goods Sales / Fixed Assets or Sales/Net Fixed assets	This ratio indicates the efficiency of assets management. This Ratio is used to measure the utilization of fixed assets. A reducing sales being generated from each rupee invested in fixed assets may indicate overcapacity or poorer-performing equipment. Higher the ratio meaning that the firm has successfully utilized the fixed assets.
<i>Stock Turnover Ratio or Inventory Ratio or Stock velocity Ratio</i>	Cost of Sales / Average Stock Value	This Ratio is used to measure whether the investment in Stock in trade is effectively utilized or not. Stock Turnover indicates the number of times the stock has been turned over in business during a particular period. This ratio is widely used as a measure of investment in stock is within proper limit or not, this ratio helpful in evaluating the stock utilization.
<i>Debtor's Turnover Ratio</i>	Net Credit Sales/Average Receivables	This ratio is also known as Receivables Turnover Ratio or Debtor's Velocity. Debtors or Receivables represent the uncollected portion of credit sales. Debtor's velocity indicates the number of times the receivables are turnover over in business during a particular period. This ratio establishes the relationship between receivables and sales.
<i>Creditors Turnover</i>	Net Credit Purchases/Average	This Ratio is also called as Payables Turnover Ratio or Creditor's

**212 Background Material on Training Program for Government Officials**

<b><i>Ratio</i></b>	<b><i>Calculation</i></b>	<b><i>Comments</i></b>
<i>Ratio</i>	Accounts Payable	Velocity. This ratio establishes the relationship between the net credit purchases and the average trade creditors. Creditor's Velocity ratio indicates the number of times with which the payment is made to the supplier in respect of credit purchases.
<i>Working Capital Turnover Ratio</i>	Net sales / Working capital	This ratio highlights the effective utilization of working capital relating to sales. It represents the firm's liquidity position. It establishes the relationship between Sales and Working Capital. This ratio is an index to know whether the working capital has been effectively utilized or not in making sales. A higher working capital turnover ratio indicates efficient utilization of working capital.

## **GST – RELEVANT ACCOUNTING STANDARDS**

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8.1 After studying the various statutory provisions of GST law, one must understand the inter-relationship of this law with accounting, i.e., how GST is recorded in the books of accounts which accounting standards or guidance notes issued by the ICAI are applicable in respect of this tax and what are the points of convergence and divergence between the provisions of this tax law and accountancy principles. In order to understand the practical implications of these tax provisions, it becomes utmost necessary to know that how GST related transactions are accounted for in the account books. In this chapter we will try to understand these issues.

### **ACCOUNTING STANDARDS**

8.2 Accounting Standards (ASs), are written policy documents issued by expert accounting body or by government or other regulatory body covering the aspects of recognition, measurement, presentation and disclosure of accounting transactions in the financial statements globally. In India, accounting standards are issued by Ministry of Corporate Affairs. The Indian Accounting Standards (Ind AS), as notified under section 133 of the Companies Act 2013, have been formulated keeping the Indian economic & legal environment in view and with a view to converge with IFRS Standards.

8.3 The ostensible purpose of the standard setting bodies is to promote the dissemination of timely and useful financial information to investors and certain other parties having an interest in the company's economic performance. The Accounting Standards reduce the accounting

alternatives in the preparation of financial statements within the bounds of rationality, thereby ensuring comparability of financial statements of different enterprises. The following Accounting Standards have been issued as on 31.12.2018 by the Ministry of Corporate Affairs:

<b>Notifications</b>	<b>Description</b>
Ind AS 101	First-time Adoption of Ind AS
Ind AS 102	Share-based Payment
Ind AS 103	Business Combinations
Ind AS 104	Insurance Contracts
Ind AS 105	Non-current Assets Held for Sale and Discontinued Operations
Ind AS 106	Exploration for and Evaluation of Mineral Resources
Ind AS 107	Financial Instruments: Disclosures
Ind AS 108	Operating Segments
Ind AS 109	Financial Instruments
Ind AS 110	Consolidated Financial Statements
Ind AS 111	Joint Arrangements
Ind AS 112	Disclosure of Interests in Other Entities
Ind AS 113	Fair Value Measurement
Ind AS 114	Regulatory Deferral Accounts
Ind AS 115	Revenue from Contracts with Customers
Ind AS 1	Presentation of Financial Statements
Ind AS 2	Inventories
Ind AS 7	Statement of Cash Flows
Ind AS 8	Accounting Policies, Changes in Accounting Estimates and Errors
Ind AS 10	Events after the Reporting Period

Ind AS 12	Income Taxes
Ind AS 16	Property, Plant and Equipment
Ind AS 17	Leases
Ind AS 19	Employee Benefits
Ind AS 20	Accounting for Government Grants and Disclosure of Government Assistance
Ind AS 21	The Effects of Changes in Foreign Exchange Rates
Ind AS 23	Borrowing Costs
Ind AS 24	Related Party Disclosures
Ind AS 27	Separate Financial Statements
Ind AS 28	Investments in Associates and Joint Ventures
Ind AS 29	Financial Reporting in Hyperinflationary Economies
Ind AS 32	Financial Instruments: Presentation
Ind AS 33	Earnings per Share
Ind AS 34	Interim Financial Reporting
Ind AS 36	Impairment of Assets
Ind AS 37	Provisions, Contingent Liabilities and Contingent Assets
Ind AS 38	Intangible Assets
Ind AS 40	Investment Property
Ind AS 41	Agriculture

The following Accounting Standards have relevance in GST matters:

***(i) Ind AS 1: Presentation of Financial Statements***

The purpose of this Standard is to prescribe the basis for presentation of general purpose financial statements to ensure comparability both with the entity's financial statements of previous periods and with the financial statements of other entities. It sets out overall requirements for

the presentation of financial statements, guidelines for their structure and minimum requirements for their content.

The accounting standard provides that a complete set of financial statements comprises:

- (a) a balance sheet as at the end of the period ;
- (b) a statement of profit and loss for the period;
- (c) Statement of changes in equity for the period;
- (d) a statement of cash flows for the period;
- (e) notes, comprising a summary of significant accounting policies and other explanatory information; and
- (ea) comparative information in respect of the preceding period as specified in paragraphs 38 and 38A; and
- (f) a balance sheet as at the beginning of the preceding period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements in accordance with relevant paragraphs of the standard.

The standard provides that Financial statements shall present a true and fair view of the financial position, financial performance and cash flows of an entity. Presentation of true and fair view requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in the Framework. The application of Ind ASs, with additional disclosure when necessary, is presumed to result in financial statements that present a true and fair view.

As a major aspect of any accounting, the standard also requires that while preparing financial statements, management shall make an assessment of an entity's ability to continue as a going concern. Further, the accounting standard provides for preparation of accounts on accrual basis. The accounting standard also identifies the concept of materiality and aggregation, providing that similar items shall be aggregated, and such material different aggregations should be disclosed properly and

separately. Offsetting of counter credits and debits both in profit and loss account or balance sheet is not allowed unless allowed by the Indian Accounting Standards. The accounting standard also lays emphasis on consistency in reporting. Amongst others, the accounting standard provides for various minimum disclosures to be made in the Financial statements.

**(ii) AS 2: Inventories**

This standard deals with the determination of cost and its subsequent recognition as an expense, including any write-down to net realisable value.

The accounting standard provides that Inventories shall be measured at the lower of cost and net realisable value. In terms of valuation, the cost of inventories shall comprise all costs of purchase, costs of conversion and other costs incurred in bringing the inventories to their present location and condition. The financial statements shall disclose:

- (a) the accounting policies adopted in measuring inventories, including the cost formula used;
- (b) the total carrying amount of inventories and the carrying amount in classifications appropriate to the entity;
- (c) the carrying amount of inventories carried at fair value less costs to sell;
- (d) the amount of inventories recognised as an expense during the period;
- (e) the amount of any write-down of inventories recognised as an expense in the period in accordance with paragraph 34;
- (f) the amount of any reversal of any write-down that is recognised as a reduction in the amount of inventories recognized as expense in the period in accordance with paragraph 34;
- (g) the circumstances or events that led to the reversal of a write-down of inventories in accordance with paragraph 34; and

- (h) the carrying amount of inventories pledged as security for liabilities.

***(iii) Ind AS 115: Revenue from Contracts with Customers***

The Standard establishes the principles that an entity shall apply to report useful information to users of financial statements about the nature, amount, timing and uncertainty of revenue and cash flows arising from a contract with a customer. At contract inception, an entity shall assess the goods or services promised in a contract with a customer and shall identify as a performance obligation each promise to transfer to the customer either:

- (a) goods or services (or a bundle of goods or services) that are distinct; or
- (b) a series of distinct goods or services that are substantially the same and that have the same pattern of transfer to the customer (see paragraph 23).

The disclosure under the above accounting standard may be relevant from the perspective of determination of nature of a contract as composite or mixed or distinct. Amongst others, the accounting standard provides that An entity shall recognise revenue when (or as) the entity satisfies a performance obligation by transferring a promised good or service (ie an asset) to a customer. An asset is transferred when (or as) the customer obtains control of that asset. It also provides that the revenue recognised should not includes taxes. The accounting standard also provides for allocating the transaction price to performance obligations, however, it may be noted that such bifurcation is important for recognition of revenue and not for determination of a contract. In terms of recognition of revenue in relation to contract cost, the accounting standard provides that an entity shall recognise as an asset the incremental costs of obtaining a contract with a customer if the entity expects to recover those costs. Also, the accounting standard provides that the objective of the disclosure requirements is for an entity to disclose sufficient information to enable users of financial statements to understand the nature, amount, timing and uncertainty of revenue and cash flows arising from contracts with

customers. To achieve that objective, it provides that an entity shall disclose qualitative and quantitative information about all of the following:

- (a) its contracts with customers;
- (b) the significant judgements, and changes in the judgements, made in applying this Standard to those contracts; and
- (c) any assets recognised from the costs to obtain or fulfil a contract with a customer

The above disclosures have been prescribed in detail in the accounting standard.

***(iv) Ind AS 16: Property, Plant and Equipment***

This standard prescribes the accounting treatment for property, plant and equipment so that users of the financial statements can discern information about an entity's investment in its property, plant and equipment and the changes in such investment. The standard prescribed the treatment of initial and carrying costs of such properties. It also provides that an item of property, plant and equipment that qualifies for recognition as an asset shall be measured at its cost and also prescribes its elements of costs. After recognition as an asset, an item of property, plant and equipment shall be carried at its cost less any accumulated depreciation and any accumulated impairment losses.

The accounting standard is important from the perspective of understanding the accounting treatment of capital goods and its elements.

***(v) Ind AS 21: The Effects of Changes in Foreign Exchange Rates***

The accounting standard provides as how to include foreign currency transactions and foreign operations in the financial statements of an entity and how to translate financial statements into a presentation currency. The standard provides that a foreign currency transaction shall be recorded, on initial recognition in the functional currency, by applying to the foreign currency amount the spot exchange rate between the functional currency and the foreign currency at the date of the transaction. It further provides for treatment of outstanding transactions

at end of reporting period. Also, it provides that Exchange differences arising on the settlement of monetary items or on translating monetary items at rates different from those at which they were translated on initial recognition during the period or in previous financial statements shall be recognised in profit or loss in the period in which they arise except in specified situation. In terms of disclosure, an entity shall disclose:

- (a) the amount of exchange differences recognised in profit or loss except for those arising on financial instruments measured at fair value through profit or loss in accordance with Ind AS 109; and
- (b) net exchange differences recognised in other comprehensive income and accumulated in a separate component of equity, and a reconciliation of the amount of such exchange differences at the beginning and end of the period.

The accounting standard is important to understand the recording of foreign exchange transaction in books of accounts and the fact that the treatment may differ from the one required under GST law.

***(vi) Ind AS 24: Related Party Disclosures***

The accounting standard deals with disclosure necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and by transactions and outstanding balances, including commitments, with such parties. Standard requires disclosure of related party relationships, transactions and outstanding balances, including commitments, in the consolidated and separate financial statements of a parent or investors with joint control of, or significant influence over, an investee. The accounting standard provides that disclosures shall include:

- (a) the amount of the transactions;
- (b) the amount of outstanding balances, including commitments, and:
  - (i) their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement; and

- (ii) details of any guarantees given or received;
- (c) provisions for doubtful debts related to the amount of outstanding balances; and
- (d) the expense recognised during the period in respect of bad or doubtful debts due from related parties.

The accounting standard disclosures are important from the perspective of valuation and time of supply.

***(vii) Ind AS 108: Operating Segments***

The accounting standard deals with the requirement for disclosure of information to enable users of its financial statements to evaluate the nature and financial effects of the business activities in which it engages and the economic environments in which it operates. It requires that an entity shall disclose information to enable users of its financial statements to evaluate the nature and financial effects of the business activities in which it engages and the economic environments in which it operates.

***(x) Ind AS 38: Intangible assets***

This accounting standard prescribes the accounting treatment for intangible assets.

*An intangible asset is an identifiable non-monetary asset without physical substance. Examples of such assets are:*

- (a) brand names;*
- (b) mastheads and publishing titles;*
- (c) computer software;*
- (d) licences and franchises;*
- (e) copyrights, patents and other industrial property rights, service and operating rights;*
- (f) recipes, formulae, models, designs and prototypes; and*
- (g) intangible assets under development.*

*An intangible asset should be recognised if, and only if:*

- (a) it is probable that the future economic benefits that are attributable to the asset will flow to the enterprise; and
- (b) the cost of the asset can be measured reliably.

An entity shall disclose the specified disclosure for each class of intangible assets, distinguishing between internally generated intangible assets and other intangible assets.

***(xi) Ind AS 37: Provisions, Contingent Liabilities and Contingent Assets***

The objective of this Standard is to ensure that appropriate recognition criteria and measurement bases are applied to provisions, contingent liabilities and contingent assets and that sufficient information is disclosed in the notes to enable users to understand their nature, timing and amount. The standard provides that a provision shall be recognised when:

- (a) an entity has a present obligation (legal or constructive) as a result of a past event;
- (b) it is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- (c) a reliable estimate can be made of the amount of the obligation. If these conditions are not met, no provision shall be recognised.

It also provides that an entity shall not recognise a contingent asset. It further provides for disclosure of provisions and contingent liability.

# 9

## GOODS AND SERVICE TAX – ACCOUNTING ISSUES

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### ACCOUNTING ISSUES IN RECORDING VALUE OF TAXABLE SUPPLIES

9.1 Specified records are required to be maintained by the assessee under GST Provisions. Section 35 of the CGST provides that every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed.

Inline, Rule 56 of CGST Rules provides for maintenance of a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

9.2. Further, the Rule requires every registered person to maintain the following records also:

- the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or

disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

- a separate account of advances received, paid and adjustments made thereto.
- an account, containing the details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9, to the extent applicable), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.
- names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act.
- names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter.
- the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

Though the requisites has been provided in the law, their format can be maintained by the Assessee as per his own convenience. However, he must ensure that all requisites are duly covered within such format.

### ***Accounting for Goods and Service Tax***

9.3 The following ledger accounts shall be maintained in the books of the supplier:

- (i) 'GST payable' under head "*Current Liability*". It is pertinent to mention that such account should be maintained separately for:
  - Each GSTIN. Thus, suppose a person has three registrations in India, he should maintain separate account for all his GSTINs.
  - Each head of tax. Thus, separate account should be maintained for CGST, SGST, IGST or Compensation Cess

Thus, every Assessee shall have 3 accounts at least for output per GSTIN. This shall ensure matching of output ledger as appearing in GSTN portal.

- (ii) 'ITC receivable' under head "*Current Assets*". Such account should also be maintained for each GSTIN and for each tax category. Thus, there shall be following receivable accounts viz., CGST receivable, SGST receivable, IGST receivable, Cess receivable etc. This shall ensure matching of Credit ledger as appearing in GSTN portal.

9.4. At the time of billing to the client, Goods and Services tax payable account should be credited as the liability to pay tax arises on the issue of invoice or receipt of payment or completion of service / dispatch of goods [*in terms of Section 12/13 of CGST Act*]. GST payable a/c should be debited when the tax is paid by the relevant due date as provided under Section 49 of the CGST Act. The payment can be credited either to Bank [*in case of payment by Cash*] or ITC receivable account [*in case of payment by Input Tax Credit*].

9.5. '*ITC Receivable*' account represents the amount of total input tax paid on the inputs, capital goods and input services, which is eligible to be used for the payment of output GST liability and should be debited at the time of receipt of invoice from the vendor providing goods/ services which are input for the assessee [*subject to conditions of Section 16/17 of CGST Act*] from the input service provider. Input Tax Credit shall be utilized only to the extent such credit is available on the last day of the month or quarter, as the case may be, for payment of tax relating to that month or the quarter, as the case may be. Generally, Credit receivable is to be set off against the GST payable account first, and difference remaining in the GST payable account is to be paid in cash through internet banking.

***Provision in relation to input service distributor***

9.7 As per the Section 20 of CGST Act, every Input Service Distributor distributing input tax credit shall, in respect of credit distributed, issue a document containing the amount of input tax credit being distributed in such manner as may be prescribed. Such document shall contain the following, namely:-

- (a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;

- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-“, “-.” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
- (e) amount of the credit distributed; and
- (f) signature or digital signature of the Input Service Distributor or his authorised representative:

As per first proviso of Rule 54 of CGST Rules, wherein it has been provided that *“where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above”*

In other words, in case the input service distributor is an office of a service provider in respect of Banking and Financial Services Invoice, bill or challan will include any document whether or not serially numbered. However, it must contain other information as required in Rule and specified herein above.

#### ***Preservation of records for five years***

9.8 Section 36 of the CGST Act provides that every registered person required to keep and maintain books of account or other records shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

It has been further provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of

such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

**9.9 Accounting for value of taxable supplies**

- Supplier could account on cash basis or accrual basis. Difference between accrual and cash basis to be clearly kept in mind at the commencement of audit.
- Requirements of Section 15 of the CGST Act read with Rule 27 to 35 of CGST Rules should be kept in mind.
- **Accrual Entry** is as follows:

For raising an Invoice:

Party's A/c	Dr	11,800
To Income A/c		10,000
To GST Payable A/c		1,800

**Possible Issues**

- (i) The tax payer could credit the income to some other account for e.g. Suspense a/c, supplier's a/c, or other undisclosed credits, etc.
- (ii) The value of taxable supplies should capture the entire value including incidental expenses.
- (iii) Additional consideration receivable, if any, over and above the supply income should be carefully scrutinized
- (iv) In case of a supplier who is also a manufacturer and / or trader, care should be taken to ensure that every different supply, if any, should be separately accounted and clear identification of taxable as well as exempt supply should be reflected by the books of accounts.
- (v) In case of composite contracts, taxable value should be carefully scrutinized.
- (vi) In case of supplies rendered free of charge, accounts do not throw up the value of such supplies. The transaction needs to be scrutinized only if there seems to be a probability of receiving consideration other than in monetary terms, as GST is not payable

on supplies rendered free of cost (except in case of related party). However, it is important to note that even thereof, entry for reversal of Input tax credit on inputs used in such supply is required to be made in the books of accounts. Such entry shall be passed by crediting the GST receivable account and debiting the GST expense account or Rates and Taxes as per the choice of the tax payer.

- (vii) Reasons for issuance of Credit notes.
- (viii) Excess / short tax charged to the customers.
- (ix) Additional bills raised on the customers.
- (x) Write-off of some invoices due to bad debts.
- (xi) Refund of excess amount collected from clients; adjusted in subsequent bills
- (xii) The transaction between associated enterprises.

***Accounting for value of Taxable Supplies for International transactions***

*Import of Services*

- Any liabilities accrued for import of any taxable service should be thoroughly examined. For e.g.: Cross charges by overseas parent company to the Indian subsidiary, actual import of services, etc.
- Any cross charges, debit note by the overseas branch office of Indian company.

*Export of Goods / Services*

- Any export of goods should be substantiated by a proper Shipping Bill.
- Any receivables accrued for export of any taxable service should be thoroughly examined as in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.  
*[Refer Section 13(3) of CGST Act].*

- Cross charges by an Indian company to its overseas parent company / branch.

***Accounting for realization of value of taxable services***

- For realisation of the invoice / advance money

Bank A/c	Dr	11,800	
			To Party's A/c
			11,800

- For subsequent set-off against the actual invoice

Party's A/c	Dr	11,800	
			To Service Income A/c
			11,800

- For adjusting the receivable against the payable from the same party

Party's A/c	Dr	1,00,000	
			To Party's A/c
			1,00,000

It is important to note that such netting when made in case of export of services should be accompanied by permission from RBI.

- For payment made by service receiver to third party on behalf of service provider.

Expense A/c	Dr	1,00,000	
			To Third party's A/c
			1,00,000

Third Party's A/c	Dr	1,00,000	
			To Party's A/c
			1,00,000

***Possible Issues***

- Exchange fluctuations may go unnoticed.
- Amount billed is ₹ 1,00,000. But amount realised is ₹ 1,10,000. What is the value of taxable supplies? Another eg: If amount realized is ₹ 95,000; what is the value of taxable supplies.
- Part realisation of the supplies. In such a case, reasons for part realization should be ascertained. There may be various reasons for part realization i.e. bad debts, short settlement due to deficiency

in service or termination of contract premature etc. However, such enquiry is of use in case of services only as in case of goods, requirement of receipt in foreign exchange does not exist.

- TDS is required to be deducted by the service receiver under the provisions of Income-tax Act. Such TDS is deemed to be received when suitable entry debiting such TDS and crediting the Party is made by the taxpayer in his books of accounts.

## **KEY ISSUES – ACCOUNTING OF GST**

### ***Identifying Credits in Expenditure Account***

9.10 With the introduction of GST, tax is leviable on all supplies. Pursuant to this, it would be imperative to examine the sources of income or credits in the profit and loss account, from a taxability perspective.

Further, it is ordinary practice that recoveries made with respect to expenses incurred are charged to expenditure accounts. For instance, the Company may have incurred group insurance expenditure for its employees and the same is recovered back from the employees. As per accounting prudence, since the recovery is made from the expenses incurred, the same is charged to the particular expense head. Accordingly, the expenses accounted, is net of recoveries made from the employee. To illustrate, if the total expenses incurred by the Company for providing group insurance is say, ₹ 100,000/- and ₹ 25,000/- is recovered from the employees, then the said expenditure account would appear as follows in the Trial Balance:

<b>Particulars</b>	<b>Debit</b>	<b>Credit</b>	<b>Net Amount</b>
Employee Group Insurance Expenditure A/c	100,000	25,000	75,000

In the profit and loss account of the Company, ₹ 75,000/- would appear as the net expense under the head ‘Employee Group Insurance’.

It is possible that the recoveries made from the employees may be subjected to tax, whilst the entitlement of the Company to take credit on full expenditure value of ₹ 100,000/-. Accordingly, it would be necessary to examine the credits from a taxability perspective.

***Reverse charge***

9.16 Ordinarily, the liability to pay GST is on the supplier. In respect of specified supplies, the liability to pay GST is on the person receiving the supply, as provided in Notification No. 4/2017-CT(R) and Notification No. 13/2017-CT(R), both dated 28-06-2017b.

9.17 In respect of the said services, while accounting the expenses, the liability to pay GST will need to be accrued. The liability to pay service tax for non-associated transactions will arise on payment to the vendor.

9.18 The entry of such payment shall be made in GST payable account and debit shall be made to GST receivable account as the taxpayer is eligible to claim Input tax credit of such GST paid. However, if such amount is not available as Input Tax Credit, then taxpayer should debit the GST Expense Account or Rates and Taxes as per his adopted practice.

***Reverse charge liability for Associated enterprise transactions & others***

9.19 The reverse charge liability on import of services from associated enterprise transactions accrue on accounting of the said transaction or payment, whichever is earlier.

For non-associated enterprise transactions, the liability to discharge GST liability will arise on receipt of goods or payment to the vendor, provided the payment is made within 30 days / 60 days of date of invoice in case of goods and services respectively from the date of the invoice. However, if payment is not made within 30 days / 60 days of date of invoice in case of goods and services respectively, then the tax liability will arise on the earlier of receipt of goods or the first day after above specified period from the date of Invoice, whichever is earlier.

Accordingly, the accounting of such transactions should reveal transactions with associated enterprise, transactions with non-associated enterprise and details of payments made to them with the invoice dates.

***Input Tax Credit taken on accrual basis but vendor not paid until 180 days***

9.20 In terms of Section 16(4) of the CGST Act, the assessee is entitled to take credit on invoices raised by domestic supplies on accrual basis. However, it is provided that the payments to the said suppliers needs to

be made within 180 days from the date of invoice, bill or challan as the case may be. In the event the payment is not made within the stipulated time, the assessee is required to reverse the credit taken on accrual basis and avail the same, when the payment to the said vendor is made.

Accordingly, the assessee would be required to record details of credit taken on accrual basis along with record of payment details. In case the payment made to the vendor is beyond the stipulated time, the assessee would be required to ensure that the credit was reversed and taken back only upon payment to the vendor.

***Reversal of Input Tax credits & reconciliation of Input Tax account***

9.21 In terms of Section 54, the assessee claiming refund of GST is required to reverse the Input Tax Credit on making an application for the refund. In case the refund application is rejected, the assessee will be entitled to get the credit so reversed back into his electronic credit ledger.

Accordingly, in case of refunds, accounting of the transactions the credit in the books of accounts should match with the GST returns and should reveal the credits availed, reversed and taken back (in case of rejection of refund). Further, the assessee should prepare monthly reconciliation of Input Tax Credit as reflecting in Books of Accounts with GST returns and Electronic Credit Ledger.

***Exchange Rate with respect to Export and Import of Services***

9.22. Rule 34 of the CGST Rules provides for the methodology for determining the exchange rates in case of import and export of goods and services.

Goods - rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.

Services - The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.

# 10

## IMPORTANT RECONCILIATIONS

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### RECONCILIATION AND ITS PURPOSE

10.1 Reconciliation, in the common parlance means a statement of reasons as to why a difference exists between two or more sources of information. In accounting, 'reconciliation' may be defined as a "calculation that demonstrates how one figure (such as a balance) is derived from another".

10.2 This normally results in circumstances where the treatment or disclosures of the same transaction is different in various sources. On the question as to why the treatment of the same transactions in different sources is different, it must be noted that in the accounting or tax treatment of various transactions are in specific to the subject, statute and the business practices. For example, a contractor recognizes revenue in the books of accounts as per Accounting Standard 7, whereas for the purposes of GST, revenue has to be recognized as per Time of Supply provisions.

10.3 A reconciliation statement serves the purpose of ensuring compatibility and consistency of figures and balances generated and reported by an enterprise. For example, a bank reconciliation statement ensures that the bank balance as per the entity's books are tallied with the bank balance as per the bank's books and if there are any discrepancies they are for genuine legitimate reasons. Thus, 'reconciliation' helps in ensuring comprehensiveness in the verification process.

10.4 At this juncture, it is relevant to understand that preparation of a reconciliation statement does not essentially mean that there are no differences or that there are no deviations. A reconciliation statement is a step towards determining such areas which require further substantive checks to be applied.

10.5 Reconciliation Statement is always prepared for a specific time period. This could be monthly, quarterly, six monthly or annually depending

upon the period which has been chosen for the purpose of such reconciliation. However, it is always better to have such reconciliation on annual basis as the financial statements are normally prepared based on annual basis. However, in case of listed companies, where the data are available on quarterly basis, the exercise may be taken on quarterly basis also.

10.6 One important distinction under GST viz a viz earlier Indirect Taxation Laws is the introduction of concept of distinct person wherein a person is required to obtain registration in each of the States from where it has been carrying on the business. This requires assessee to carry out GST compliance (registration, filing of return, maintaining documentation, payment of taxes etc.) with respect to each of the GSTIN separately. However, there could be possibility of that the financial Statements are prepared on PAN number level wherein all transactions pertaining to multiple GSTIN are consolidated and single Trial Balance, Profit and Loss Account and Balance Sheet is prepared. This could require auditor to undertake extra efforts of splitting the Financial Statements for the transactions pertaining to each GSTIN separately and then to undertake reconciliation thereof with the GST compliance records.

10.7 There could be multiple reasons which could lead to differences between books of account and GST records. From GST perspective, 'reconciliation' statements could serve a useful tool to compare the figures reported in the financial statements and in the GST returns. The type of reconciliation which may require preparation could be as under:

- **Reconciliation between books of account and GST records:**
  - Turnover reconciliation (Turnover reported in the books of account vis-a-vis turnover as per GST records. Reference could be made to Part-II of Form GSTR 9C)
  - Reconciliation of Turnover as per Consolidated financial statement with Turnover computed for each state for GSTR-9C.
  - Input Tax Credit Reconciliation (ITC as per books of account vis-à-vis ITC taken in the GSTR-3B/electronic credit ledger)
  - Reconciliation of tax payable as per books of account and GST records (tax payable as per GSTR-3B or tax liability appearing in the electronics liability register)

- Reconciliation of expenses liable to reverse charge as per books of account and GST Returns/records
- Reconciliation of taxes paid as per books of account viz a viz taxed paid through cash ledgers as appearing in the Electronics Cash Ledger
- Reconciliation between credit notes/debit notes as per GST records viz a viz credit notes/debit notes as per books of account (involving GST credit notes/debit notes as well as financial credit notes/debit notes)
- Reconciliation of GST on overseas payments with financial statements.
- Reconciliation of foreign currency realisation received vis-à-vis export of goods/services claimed
- **Reconciliation between various GST returns/records:**
  - Reconciliation of turnover (taxable, exempted, nil rated and non-GST) between GSTR-1 and GSTR-3B
  - Reconciliation of ITC as per GSTR-3B and ITC appearing in GSTR-2A
  - E-way bill and GSTR-1 reconciliation
  - Reconciliation between delivery challan issued and job work transactions reported in ITC-04
  - Reconciliation between TDS/TCS credit availed in Electronics Cash Ledger vis-à-vis corresponding supplies reported by the counter parties
  - Many more.....

Above reconciliations are major reconciliations which could require to be prepared by the auditor in the course of audit of the assessee.

We discuss the important reconciliations out of the above:

**A. Turnover Reconciliations:** This is the most important reconciliation as this could bring out all such transactions which cause differences between turnover reported in the two records and there could be possibility of additional liability on account of such differences in the

turnover. The turnover reconciliation could be categories in various categories based on the nature of such differences as discussed below:

- (1) Permanent Difference:** There are fundamental for preparation and presentation of Financial Statements. Similarly, GST Law has its own sets of rules and regulations requiring maintenance of records in accordance with such provisions. There could be instances where the underlying assumption of preparing the statements under books of account and GST records are different. Such nature of transactions would appear in one set of records but would never appear in other set of records. As the differences have arisen only on account of different principles used for preparation of records, there may not be any additional liability arising out of reconciliation items. Some of the instances of this nature could be Income reported in the books of account but not in GST records i.e. dividend received, Income Tax refund received, creditors written back etc. where such items are appearing in the credit side of P&L Account but have not been considered in the GST records. Similarly, barter transactions, supply without consideration, deemed valuation etc. could be some transactions finding place only in the GST records but not in the books of account.
- (2) Timing/temporary differences:** These differences arise on account of the timing difference between recording of a transaction in one set of records viz a viz another set of records. i.e. books of account are prepared on accrual basis where GST liability arises based on time of supply principles. There could be instances where GST liability has been paid on the advances received by the services providers, but such advances are shown in the Balance Sheet. This could lead to differences in the taxable turnover between two records which get compensated in the next period when invoice is raised to the customer and revenue is recorded in the books of account. All these categories of differences are in the nature of compensatory differences which eliminates differences over a period of time. Any reconciliation item falling within this category may also not result in any additional liability for the assessee. It could be explained in more details as below:

  - ***Liability to pay GST arises at the time of supply (TOS):***  
Section 12 and Section 13 of the CGST ACT, 2017 deals with the

provisions of TOS where the former deals with TOS in case of Goods and later deals with TOS in case of services and the liability to pay GST arises as and when TOS arises in respect of a particular supply. However, the recognition of income/ revenue in the books of account was on the basis of accrual principles of accounting income. This gave rise to differences between value of goods and services entered in the books and the value offered in the returns.

In case of services the TOS also arises on the receipt of advances (Section 13 of the CGST ACT, 2017), though GST is payable, the same would not be recognized as revenue/ income in the books of account. Again, even this differential treatment gave rise to differences between books of account and GST returns.

The above-mentioned Sections have been framed in a similar manner to describe TOS in different cases as below:

- I. TOS in case in normal supplies liable to forward charge. [Section 12(2) & Section 13(2)];
- II. TOS in case of supplies on which tax is to paid under reverse charge. [Section 12(3) & Section 13(3)];
- III. TOS in case of supply of vouchers [Section 12(4) & Section 13(4)];
- IV. TOS, in cases other than cases not falling above i.e. Residual cases [Section 12(5) & Section 13(5)];
- V. TOS to the extent it relates to an addition in the value of supply by way of interest, late fee, or penalty for delayed payment of any consideration. [Section 12(6) & Section 13(6)];

However, the AS or Ind AS prescribed under GAAP's have different recognition criteria based on accrual concepts for all such cases.

- (3) ***Books of account maintained on cash basis, but GST is payable on TOS basis*** – in respect of certain specific businesses/ professions, the books of account may be maintained on cash basis as far as income tax is concerned. However, GST may be payable on the basis

indicated above. Even in such circumstances, the need for reconciliation arises.

- ***Unbilled revenue and work in progress*** – in respect of continuous projects, the revenues are normally recorded in the books of account based on work completion. However, the same may not necessarily result in a requirement to pay GST.
- ***Method of recording the entries in the books of account*** – the revenues in the books of account may be classified based on the management requirements and or the business practices. It may not directly provide the information required for GST purposes, viz., the revenues in the books of account may be recorded based on geographical segmentation, industry specific classification etc.

- (4) **Differences due to errors committed:** There could always be possibility of bona fide errors being committed by the taxpayers in the GST compliance. It could be error of commission or omission. Error of commission arises when the taxpayer, based on his understanding of the law, treat a particular transaction in a particular way but the legal interpretation of transaction could require the treatment to be undertaken in a different way. Error of omission arises when a transaction has not been reported/recorded in one set of records. It is to be noted that the differences arising on account of such commission or omission may not always result in additional liability. It has to be determined on case to case basis.
- (5) **Differences due to fraud committed:** There could be exceptional cases where assessee could indulge in suppression or intentional evasion of taxes by not reporting transactions in the GST returns, deliberating claiming wrong exemption though not entitled to claim such exemption etc. The reconciliation statement could highlight such differences which could possibly lead to creation of additional demand on the taxpayers.

RECONCILIATION OF SUPPLY ON WHICH OUTPUT TAX IS PAYABLE:

Sl. No	Particulars	Total
	<b>Data as per audited accounts:-</b>	
<b>Add</b>	Revenue from operations	XXX
<b>Less</b>	Other Income	<u>XX</u>
	Amount as per books	XXX
	<u>Turnover for period 1<sup>st</sup> April 2017 to 30<sup>th</sup> June 2017</u>	<u>(XX)</u>
	<b>Comparable Financials for July – March 18</b>	XXX
<b>Less</b>	Revenue/Other Income pertaining to other registered/distinct persons: All different State/ business vertical turnover as per audited accounts	<b>(XX)</b>
<b>Less</b>	(a) Revenue items on which output GST is not payable (b) Zero rated supply without payment of tax (c) Liable to tax under reverse charge mechanism u/s 9(3) (d) Amount of wholly Exempt Supplies not disclosed in returns. (e) Partly Exempt Supplies (exempt portion amount): (f) Non-GST supplies: (g) Not a supply as per the definition of supply: (h) Not a supply of goods or services as per Schedule III: (i) Unbilled revenue (Considering the provisions of Section 13(2) of the CGST Act, 2017) if being accounted (j) Revenue by way of supplies made through agents where tax paid in previous year upon initial dispatch	(XX)

**240 Background Material on Training Program for Government Officials**

Sl. No	Particulars	Total
	(k) Revenue (tax on advances) against which Time of Supply has occurred in the previous year (l) Any other (please specify)	
	Adjusted Amount as per financials (in the State) [sub-total]	XXX
Add	(a) Sale of capital assets (b) Opening balance of unbilled revenues if being accounted. (1 <sup>st</sup> July 17) (c) Advances received in current period (d) Section 15 – Valuation Adjustments (e) Activities listed in Schedule I (f) Revenue duplicated in returns. (g) Goods rejection for which credit notes not eligible for tax: Discounts not known at time of supply (h) Any other (please specify)	XXX

**Format of Turnover reconciliation as given in the GSTR-9C**

Reconciliation of Gross Turnover			Amounts (in Rs.)
A	<b>Turnover (including exports) as per audited financial statements for the State / UT (For multi-GSTIN units under same PAN the turnover shall be derived from the audited Annual Financial Statement)</b>		
B	Unbilled revenue at the beginning of Financial Year	(+)	
C	Unadjusted advances at the end of the Financial Year	(+)	

D	Deemed Supply under Schedule I	(+)	
E	Credit Notes issued after the end of the financial year but reflected in the annual return	(-)	
F	Trade Discounts accounted for in the audited Annual Financial Statement but are not permissible under GST	(+)	
G	Turnover from April 2017 to June 2017	(-)	
H	Unbilled revenue at the end of Financial Year	(-)	
I	Unadjusted Advances at the beginning of the Financial Year	(-)	
J	Credit notes accounted for in the audited Annual Financial Statement but are not permissible under GST	(+)	
K	Adjustments on account of supply of goods by SEZ units to DTA Units	(-)	
L	Turnover for the period under composition scheme	(-)	
M	Adjustments in turnover under section 15 and rules thereunder	(+/-)	
N	Adjustments in turnover due to foreign exchange fluctuations	(+/-)	
O	Adjustments in turnover due to reasons not listed above	(+/-)	
P	Annual turnover after adjustments as above		-
Q	Turnover as declared in Annual Return (GSTR9)		
R	Un-Reconciled turnover (Q - P)		<b>0</b>

**B. Reconciliation of Turnover as per Consolidated financial statement with Turnover computed for each state for GSTR-9C:**

A person having business operations in multiple States is required to obtain registration in each such State/UT, and for each such registration he is considered as distinct person. As per Section 44(2) **every registered person** is required to file reconciliation statement along with Annual return.

Thus, registered persons are required to bifurcate their PAN India Turnover to arrive at turnover at different states and accordingly reconciliation is required among them. Once the PAN level turnover is compared with the turnover reported in the respective GSTR-9C, this would give an idea as to whether turnover across various States have been segregated correctly or not. The possibility of duplication or omission of transactions could be gauged.

	Reconciliation of Input Tax Credit (ITC)	
A	ITC availed as per audited Annual Financial Statement for the State/ UT (For multi-GSTIN units under same PAN this should be derived from books of accounts)	
B	ITC booked in earlier Financial Years claimed in current Financial Year	+
C	ITC booked in current Financial Year to be claimed in subsequent Financial Years	-
D	ITC availed as per audited financial statements or books of account	
E	ITC claimed in Annual Return (GSTR9)	
F	Un-reconciled ITC	

**C. Input Tax Credit Reconciliation (ITC as per books of account viz a viz ITC taken in the GSTR-3B/electronic credit ledger):**

In business each and every transactions are required to be recorded to get a true picture of profits/ losses for different purpose viz. Income tax etc, similarly the records of ITC under GST are equally important to be maintained, mere disclosure of ITC in GSTR-3B is not sufficient, thus a reconciliation is required for the differences arising between

them which may be due to missed out ITC in GSTR 3B or ITC claimed in excess. The relevance of the same further gets enhanced on account of the fact that there would be multiple ledgers for GST credits (CGST/SGST/IGST/UTGST/Cess) in a single State. Further, in case of entity having multiple registrations, the number of ledgers could further get compounded requiring need of reconciliation between ITC ledgers of books of account and ITC claimed in GST. Since the books of accounts are signed for its completeness and accuracy it would act as base document while preparing the reconciliation.

The Input Tax reconciliation has been given in the GSTR-9C. The sample format of the same is represented below which could be used by the department for the purpose of proceeding ahead for ITC reconciliation which could be suitably modified based on requirement.

**D. Reconciliation of tax payable as per books of account and GST records (tax payable as per GSTR-3B or tax liability appearing in the electronics liability register):** Mere reconciliation of turnover is not sufficient as there could be possibility of some of the liability remaining unpaid. The reconciliation of taxes payable as per books of account should be reconciled with the taxes payable as declared in the GSTR-3B flowing into electronics liability register. This would ensure matching and declaration of all liability in the returns.

**E. Reconciliation of expenses liable to reverse charge as per books of account and GST Returns/records:** Reverse charge has been an area of less compliance. The audit team should undertake reconciliation of expenses in the Profit and Loss Account and Balance Sheet which could be liable to reverse charge viz a viz expenses on which GST has been paid under reverse charge mechanism. Expenses such as Advocate fees for legal services, sponsorship services, and services of a GTA etc. are liable to reverse charge under GST and there by tax is required to be paid by the recipient on the same. It is important to note that reverse charge provisions are applicable to few goods such as tendu, cashews etc.

One methodology could be to reconcile the foreign payment with RCM liability discharged to ensure that all import of services wherever liability arises under RCM has been correctly paid or not.

Further during FY 17-18 there was liability to pay GST under reverse charge on account of purchases made from unregistered persons was applicable up to 13th October, 2017.

Thus, a reconciliation is required between RCM payments shown in books with disclosure made in GSTR-3B, thereby mitigating the possibility of differences.

- F. Reconciliation of taxes paid as per books of account viz a viz taxed paid through cash ledgers as appearing in the Electronics Cash Ledger:** Under GST every registered person is facilitated with an online cash account commonly known as E-cash ledger which is used to discharge GST liability which is over and above ITC available for utilization. In books of account the GST payable A/c is debited with two accounts i.e. Cash A/c and ITC receivable A/c.

Thus, a reconciliation is required which shows the total GST liability and how it is discharged with ITC and cash. The balance appearing in E-cash ledger A/c (in portal) may be tallied with E-cash ledger A/c made in books.

- G. Reconciliation between credit notes/debit notes as per GST records viz a viz credit notes/debit notes as per books of account (involving GST credit notes/debit notes as well as financial credit notes/debit notes):** Under GST the credit note, as well as debit notes issued by the supplier are only relevant. Further the Debit notes/credit notes are required to be issued with a time frame. For ex. For FY 17-18 they can be issued up to due date of GSTR-3B for the month of September 2018.

All other debit note/credit note are known as financial debit note/credit note which has no relevance under GST law.

Accordingly, a reconciliation is required between all such debit/ credit notes along with credit/ debit notes as reported under GST returns to check compliance of above provisions.

- H. Reconciliation of GST on overseas payments with financial statements:** Different provisions are contained in GST with respect to overseas payment either due to imports of goods or importation of

services whereas under relevant GAAP's different disclosure methodologies are followed to disclose foreign payments.

The difference due to above provisions cannot be eliminated rather it can only be reconciled for its accuracy so that the total foreign payment made must match with payment as per GST taking effect of all reconciliation items.

- I. **Reconciliation of foreign currency realisation received viz a viz export of goods/services claimed:** Exports under GST are classified as "Zero Rated Supplies" and multiple export benefits are available for export of goods as well as services, in case of services receipt of foreign currency is an inbuilt condition to be classified as export.

Reconciliation between Foreign currency realised and export claimed under GST would give a clear picture of fake claimed exports or exports missed out to be claimed as Zero rated.

It is also relevant to note that mere realisation of foreign currency is not sufficient to constitute the supply as zero-rated supply. Proper reconciliation would highlight such instances also. It is important to note that "Zero rated supplies" also includes supplies to SEZ units/developer which needs to be eliminated to arrive at foreign realisation.

**Reconciliation between various GST returns/records:** GST in itself has emerged to be a big law there are numerous compliances, where few compliances are done on monthly/ quarterly basis and few are to be done on annual basis.

So, all these returns/ challans etc. filed to department must get reconciled with each other for example turnover reported in GSTR-1 shall match with turnover reported in GSTR-3B and GSTR-9.

Since all the filings made by a registered person are available on common portal, it would be a good practice to rely on the latest data available in common portal for which GSTN has inhouse data analytics.

## **DOCUMENTS TO BE EXAMINED**

The reconciliation statement preparation and verification may not be done in isolation. This requires examination and verification of various documentations to cross verify as to the veracity of whatever has been reported in the various records and their impact on the reconciliation statement. There are several sources of information in order to ensure that the verification is comprehensive. Some of the documents which may be examined are as follows:

- (i) Audited/ Unaudited Financial statements i.e., Balance Sheet and Profit and Loss Account together with schedules, sub-schedules/ groupings and trial balance.
- (ii) Income-Tax Audit Report - Form No. 3CD attached along with the income tax return;
- (iii) Co Audit Report (in case of companies) under the Companies Act, 2013;
- (iv) TDS returns under the Income Tax Act, 1961;
- (v) Internal Audit Reports and Management Reports;
- (vi) Records – Sales register, input credit register, etc;
- (vii) Customer and Vendor confirmations;
- (viii) Statements/ information submitted to Banks;
- (ix) Back up working papers/ work sheets for GSTR-1, 3B, 9 etc;
- (x) Chart of Accounts/ Accounts Tree and the method recording entries impacting GST may also be verified. In cases where, an accounting manual is prepared, the same may be verified.
- (xi) Data extracted from Portal with respect to various returns filed.
- (xii) Various reconciliations performed by assessee as discussed above.
- (xiii) Report of GST auditor under Form GSTR 9C along indicating clean or qualified opinion.
- (xiv) Details of Debit/credit note issued, delivery challans issued, ITC- 04 filed etc.
- (xv) Various policies like HR policy, discount policy etc.

## HOW TO VERIFY AND RECONCILE DOCUMENTS

In order to ensure full and complete compliance and impart uniformity in assessments, GST returns may be compared with others returns submitted by the assessee to other statutory authorities. For example, figures reported in GSTR's can be cross verified with relevant information/ data submitted to Income Tax department through Income tax returns ex Asset sale, TDS returns etc. Return filed with Ministry of Corporate Affairs namely Form AOC-4 can also be used for verifying the data submitted for GST purposes. For verifying the reverse charge payment for importation of services, the data can be verified with Form 15 CA and Form 15 CB filed for the purposes of Income Tax Act, 1961. Some of the most commonly used records/ documents and the audit requirements for the same are discussed below:

### *(i) Trial Balance*

After posting the accounts in the ledger, a statement is prepared to show separately the debit and credit balances. Such a statement is known as Trial Balance. A trial balance is a list of all the General Ledger Accounts (both revenue and capital) contained in the ledger of a business. This is a summary of all the ledger accounts of assessee. It facilitates the preparation of financial statements i.e., Profit & Loss Account and Balance Sheet.

**How to verify:** The Trial Balance serves as a summary of what is contained in the ledger. The ledger may have to be seen only when details are required in respect of an account. Auditor may review the Trial Balance to see the accounts, which may have an impact on his audit. He may have to examine the credit entries in the expense ledger to ascertain as to whether it has any tax/reconciliation impact.

### *(ii) Income Statement (Profit & Loss Account/ Receipt & Expenditure Account)*

It is a company's Income statement that indicates how the revenue (money received from the sale of products and services) is transformed into Net Profit (the result after all revenues and expenses have been accounted for). It displays the revenues recognized for a specific period, and the cost and expenses charged against these revenues, including write-offs and taxes. The purpose of the income statement is to show managers and investors whether the company made or lost money during the period being reported. Income

statement is prepared as required under the Companies Act 2013 or for any other statutory purpose.

**How to verify:** The auditor may review this account to see whether all supplies reported in the P&L Account has been considered for GST purpose. Special focus could be on miscellaneous income in the credit side as recognized by the assessee on which tax liability may be attracted. The auditor may also review the expenditure pattern of the assessee to ascertain whether the ITC availed is in proportionate to the expense reflected in debit side of account. The auditor may also review as to whether GST has been paid under reverse charge mechanism. in respect of the specified services e.g., if the income statement shows GTA charges being paid by the assessee, auditor may check that GST has been paid by the assessee on such charges or not.

***(iii) Balance Sheet***

In financial accounting, a Balance sheet is a summary of the financial balances of a business organization. It may be defined as “a statement which sets out the assets and liabilities of an organization at a certain date. However, since the balance sheet is prepared on a particular date, the same does not constitute the summary of the activities of the assessee.

**How to verify:** The auditor may review the balance sheet to see that the ITC availed on capital goods has not been added with the value of fixed assets and correct ITC has been availed on the capital goods. The auditor may also compare the balance sheet with the previous year’s details to find out whether there are any major developments in the financial structure of the assessee and if there are any, the auditor may enquire into the same. Loans taken or given may be reviewed, so that the impact of the same on valuation may be investigated.

***(iv) Notes to Financial Statements (Accounts)***

Notes to financial statements (accounts) are additional information added to the end of financial statements. It helps in explaining specific items in the financial statements as well as provides a more comprehensive assessment of a company's financial condition. It may include information on debt, going concern criteria, accounts, contingent liabilities or contextual information explaining the financial numbers (e.g., indicate a lawsuit).

**How to verify:** The auditor may go through notes to accounts to see whether any notes have any bearing on GST liability. The information contained in the notes to accounts is important to the auditor since the same contains the relevant information which cannot be provided in the financial statement but which are required for the proper explanation of the financial statement.

***(v) Report of the Management***

Directors are required to submit certain reports to the stakeholders about the activities and progress of the company. One such report is Director Report. This report contains valuable information for the auditors regarding the achievements and the future goals of the assessee, reason for failure, etc.,

**How to verify:** The auditor may go through the reports to see whether any of the remarks of the authority of the assessee has any adverse aspect on the GST valuation and tax liability. Report also contains the director comments on adverse report of statutory auditor.

***(vi) Internal Audit Report***

Internal audit is mandatory only for specified assessees under Companies Act, 2013 and RBI Act, 1935 etc. However, it is the practice of the industry to engage internal auditors to ensure a better internal accounting control. The scope of internal auditing within an organization is broad and may involve topics such as the efficiency of operations, reliability of financial reporting, deterring and investigating fraud, safeguarding assets and compliance with laws and regulations.

**How to verify:** The auditor may review this report to ascertain whether the adverse comments of the internal auditor has any bearing on the GST liability. This report may contain the details of under invoicing, wrong invoices, wrong availment of ITC etc.

***(vii) Major Contracts and Agreements***

A contract or an agreement is entered voluntarily by two parties or more with the intention of creating a legal obligation. These documents describe the terms of supply of goods or services, consideration and other terms and condition.

**How to verify:** The auditor may go through the conditions of the contract or agreement to see if there is any discrepancy with respect to financial

statements, whether consideration is undervalued or there is a probability of any GST liability.

***(viii) Invoices***

Invoices are raised as required under Section 31 of the CGST Act, 2017 in which the name, address, registration number, details of supplies made, name and address of the person receiving the supply, and GST charged etc. are recorded.

***How to verify:*** The auditor may review the invoices to see whether the valuation of the supply is done correctly, and the applicable tax is charged and paid to the exchequer. Since invoices should contain the details, which are prescribed under the above said provisions and corresponding rules, the auditor may ensure the same.

The auditor may also ensure that input tax credit has been taken and accounted only when invoices are issued as per Section 31 and may reject the input tax credit in case of wrong invoices issued by the supplier to the assessee. Invoices can be used as a tool to verify the compliance of reverse charge mechanism, in case of goods or services where GST is to be paid by the recipient.

***(ix) Debit / Credit Notes***

As per Section 34(1) of the CGST Act, 2017 a credit note may be issued for below reasons:

- The taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply or;
- The goods supplied are returned by the recipient or;
- Where goods or services or both supplied are found to be deficient;

Whereas as per Section 34(3) of the said Act debit notes can be issued by the supplier under below mentioned scenarios:

- The taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply.

It is important to note that debit notes and credit notes issued by the supplier are only relevant for the purpose of GST. These notes are used to debit/credit miscellaneous transactions to the debtor's ledger and the creditor's ledger accounts. These are the residuary documents that are used

to account the transactions, for which the basic documents such as invoices, payment vouchers, receipt vouchers, etc. cannot be issued.

**How to verify:** The auditor may review credit and debit notes under below scenarios mentioned in column 1 of the table in accordance with column 2 of the said table.

<b>Possible Scenarios</b>	<b>Relevant Check Points</b>
Credit note issued to Debtors.	<ul style="list-style-type: none"> <li>• Check whether proportionate output liability reduced or not.</li> <li>• Relevant disclosures under GSTR-1, GSTR-9, GSTR-9C etc. are made or not.</li> <li>• Check whether credit note is issued for reasons other than the reasons specified in Section 34 of the CGST Act, 2017.</li> <li>• Check whether Credit note pertaining to FY is issued post due date for filing of the return for the month of September of subsequent financial year.</li> </ul>
Debit note issued to Debtors.	<ul style="list-style-type: none"> <li>• Check whether output liability increased with the tax amount mentioned in debit note.</li> <li>• Relevant disclosures under GSTR-1, GSTR-9, GSTR-9C etc. are made or not.</li> <li>• Check whether credit note is issued for reasons other than the reasons specified in Section 34 of the CGST Act, 2017.</li> <li>• Check whether debit note pertaining to FY is issued post due date for filing of the return for the month of September of subsequent financial year.</li> </ul>
Credit notes received from suppliers.	<ul style="list-style-type: none"> <li>• Check whether proportionate ITC reversed or not.</li> </ul>
Debit notes received from suppliers.	<ul style="list-style-type: none"> <li>• Check whether format of supplementary invoice, on the basis of which ITC is to be availed, is as per GST or not.</li> </ul>

**(x) Income-tax returns (ITR)**

Income-tax return is required to be furnished by the assessee to the Income Tax department every year as per the requirements of the Income-tax Act. Various returns have been prescribed under the Income-tax Act according to the class of the assessee and the type of the income of the assessee.

**How to verify:** The auditor may verify the data reported by the assessee in its GST returns with the information furnished in the income tax returns. The auditor may review the ITR return to see if there are any differences between the turnovers shown under ITR returns and GST returns and obviously there would be differences on accounts of different principles of law, the auditor may enquire into the same. There are many others details/information available in the ITRs which can be of use for the GST tax officers. Further, since this information is readily available with Central Board of Direct Taxes (CBDT), lot of time, energy and cost of both the assessee and the Department can be saved if instead of seeking such data from the assessee (during audit), the information is directly accessed from the CBDT. ITR forms can be downloaded from the following link: [http://www.incometaxindia.gov.in/download\\_all.asp](http://www.incometaxindia.gov.in/download_all.asp).

**(xi) Tax Audit Report (Form 3CD)**

The Tax Audit Report in Form 3CD is required to be submitted to the income tax department as per the requirements of the Income-tax Act. In this Report various information such as comments / observations of the tax auditor on the inventory, accounting system of the assessee, physical verification of stock, accounting and verification of capital goods, details about the statutory dues not paid within the due dates, etc. are to be furnished.

**How to verify:** The auditor may review this report to see if the nature of business, books of accounts maintained, expenditure of personal nature, and other aspects discussed above are sufficient for the requirements of his audit. Form 3CD can be downloaded from the following link: <https://incometaxindiaefiling.gov.in>

**(xiii) Annual Returns (Form AOC-4)**

The Annual Returns containing the details of shareholders, directors, and debts, meeting of the Board and General Meetings and other information is required to be filed by a company, with the Registrar of Companies concerned, is covered under by section 92 of the Companies Act, 2013, and

now required to be made at the close of financial year, unlike the position as at the date of AGM under the Companies Act, 1956. The form of Annual Return now is MGT-7. The Annual return of a Company other than a One Person Company and Small Company shall be certified by a Company Secretary in practice, in addition to the Director of the Company. Further, the Annual Return, filed by:

- (i) a listed company; or
- (ii) a company having paid-up share capital of ` 10 Crores or more; or
- (iii) a company having turnover of ` 50 Crores or more

Shall be certified by a Company Secretary in practice in the form of a Certificate in MGT-8, to be attached to the Annual return form (MGT-7), stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of the Act.

The Ministry of Corporate Affairs had made filing of Balance Sheet and Profit & Loss Account in XBRL (Extensible Business Reporting Language) mandatory, for the following class of companies for the financial year ending on or after 31.03.2011, vide the Companies (Filing of documents and forms in Extensible Business Reporting Language) Rules, 2011, Dt:05.10.2011, as amended from time to time.

- (i) All companies listed with any Stock Exchange(s) in India and their Indian subsidiaries; or
- (ii) All companies having paid up capital of ` 5 Crores and above; or
- (iii) All companies having turnover of ` 100 Crores and above;

However, banking companies, insurance companies, power companies, and Non-Banking Financial Companies (NBFCs) and Housing Finance companies, need not file financial statements in are exempted from filing returns in XBRL.

Effective from 01.04.2014, the form of filing Financial Statements with the Registrar of Companies concerned is Form AOC-4, by a non-XBRL company and in Form AOC-4(CFS), for which filing of Consolidated Financial Statements are applicable and in Form AOC-4-XBRL, by a company to which XBRL is applicable.

***How to verify:*** Department officials may use Annual Accounts and Annual Returns filed with Registrar of Companies (ROC) to verify the details filled in service tax returns. They may check whether there is any mismatch between the two and may obtain the reason for the same. Form AOC-4, in XBRL and Non-XBRL mode is available, for Public inspection, at the website of Ministry of Corporate Affairs [www.mca.gov.in](http://www.mca.gov.in) under link “View Public Documents” on payment of prescribed fees. The xmls of the financials filed in XBRL formatted xml file can be converted in to readable format by using XBRL validation tool as available in the MCA Portal, or using an XBRL software.

# 11

## GOODS AND SERVICES TAX AUDIT – DESK REVIEW AND SUBSTANTIVE

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### GOODS AND SERVICES TAX AUDIT - DESK REVIEW

11.1 This is the first stage of the audit exercise done in the office. As soon as the Auditor receives the list of Tax Payers to be audited by him, he should at the outset collate the following information:

<b>A.</b>	<b>General Details</b>	:	
01.	Name & address of Principal Place of Business of Auditee		
02.	Name and contact number of the Authorized person for Audit.	:	
03.	GST Registration No. & date	:	
04.	Detail of other GST registration in the state	:	
05.	Whether the assessee is also registered as an Input Service Distributor?	:	
06.	Status of assessee (Proprietorship, Partnership, Limited liability Partnership firm, Pvt. Ltd Company, Public Limited Company? )	:	
07.	Detail of GST registrations held in other States	:	
08.	List of Related Parties as defined in Section 15 along with their address		
09.	Brief note on the nature of business of the Company		
<b>B.</b>	<b>Accounts and Records</b>		
10.	Accounting Software name and version		

**256 Background Material on Training Program for Government Officials**

11.	In case of multilocation entity, whether accounts maintained through Centrally managed ERP or independently at individual location		
12.	List of records maintained in respect of GST		
13.	List of ledgers maintained in books of accounts as relevant from GST computation		
14.	Whether any periodical report/statement is furnished to any State/ Central Govt. / Authority/ Regulatory bodies? If yes, details thereof.		
<b>C.</b>	<b>Detail of Output Tax</b>	<b>:</b>	
	Brief note on the nature of supplies made by the Company		
15.	List of Top 10 Goods or / and Services supplied during the period under Audit along with their HSN Codes and amount	<b>:</b>	
16.	Details of Taxable Supplies received for which tax has to be paid under reverse charge.	<b>:</b>	
17.	Details of Agreements entered into with service recipients for providing services		
18.	Details of exemptions availed, if any, and relevant entry and Notification No.	<b>:</b>	
19.	Whether any Supplies have been Exported during the year	<b>:</b>	
20.	Detail of income netted from expenses, if any	<b>:</b>	
21.	Detail of reimbursements received and not shown in income separately, if any		
22.	Whether any advance payment is received towards providing taxable supplies? If yes, whether Tax is paid on such receipts?		

<b>D.</b>	<b>Detail of Input Tax</b>		
23.	List of Top 10 input services on which Input Tax Credit was availed along with their HSN Codes and amount?	:	
24.	List of Top 10 inputs on which Input Tax Credit was availed along with their HSN Codes and amount?	:	
25.	List of Top 10 capital goods on which Input Tax Credit was availed along with their HSN Codes and amount?	:	
26.	Whether any transitional credit availed? If so, details thereof.	:	
<b>E.</b>	<b>Valuations</b>		
27.	Whether supplies have been made to related parties. If yes, details thereof	:	
28.	Whether the company engage itself in contracts of supply and installation of any kind? If yes, brief note thereon.	:	
<b>F.</b>	<b>Other Points</b>		
29.	Whether any offence case is booked in respect of GST, Service Tax, Central Excise, Income Tax, VAT/ Sales Tax. If so, details thereof.	:	
30.	Detail of GST Audit / Anti evasion undertaken by department in last 5 years	:	

11.2 For carrying out the detailed analysis, the following documents should also be called from the Assessee or retrieved from the GSTN portal:

- GST returns with copy of Cash Ledger and Credit Ledger
- Audited financials for the period under review along with copy of detailed Trial Balance
- Company's Internal Audit Report, if any.
- Tax Audit Reports (including all Annexures) conducted under Sec 44AB of the Income Tax Act, 1961.

- Cost Audit Reports (including all Annexures) conducted under Section 148 of the Companies Act, 2013.
- Details of Registration(s) with any other Government Departments/ Agency / Regulatory Authority.
- Any other Return/ Declaration sent to any other Department/ Agency / Regulatory Authority.
- List of Show Cause Notice(s) issued, if any and their present status.

11.3 For carrying out the detailed analysis, the following points should be kept in mind.

- (a) Check whether the description of the supplies has been changed during the past three to four years, without affecting the nature of the supplies provided.
- (b) The auditor should check the data provided by the taxpayer for reconciliation with other documents such as trial balance, Annual Accounts, Ledgers etc. collected by them and carry out a preliminary reconciliation for the purpose of identifying any amount that might have escaped Goods and Services Tax.
- (c) **Materiality:** Every error also needs to be looked into from the perspective of materiality. The auditor has to use his experience and wisdom to decide the amount of time spent on identifying an error and its rectification. While minor errors might be ignored, it is also to be kept in mind that any cumulative effect of such minor errors should not be material.
- (d) The auditor might also communicate with auditors of other registrations of the same person within or outside his state to check whether the error noted is an isolated one or is of recurring nature.

## **INPUT TAX**

11.4 While looking into the books of account of the taxpayer, the following points should also be looked into by the auditor:

- (a) Auditor should also verify the Bank Reconciliation Statement prepared by the taxpayer to find any amounts which have been shown as paid but are still pending clearance for long time, thereby, the reversal under Rule 16(4) may arise.

- (b) Auditor should analyses both debit and credit side of the profit & loss a/c, trial balance, ledgers etc., because it is a myth that while ascertaining the GST liability of the taxpayer, one has to look only at the credit side of P&L A/c. Debit side is equally important or rather more prone to frauds and errors. Therefore, the auditor needs to pay attention towards debit side also. Debit side is important because of
- (i) Reverse charge mechanism – under this mechanism, the recipient of services is liable to pay GST (e.g. GTA Services, services received from abroad, repair and maintenance etc.). In such cases nothing appears on the credit side of the P&L a/c. However, GST has to be calculated on the amount paid towards taxable services received.
  - (ii) Reimbursement – unless the concept of pure agent is applicable, reimbursements are includible in the value of Taxable Supply. Reconciliation should cover all receivables including reimbursements, sale of goods etc.
- (c) Auditor should check as to whether there is any netting of income with amount payable e.g. a person is acting as a commission agent and receives commission amounting to Rs. 5,00,000/- which is taxable. He is also engaged in trading of goods wherein he is required to pay a commission of ₹ 3,00,000. It may be possible that the amount of commission appearing in the P & L A/c is only ₹ 2,00,000/- the detail of which is given in Notes on Accounts or is available from the Gross Trial Balance. In this case, if Notes to Accounts are not studied properly or the Gross Trial balance is not studied, then the Auditor may not be able to determine the correct value of taxable supplies rendered by the taxpayer.

### **SCRUTINY OF THE TAX AUDIT REPORT IN FORM 3CD**

11.5 Clause 4 of the Tax Audit Report (Form 3CD) provides information about whether the assessee is liable to pay indirect tax like excise duty, service tax, sales tax, goods and services tax, customs duty, etc. if yes, please furnish the registration number or GST number or any other identification number allotted for the same.

11.6 Clause 18 of the Tax Audit Report (Form 3CD) provides information about amount of depreciation under Section 32 of the Income Tax Act, 1961

and that of INPUT TAX credit availed by the service providers on capital goods.

11.7 Clause 26 of the Tax Audit report (Form 3CD) gives the details of outstanding GST liabilities not paid relating to the financial year upto the date of signing of the Tax audit report.

11.8 Clause 27 of the Tax Audit report (Form 3CD) gives the details of Input Tax Credit claimed by the service provider. It also provides the details of credit available and carried forward to the next year. Hence, the auditor can authenticate the amount of credit carried forward in the service tax returns with the information provided in terms of this clause.

11.9 Clause 27 of the Tax Audit Report (Form 3CD) also gives information regarding prior period incomes and expenses booked in the year under Tax audit. The Auditor shall ensure that service tax is paid on these amounts in case they are subject to service tax.

11.10 Clause 35 of the Tax Audit Report (Form 3CD) provides the information relating to quantitative details of stock in case of both traded goods and manufactured goods.

11.11 Clause 37 of the Tax Audit Report (Form 3CD) provides the information relating to Cost audit. If such an audit has been carried out, the auditor should examine the Cost audit Report.

11.12 Clause 38 of the Tax Audit Report (Form 3CD) provides the information relating to Excise audit. If such an audit has been carried out, the auditor should examine the Excise Audit Report.

11.13 Clause 39 of the Tax Audit Report (Form 3CD) provides the information relating to Special audit under Service Tax. If such an audit has been carried out in relation to valuation of taxable service, the auditor should examine the Service Tax Audit Report.

11.14 Clause 40 of the Tax Audit Report (Form 3CD) provides the important accounting ratios.

11.15 Clause 41 of the Tax Audit Report (Form 3CD) provides the details of demand raised or refund issue during the previous year under any Indirect Tax Law along with details of relevant proceedings.

## SCRUTINY OF TAX DEDUCTED AT SOURCE (TDS) CERTIFICATES

11.16 The total receipts for services can be verified from TDS certificates in the following manner:-

- i By deducting the amount of GST from the value on which tax has been deducted at source, the receipts an account of services supplied and as appearing in the books of accounts can be reconciled (subject to details of accounts where no TDS is deducted).
- ii The nature of services can also be confirmed from these certificates and in case of any discrepancy in the categorization of services under proper head, elaborate checks need to be carried out by the Auditor.
- iii. Details of TDS credit claimed in the Income Tax Return may also be examined.
- iv. It is however, to be noted that no TDS is deducted in supply of goods.

## STUDY OF VARIOUS FINANCIAL RECORDS

11.17 **Notes on accounts:** In case of debtors, notes indicate debtors which are outstanding for a period exceeding 6 months. Foreign Exchange related transactions are also given in the notes on accounts. Netting of amounts of revenue or expenditure can also be resorted to by the management although as per accounting standards it is mandatory to specify the figures separately. Notes containing Earning in Foreign Currency is relevant to study for determining earnings from export. Similarly, Expenditure in Foreign Currency is relevant for determining GST liability under reverse charge mechanism for import of services.

Scrutiny of Notes will also reveal whether there was any change in the system of accounting. For example – a taxpayer changes from cash system of accounting to mercantile accrual system. The notes also indicate the impact of accounting policies on various liabilities including the tax liability of the taxpayer. Therefore, the auditor must read the notes carefully.

11.18 **Director' Report:** Director's report may, *inter alia*, contain information about.

- (a) Foreign Exchange earned during the year.
- (b) Foreign Exchange paid during the year, e.g. – may be on account of

taxable services availed by the taxpayer where he is liable to pay service tax under reverse charge mechanism.

- (c) Information on the operations carried out by the taxpayer during the year under report. This may help in finding the exact nature of services provided by the taxpayer.
- (d) The facts stated in Director's Report should be reconciled with the GST Returns.

**11.19 Statutory Auditor's Report:** It is the most important report contained in the Annual Accounts of a company. The Statutory Auditor Certifies as to whether the books of account of the company are properly maintained or not and also whether internal control mechanism exist commensurate with the size and extent of business of the company. Any adverse noting of the Statutory Auditor has to be replied by the management of the company.

**11.20 The Trial Balance:** The most important use of Gross Trial Balance is that it contains balances of individual ledger accounts whereas in balance sheet and P&L A/c. many ledger accounts are grouped together, e.g.

- (a) In the P&L A/c. all the incomes are clubbed together under the head 'Gross Receipt', 'Sales' as the case may be. However, Trial Balance shows income earned under each category of revenue separately. Amongst sales also, supplies of goods of different rates are classified together in same ledger and thus, a reconciliation of such figure with the turnover reflected in GST returns is necessary to substantiate the proper payment of tax.
- (b) Not only Trial Balance is important in relation to income side, but it is very important in relation to expenditure side also. For instance – Payment made towards Sponsorship services may be clubbed in the category of Advertisement and Sales Promotion Expenses which can be identified only from the Trial Balance.
- (c) Similarly, Freight paid may be clubbed with purchases of Fixed Assets. If the freight paid to GTA, the company is liable to pay GST under reverse charge mechanism.

11.21 Indicative list of items to be examined in the Trial Balance / Profit & loss Account / Balance Sheet / Tax Audit Report.

The perusal of the Trial Balance could achieve the following:

- (i) familiarization with chart of accounts / account code and understand as to what extent the information is detailed and integrated with other sub-systems; few sample journal vouchers may also be seen to understand the information mentioned therein.
- (ii) Understand the grouping of sub accounts under main accounts for the purposes of summarization into Profit & Loss account and the Balance Sheet.
- (iii) Identification of accounts, which have a prima facie relevance for GST payment (may be direct or indirect) e.g. payment towards sponsorship, payment towards goods transport agencies, payment towards cab charges, repair and maintenance etc. These accounts may have to be seen in detail at later stage of audit depending upon the result of subsequent audit processes;
- (iv) Understand the tax accounting system in so far as it pertains to GST payment and treatment of credit of service tax on input services.
- (v) Trial Balance is also important from the perspective of reviewing any debit entries into accounts which should have credit entries in general and vice versa. For eg., Sales account should have debit entries only, however, one may find that there is a small debit amount appearing in the debit side of the Gross Trial Balance. This debit could be indication of any cancelled sale, discount, sales return etc. and thus, its very nature can substantiate the validity of credit note issued under Section 34 of the CGST Act.
- (vi) Last but not the least, the Trial Balance is also indicative of inter Branch / Cross charge entries made or required to be made in the books of accounts. For eg., one may find an extraordinary expense during the year say an advertisement expense of one crore which was not there last year. A review of such expense may reveal that it was related not only to the registration under audit/ review but also, other branches under different GST registrations. Thus, a cross charge of such expense should have been made by the unit to other units, else, not complete Input Tax Credit could be attributed to such registration and is not available fully under such registration.

**11.22 Profit & Loss Account:** The auditor is required to examine income and expenditure accounts in the Profit & Loss Accounts:

- (a) **Income Accounts:** Normally, the Profit & Loss Account would show a consolidated entry for business income for all sources. According to accounting standards, non-business income such as interest income or dividend income is required to be shown separately. To begin with, auditor should call for the grouping of business income shown in the Profit & Loss Account. The said grouping would show the different heads under which the incomes have been accounted for. They should carefully study the nature of business income – some of which may have accrued from the sale of taxable services and the balance from the sale of non-taxable services. The exact nature of these services may be determined from the supporting documents such as vouchers, bills or contracts. In doing so auditors need to be guided by the nomenclature (used for each these services) in the Trial Balance or Annexures to the Profit and Loss Accounts. It is possible that the true nature of the service may be obscured or disguised by using a nomenclature that is either non-taxable or exempted. Further, studying the income side of the P/L A/c would also give an idea to Auditor in respect of whether the reversal to be made under Rule 42 and 43 of the CGST Rules, (required when assessee provides both taxable and exempted services/goods) is correct or not.
- (b) **Expense Accounts:** Scrutiny of expense accounts would enable the Auditor to identify major expenditure heads. In specific terms, such scrutiny may be useful in the following manner :
- (i) Useful for verification of out of pocket expenses where deductions for these have been claimed from the value of taxable supplies.
  - (ii) Correlation between expenditure head and value of taxable supplies e.g. fuel expenses and the value of taxable service in the case of tour operators.
  - (iii) Analysis of trend in total expenses vis-à-vis the previous year to check whether income grew proportionately or not.
  - (iv) Analysis of expenditure head relevant for GST liability under reverse charge mechanism.

### **Review of reconciliation with financial statements**

11.23 The Reconciliation given by the Taxpayer in GSTR 9C should be analysed by the auditor to understand the difference between the turnover in the financial statements and the returns. He needs to understand the differences as classified and reasoned out by the auditor and whether there exist any discrepancies and whether there are some areas which have escaped payment of tax.

### **Discussion on observations**

During this stage, a discussion with the Taxpayer should also be held, to gather information about the taxpayer and documenting the business systems or processes in use at his unit. The discussion with the taxpayer is intended to settle issues which can be cleared by simple discussion. This will help avoid inclusion of non-relevant matters in Audit Plan and expedite the audit process. Discussions with the senior Management of the taxpayer are critical for developing a meaningful audit plan. At the same time, it is important to prepare points / questions beforehand on which information is required. Finally, an audit plan for the taxpayer should be prepared. The objective of desk review is to devise a focused audit plan. The proper desk review, preferably, under the supervision of a senior officer is vital for drawing up a meaningful audit plan.

11.24 The desk review is the most important step in the audit and needs to be given more attention so that audit plan is a result of a more informed Desk Review. In order to achieve this, in addition to data already collected from the assessee, a questionnaire and certain data relating to reconciliation will also be obtained. On the basis of data received for reconciliation, a preliminary reconciliation will be done and the same will be available to the Auditors along with the questionnaire. After examining the data and the documents, a meeting with the Authorized Representative of the assessee will be conducted so that doubts in the data and questionnaire are clarified and only those issues which cannot be clarified on the basis of reconciliation, questionnaire and meeting with the assessee are referred in the Audit Plan. The meeting could cover areas like the systems of purchase and purchase invoicing, the system of sale and sales invoicing, issues relating to registration, the Information Technology (IT) systems used to process data, various returns submitted to third party regulatory organizations etc. In addition, the following benefits would arise from this:

- (i) Major issues will be discussed and examined at the level of joint Commissioner / Additional Commissioner conducting Desk Review.
- (ii) The period of visit by the Audit Party can be considerably shortened as there will be fewer and more precise Audit Points to verify.
- (iii) The desk review will pinpoint the important issues in Audit Plan.
- (iv) No frivolous issues will be raised in Audit Plan.
- (v) The officer doing the Desk Review will be better aware of the facts.
- (vi) After meeting with the assessee no issues will be raised because of communication gap between the Department and the assessee.
- (vii) It will give incentive to assessee to come clean at Desk Review stage so that physical intervention of Audit Party at his premises is minimized.

There are three major areas which require attention during the audit:-

- (i) The risk based on revenue earned on services provided by the assessee.
- (ii) The risk based on expenditure made on services received by the assessee.
- (iii) The risk based on INPUT TAX credit taken by the assessee.

### **GOODS AND SERVICES TAX AUDIT - SUBSTANTIVE**

11.24 Substantive procedures (or substantive tests) are the activities performed by an auditor to detect material misstatement or fraud at the assertion level of the management. The assertions made by the management are usually with respect to –

- *the accounting balances*, the different assertions are - completeness, existence, rights + obligations, valuation + allocation, and presentation + disclosure, and
- *the transactions*, the different assertions are - occurrence (validity), completeness, accuracy, cut-off and classification.

Management implicitly asserts that account balances and underlying classes of transaction do not contain any material misstatements: in other words, that they are materially complete, valid and accurate. Auditors use substantive procedures to validate these assertions. For example, an auditor

may inspect supporting documents like invoices and bank statements to confirm that sales or provision of service did occur (occurrence); and arrange for suppliers to confirm in writing the details of the amount owing at balance date as an evidence that accounts payable is a liability (rights and obligation assertion).

There are two categories of substantive procedures - ***analytical procedures and tests of detail***. Analytical procedures generally provide less reliable evidence than the tests of detail. Note also that analytical procedures are applied in several different audit stages, whereas tests of detail are only applied in the substantive testing stage.

The auditor's reliance on substantive tests to achieve an audit objective related to a particular assertion may be derived from tests of details, from analytical procedures, or from a combination of both. The decision about which procedure or procedures should be used to achieve a particular audit objective is based on the auditor's judgment on the expected effectiveness and efficiency of the available procedures.

***Analytical procedures*** (the comparison of sets of financial information, and financial with non-financial information, to see if the numbers 'make sense' and that unexpected movements can be explained) are an important part of the audit process and consist of evaluations of financial information made by a study of possible relationships among both financial and nonfinancial data. Analytical procedures range from simple comparisons to the use of complex models involving many relationships and elements of data.

A basic premise underlying the application of analytical procedures is that plausible relationships among data may reasonably be expected to exist and continue in the absence of known conditions to the contrary. Particular conditions that can cause variations in these relationships include, for example, specific unusual transactions or events, accounting changes, business changes, random fluctuations, or misstatements.

Analytical procedures involve comparisons of recorded amounts, or ratios developed from recorded amounts, to expectations developed by the auditor. The auditor develops such expectations by identifying and using plausible relationships that are reasonably expected to exist based on the auditor's understanding of the assessee and of the industry in which the client operates. Following are examples of sources of information for developing expectations, i.e., identifying the areas where gaps could be found:

- comparison of the financial information with information for the comparable prior period(s), e.g. service turnover of say three consecutive financial years can be compared with the corresponding manpower deployed (thru direct employees and thru external agencies) and major equipment purchases/deployment for provision of service (in case equipment are required for provision of such service), number of sites on which services are being performed etc.- This comparison would give a broad idea about the reasonableness of the turnover. However, for using this data as basis for developing an 'expectation', i.e. 'gap in the reported figures', adjustment should be made for the known factors like closure of particular line of services, industry market position etc.
- Relationships among elements of financial information within the period - Monthly amounts can be compared (which are more effective from annual amounts), e.g., monthly value of goods procured may be compared with the monthly expense on GTA services. Further, comparisons by location or line of business can also be very effective.
- study of the relationships among elements of financial information that would be expected to conform to a predictable pattern based on the entity's experience (e.g., gross margin percentages);
- comparison of the financial information with similar information based on industry averages, results of competitors or other operators in the same industry—for example, gross margin information
- Study of the relationships between the financial information and relevant nonfinancial information (e.g., in cable industry receipts can be matched with the number of set top boxes installed).

Some of the examples of the ratios which could be particularly relevant for service tax audit are as under –

- A. Ratio - Major inputs and input services of supply cost : Value of Taxable Supply**

**Source Document:** Profit & Loss Account and GSTR 3B return

Compare the annual ratio for a period of 2-3 years. If the ratio is increasing, there is possibility of the following irregularities.

- Rendering of unaccounted supplies.
- Undervaluation of taxable supplies.

**B. Ratio – Credit availed: Total Service Tax payable**

**Source Document:** GSTR 3B return

This ratio should have some parallel relation with the above ratio. If there is a gap in these two ratios, there is a need to look into the reason – there could be a situation of wrong credit availment.

**C. Ratio – Other incomes not charged to GST: Value of taxable supplies**

**Source Document:** Profit & Loss Account and GST 3B return

Compare the ratio over a period of 3-4 years or with the taxpayers rendering the same services. If the ratio is increasing over a period of time or it is more as compared to the other service providers, there is a possibility of undervaluation by splitting of output service income into non-taxable/exempted service income. For example, income from renting of immovable property may be incorrectly bifurcated into income from renting of residential dwelling which is not taxable.

**D. Ratio – Additions to plant and machinery/ fixed assets during the year: Total value of assets at the beginning of the year**

**Source Document:** Fixed Assets Schedule in the Balance Sheet

A comparison of this ratio with the rate of growth of the value of taxable service during the year may be useful in verifying whether the value of taxable service has been correctly **declared** particularly in cases where the additions to plant and machinery/ fixed assets directly impact the volume of taxable services. For instance, the installation of additional processing equipment by a photographic laboratory would normally result in some increase in its value of taxable service. In the same manner, increase in the number of computers in an internet cafe would generate additional business for the taxpayer.

Like the above ratios, many more ratios may be developed depending upon the nature of industry being audited which may be very useful for the purpose of service tax audit.

Analytical review procedures vary from simple comparisons to reasonably complex regression analysis and at times series modeling. The expected effectiveness and efficiency of an analytical procedure in identifying potential misstatements depends on, among other things, (a) the nature of the assertion, (b) the plausibility and predictability of the relationship, (c) the

availability and reliability of the data used to develop the expectation, and (d) the precision of the 'expectation'. i.e. 'identified gap'.

When an analytical procedure is used as the principal substantive test of a significant financial statement assertion, the auditor should document all of the following:

- (a) The expectation, where that expectation is not otherwise readily determinable from the documentation of the work performed, and factors considered in its development
- (b) Results of the comparison of the expectation to the recorded amounts or ratios developed from recorded amounts
- (c) Any additional auditing procedures performed in response to significant unexpected differences arising from the analytical procedure and the results of such additional procedures

The auditor should evaluate significant unexpected differences and should use the concept of materiality to decide where further investigation is required and what should be dropped. Reconsidering the methods and factors used in developing the expectation and inquiry of management may assist the auditor in this regard. Management responses, however, should ordinarily be corroborated with other evidential matter. Here the role of detailed test procedures comes.

***A test of details*** is the most significant substantive procedure for audit. This involves selecting a sample of items from the major account balances, and finding hard evidence (e.g. invoices, bank statements) for those items and verifying and reconciling them with the physical material as well as with the records or details submitted with the various statutory or other authorities. The tests which are more relevant for a service tax audit are -

- Inspection of Records or Documents - It consists of examining records or documents whether internal or external, in paper form, electronic form, or other media. Inspection provides evidence of varying degrees of reliability depending on their nature and source and in the case of internal records, on effectiveness of controls over their production.
- Inspection of Tangible Assets - It consists of physical examination of the assets. It may provide reliable audit evidence of their existence
- Inquiry - It means seeking information of knowledgeable persons throughout the entity or outside the entity. Those may be formal

written or informal oral. It provides an auditor with new information or corroborative evidences. It may also bring to high information different from the one possessed by the auditor. Certain oral inquiries might be got confirmed through written representations.

- Confirmations - It is a specific type of inquiry. It is the process of obtaining a representation of information or an existing condition directly from a third party. Confirmations are sought from debtors, creditors, bankers, legal advisors etc.
- Reconciliation – matching two independent sets of records.

Out of the above audit procedures, the procedure which requires discussion in detail is ‘inspection of records and documents’ in view of the fact that identifying the document which needs to be inspected, the relevant data in that document and sourcing that document is an area where one may add good value particularly from the perspective of service tax audit.

Some of the documents which are particularly useful in substantive audit are–

1. Basic financial documents - Financial Statements, Credit Registers, invoices etc.
2. Service Tax Records of the assessee – Service Tax Returns, respective ledgers and invoices etc.
3. Income Tax Records of the assessee – Balance Sheet along with the P&L Account submitted with Income Tax Authorities, TDS return, Form 3CD (tax audit report) if applicable, Form 26AS (TDS deduction form)
4. ROC Records – Balance Sheet and P&L Account submitted with the ROC
5. Bank Statements and the financial details submitted to Bankers in case of loan etc.
6. VAT Records – Copies of VAT returns
7. Relevant data from regulatory authorities

All the above records may contain relevant information supporting to assess service tax liability/credit position depending upon the mix of turnover of a company and the nature of industry. Some of the records provide the relevant data independently and some other records

Some of the examples of the manner in which the above records may be used are as under –

- A.** Bank Statement of an assessee may be cross verified with the income/revenue receipts shown in the ST-3 returns of the assessee – this may identify the gaps in the income which people may net off at times.
- B.** TDS return filed by an assessee contains the details of expenses on which they deduct TDS – many of these are input services chargeable to service tax – this data can highlight the possible leakage of service tax in case of input services where service tax is payable on reverse charge.
- C.** Form 26AS is a form which lists out the incomes of an assessee on which others have deducted TDS, most of which relates to the taxable services – this form may be very useful in identifying the taxable income of an assessee.
- D.** A reconciliation of service turnover shown in the ST-3 Return with the turnover shown in the P&L Account of an assessee would be helpful in identifying the possible tax leakage.
- E.** A figure of sales shown in the P&L Account can be reconciled with the figures of sale in the VAT returns of the assessee to ensure the correctness of this data.
- F.** Data from regulatory authorities may be very useful. For example, in case of insurance brokers, they are supposed to file an annual return of commission earned to the IRDA. This data may be very useful in identifying the respective service tax position of the assessee.

Apart from the inspection of records and documents, reconciliation, enquiries, confirmations and physical checking are other tools for test in detail for the audit. Given the so many tools of substantive audit, the point is that how to balance out the needs of a given audit in terms of selecting the most appropriate audit procedure and the tool. This would largely depend upon the nature of industry and the size and complexity of the business of an assessee and thus availability of an industry wise database with the Service Tax Department may prove to be a big asset for the purposes of Service Tax Audit.

## COMPANIES (AUDITOR'S REPORT) ORDER, 2016 (CARO)

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13.1 In accordance with the provision of Section 143(11) of the Companies Act, 2013, the Auditor's report of certain class or description of companies shall include a statement on certain specified matters. These reporting requirements on specified matters has now been prescribed under the Companies (Auditor's Report) Order, 2016 (CARO-2016) issued by the Ministry of Corporate Affairs (MCA) vide Order No.S.O.1228(E) dated 29<sup>th</sup> March, 2016.

CARO, 2016 has been issued in supersession of the Companies (Auditor's Report) Order, 2015 and is made applicable from the financial year 2015-16.

Prior to CARO-2016, the Companies (Auditor's Report) Order, 2015 (CARO, 2015) was issued vide MCA Order no.S.O.990(E) w.e.f. 10<sup>th</sup> April, 2015. CARO, 2015 had replaced the Companies (Auditor's Report) Order, 2003 issued by MCA in pursuance of the provisions of Section 227(4A) of the Companies Act, 1956.

### **APPLICABILITY**

13.2 The Companies (Auditor's Report) Order, 2016 is applicable from FY 2015-16 and the matters specified therein shall be included in each report made by auditor under Sec.143 on the accounts of every Company to which CARO, 2016 applies.

### **COVERAGE**

13.3 CARO, 2016 is applicable to every Company including a foreign Company as defined in clause (42) of Section 2 of the Companies Act, 2013 except

## **274 Background Material on Training Program for Government Officials**

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- (i) Banking Company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949;
- (ii) Insurance Company as defined under the Insurance Act, 1938;
- (iii) a Company licensed to operate under Section 8 of Companies Act, 2013.
- (iv) a One Person Company (OPC) as defined under clause (62) of section 2 of Companies Act, 2013.
- (v) a Small Company as defined under Section 2(85) of the Companies Act, 2013.

Small Company is defined as a Private Limited Company, not being a Subsidiary or holding Company of a Public Company having a Paid-up Capital and Reserves and surplus not more than Rs.one crore as on the Balance Sheet date and which does not have loan outstanding exceeding Rs.one crore from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Schedule III to the Companies Act, 2013(including revenue from discontinuing operations) turnover exceeding Rs. ten crores during the financial year as per the financial statements.

### **AUDITOR'S REPORT TO CONTAIN MATTERS SPECIFIED IN PARAGRAPHS 3 AND 4.**

13.4 Every report made by the auditor under section 143 of the Companies Act, 2013 on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after 1st April, 2015, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided the Order shall not apply to the auditor's report on consolidated financial statements.

### **MATTERS TO BE INCLUDED IN AUDITOR'S REPORT**

13.5 The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:-

- (i)
  - (a) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of fixed assets;
  - (b) whether these fixed assets have been physically verified by the management at reasonable intervals ; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;
  - (c) whether the title deeds of immovable properties are held in the name of the company. If not, provide the details thereof;
- (ii) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether any material discrepancies were noticed and if so, whether they have been properly dealt with in the books of account;
- (iii) whether the company has granted any loans, secured or unsecured to companies, firms, Limited Liability Partnerships or other parties covered in the register maintained under section 189 of the Companies Act, 2013. If so,
  - (a) whether the terms and conditions of the grant of such loans are not prejudicial to the company's interest;
  - (b) whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;
  - (c) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;
- (iv) in respect of loans, investments, guarantees, and security whether provisions of section 185 and 186 of the Companies Act, 2013 have been complied with. If not, provide the details thereof.
- (v) in case, the company has accepted deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections

73 to 76 or any other relevant provisions of the Companies Act, 2013 and the rules framed thereunder, where applicable, have been complied with? If not, the nature of such contraventions be stated; If an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not?

- (vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act, 2013 and whether such accounts and records have been so made and maintained.
- (vii) (a) whether the company is regular in depositing undisputed statutory dues including provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;  
(b) where dues of income tax or sales tax or service tax or duty of customs or duty of excise or value added tax have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned. (A mere representation to the concerned Department shall not be treated as a dispute).
- (viii) whether the company has defaulted in repayment of loans or borrowing to a financial institution, bank, Government or dues to debenture holders? If yes, the period and the amount of default to be reported (in case of defaults to banks, financial institutions, and Government, lender wise details to be provided).
- (ix) whether moneys raised by way of initial public offer or further public offer (including debt instruments) and term loans were applied for the purposes for which those are raised. If not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;

- (x) whether any fraud by the company or any fraud on the Company by its officers or employees has been noticed or reported during the year; If yes, the nature and the amount involved is to be indicated;
- (xi) whether managerial remuneration has been paid or provided in accordance with the requisite approvals mandated by the provisions of section 197 read with Schedule V to the Companies Act? If not, state the amount involved and steps taken by the company for securing refund of the same;
- (xii) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1: 20 to meet out the liability and whether the Nidhi Company is maintaining ten per cent unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;
- (xiii) whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act,2013 where applicable and the details have been disclosed in the Financial Statements etc., as required by the applicable accounting standards;
- (xiv) whether the company has made any preferential allotment or private placement of shares or fully or partly convertible debentures during the year under review and if so, as to whether the requirement of section 42 of the Companies Act, 2013 have been complied with and the amount raised have been used for the purposes for which the funds were raised. If not, provide the details in respect of the amount involved and nature of non-compliance;
- (xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act, 2013 have been complied with;
- (xvi) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 and if so, whether the registration has been obtained

**REASONS TO BE STATED FOR UNFAVOURABLE OR QUALIFIED ANSWERS**

13.6 (1) Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.

(2) Where the auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same.

The Indirect Tax perspective on review of CARO, 2016 is to know about the undisputed tax liabilities as on the last day of the financial year concerned for a period of more than six months from the date they became payable and also to know the status about the disputed demands.

## SAMPLE CHECKLIST FOR GST AUDIT

### SUGGESTED AUDIT CHECKLIST

Client's Name.....

Financial / Accounting Year.....

		Checked By	Yes	No	N.A	Remarks
<b>1</b>	<b>GST Registration Certificate</b>					
	Have you checked whether the Supplier has applied for New Registration or has he Migrated?					
	Have you checked the registration details of: Registered Person, Business Verticals, Factory / Warehouse / Godown, ISD and in respect of Other place of business?					
	Whether GSTIN is displayed in Name Board viz., Godown /Branches / other places of business?					
	Whether the additional place of business within the State is incorporated in the Registration Certificate?					
	Whether the Separate Registration is taken for					

**280 Background Material on Training Program for Government Officials**

	Input Service Distributor?					
	Whether any amendment is required to be made to the Registration Certificate?					
	Others, if any					
<b>2</b>	<b>Invoicing documentation</b>					
	Whether Tax Invoice or Bill of supply is issued as per GST law? Whether it contains all the relevant particulars as required under law?					
	Whether Tax Invoice for supply of goods is issued on or before the removal / delivery of goods?					
	Whether Tax Invoice for supply of services is issued within 30 days from date of supply of service?					
	Whether bill of supply is issued for exempt supplies/ non- GST supplies?					
	Whether the Revised Invoice is issued in case of New Registration?					
	Whether Receipt voucher is issued for receipt of advance?					
	Whether Self-invoice and payment voucher is issued in case of RCM transactions under Section 9(4)?					
	Whether refund voucher is issued for refund of advance received?					

Whether Credit note/ Debit notes are issued as per the provisions of the GST law as per Section 34?					
Whether Credit note/Debit Note is issued before 30th September of the Subsequent Financial Year?					
Have you checked correctness of Tax Invoice /Bill of supply with the appropriate Supply Register/ GSTR 1?					
Whether the Tax Invoice/Bill of supply is cancelled for genuine reasons, if any like Name of party /details where applicable?					
Whether any Invoice cum Bill of supply is raised for specific transactions?					
Whether the transport documents are maintained and verified?					
Whether any copies of Credit Note and Debit Note are raised otherwise than as specified in Section 34?					
Whether the Delivery challans/E-way bill Register is maintained?					
Whether Series of documents issued as per clause 13 of GSTR 1 matches with the Books of					

**282 Background Material on Training Program for Government Officials**

	Account from July 2017 to March 2018?					
	Others if any specify					
<b>3</b>	<b>Goods Sent to Job Work</b>					
	Whether the conditions are fulfilled for claiming input tax credit on goods (including capital goods) sent for job work?					
	Whether the Principal has sent goods to the job worker under the cover of delivery challans?					
	Whether the registered person has furnished FORM ITC 04 for the quarters in which goods were sent out for job work?					
	In case the registered person has supplied goods directly from the place of business of job worker, whether he has satisfied the conditions laid down in proviso to Section 143 (1) of GST Act?					
	In case the job worker is unregistered, and such job worker has supplied any waste/ scrap generated during the job work from his place of business directly, whether the registered person has paid tax on such supply?					
	Have you checked any goods are sent for job work					

	and returned within specified time?					
	Others if any specify					
<b>4</b>	<b>Supply</b>					
	Whether the kind of outward supplies like Taxable supply, Exempted supply, Zero-rated supply, NIL rated supply, Supplies to SEZ unit / developers / Deemed Export and Merchant Export etc. are appropriately classified under GST law?					
	Whether any transaction which falls within the scope of supply has not been identified by the Registered Person?					
	Have you checked Interstate supply as per Section 7(5) of the IGST Act 2017?					
	Have you checked Intra State supply as per Section 8 of the IGST Act 2017?					
	Whether the Zero-rated supply is verified as per the provisions of the law?					
	Whether the supplies made by a registered person falls within the meaning of Composite /non-composite/ Mixed supply? If yes, whether the same has been offered to tax as per Section 8 of the CGST Act?					

	Have you checked for sale of capital goods and the GST charged and as to whether they are included in the returns filed?					
	Whether Interstate supply is regarded as Intra state supply and vice versa?					
	Whether abatement provisions, if any, are applicable (like one third for land) is complied with?					
	Whether the transactions are correctly classified as supply of goods or supply of services?					
	Have you checked the deemed supply as per schedule I?					
	Are there any transactions wherein the goods sent for job work not received back are treated as supply?					
	Others if any specify					
<b>5</b>	<b>Time of supply</b>					
	Whether Time of supply provisions have been complied as per Section 12 and 13 of the CGST Act?					
	In case of change in rate of tax in respect of goods or services, whether the time of supply has been determined as per Section 14 of the CGST Act?					
	Whether time of supply is complied for continuous supply of goods/Continuous					

	supply of services should be verified?					
	Whether time of supply is compiled for Reverse charge?					
	Whether time of supply is compiled for goods sent on approval?					
	Others if any specify					
<b>6</b>	<b>Input Tax Credit</b>					
	Have you checked the input tax credit availed with invoices from vendors like Bill of Entry, Tax Invoice, Debit Note, Self-Invoice, ISD Invoice?					
	Have you checked entries in Inward supplies records for input tax and reconciled with Invoices from the vendors?					
	Have you checked the inward supplies records with Monthly return and ascertained reasons for variations, if any?					
	Have you made a list of restricted input tax credit items as per the GST law?					
	Have you tallied monthly return with Input tax credit receivable, if any?					
	Have you reconciled tax collections with payments and transfer of the balance to appropriate accounts?					

**286 Background Material on Training Program for Government Officials**

Have you checked adjustment of tax set-off by relevant journal entries?					
Have you checked that input tax credit on capital goods is correctly availed?					
Whether Input Tax credit is reversed for the sale of capital goods as specified in GST law?					
Any Reversal of input tax credit for the goods sent for job work?					
Whether the recipient of supply has effected payment for such inward supply within 180 days from the date of Invoice?					
Whether input tax credit availed is debited to recoverable account for availing re-credit?					
Whether the supplier has availed both benefits of depreciation and input tax credit?					
Whether the documents (tax invoice/ debit note) on the basis on which input tax credit is claimed contains the mandatory details of the recipient such as Name, GSTIN, Address and all other particulars as prescribed?					
Whether Input tax credit is reversed against the receipt of Credit Note?					

	Whether input tax credit is bifurcated in to eligible, ineligible, blocked and common credits?					
	Whether the common credits are reversed as per Rule 42 of the CGST Rules?					
	Whether input tax credit is availed on capital goods? If yes, whether credit is reversed as per Rule 43 of the CGST Rules?					
	Whether reconciliation of input tax credit between GSTR 3B and GSTR 2A is done?					
	Whether transitional Credit is availed as per the provisions of the law?					
	Whether any ineligible transitional credit is reversed as per the law?					
	Have you tallied monthly return with Input tax credit receivable?					
	Any Reversal of Input Tax Credit for change in scheme from composition to Regular?					
	Others if any specify					
<b>7</b>	<b>Input Tax Service Distributor</b>					
	Whether separate registration is taken as per the Provisions of law?					
	Whether any tax is payable under reverse charge and					

**288 Background Material on Training Program for Government Officials**

	obtained separate Registration?					
	Whether eligible and ineligible input tax credit is apportioned as per the GST law?					
	Is there is any reversal of Input tax credit and credit note is issued?					
	Whether the calculation of Turnover for allocating the input tax credit is as per the law?					
	Whether the ISD invoice containing the relevant particulars is issued correctly as per the provisions of the law?					
	Others if any specify					
<b>8</b>	<b>Classifications</b>					
	Whether the classification of goods/ services is in conformity with Schedules / Notifications?					
	Whether the HSN classification is verified to confirm the rate of tax on goods and services?					
	Whether the HSN details for inward and outward supply are verified?					
	Whether the SAC code/HSN code is as per the law?					
	Whether the HSN/SAC classification is the same					

	as was followed in the erstwhile law if applicable?					
	Is there any specific Advance Ruling applicable?					
	Whether there has been any change in rate of tax during the period by way of amendment in the rate of tax notification or exemption notification?					
	Others if any specify					
<b>9</b>	<b>Returns</b>					
	Whether the copies of the GST returns filed by the registered person are reviewed?					
	Whether reconciliation of GSTR 9 with GSTR1 and GSTR 3B is done?					
	Whether interest which was due, has been paid while filing the Return?					
	Whether any late fee which is due is paid while filing the return or any late fee which was waived?					
	Whether transitional credit Returns are filed within the due date?					
	Whether transitional credit Returns are not filed due to technical glitches?					
	Whether the amendment details are filed correctly in the Returns?					
	Others if any specify					

**290 Background Material on Training Program for Government Officials**

<b>10</b>	<b>GST collections and payment verification</b>					
	Have you checked whether tax payable is paid within the prescribed time as per the GST law?					
	Have you checked whether tax is being collected beyond tax payable? If yes, whether Sec. 76 is complied.					
	Whether the tax payer charged wrongly IGST in place of CGST/SGST or <i>vice versa</i> ?					
	Have you followed the provisions of Rule 35 of the CGST Rules in respect of collection of taxes?					
	Is there any excess collection of taxes?					
	Others if any specify					
<b>11</b>	<b>Reverse Charge</b>					
	Whether Reverse charge tax is paid under 9(4) of the CGST Act 2017 up to 12 <sup>th</sup> October 2017?					
	Whether Reverse charge tax on notified supplies under Section 9(3) and 9(5) of the CGST Act 2017 is duly paid?					
	Whether Reverse charge tax has been paid wrongly in lieu of CGST/SGST as IGST or <i>vice versa</i> ?					

	Whether corresponding input tax credit is availed on Reverse charge?					
	Whether conditions of paying tax for RCM are fulfilled?					
	Others if any specify					
<b>12</b>	<b>Value of Supply</b>					
	Whether all the inclusions to the value of supply as per Section 15 of the Act have been verified?					
	Whether discount offered to customers (pre/ post supply) is not included in the value of supply after fulfillment of conditions under Section 15(3) of the Act?					
	Whether valuation rules have been applied as per the GST law?					
	Whether the registered person has claimed any pure agent deduction as per Rule 33?					
	In case the value of supply is inclusive of the GST, whether the taxable value and tax amount is determined as per Rule 35 of the CGST Rules, 2017?					
	In case of exports, whether the rate of exchange of currency is determined as per Rule 34 of the CGST Rules, 2017?					
	Whether the rate of tax charged for the supplies is					

**292 Background Material on Training Program for Government Officials**

	as per the GST rate notifications issued/amended from time to time?					
	Whether CGST/SGST/IGST is charged in accordance with place of supply provisions?					
	Whether the tax collected from the customers has been entirely remitted to Government?					
	Others if any specify					
<b>13</b>	<b>Place of supply</b>					
	Whether the supply is inter-State/Intra State has been identified based on the policy document of the entity?					
	Whether the conditions for inter-State supply are fulfilled as per IGST Act, 2017?					
	Whether the conditions for intra-State supply are fulfilled as per IGST Act, 2017?					
	Whether the conditions for export of goods are fulfilled?					
	Whether the conditions are fulfilled for export of services?					
	Whether there are any imports of goods/import of services?					
	Whether the Zero-rated					

	supply is with or without payment of taxes?					
	Whether the conditions for location of supplier are fulfilled?					
	Whether the supplier is intermediary under the GST Act and the conditions are fulfilled?					
	Whether the supplier has declared sale in course of Imports, Non-territory supply, High Sea supply in the Return correctly?					
	Whether the conditions for location of the recipient are fulfilled?					
	Whether the wrong payment of tax i.e. IGST in lieu of SGST/CGST is claimed as refund?					
	Whether the wrong payment of tax i.e. SGST/CGST in lieu of IGST is claimed as refund?					
	Whether the Supply by SEZ to DTA is treated as inter-State subject to fulfilment of conditions?					
	Others if any specify					
<b>14</b>	<b>Refund</b>					
	Whether the Supplier is eligible for Refund as per Section 54?					
	Whether the supplier has applied for Refund and whether it is sanctioned?					

**294 Background Material on Training Program for Government Officials**

	Whether any Refund is Rejected or pending before the Authority?					
	Whether the Refund is Re-credited to Electronic Credit Ledger?					
	Whether the Manual /Electronic documents for Refund are verified?					
	Whether the Accounting impacts are given for Refund applied, pending rejected or appealed?					
	Whether any Refund is wrongly applied like input services/Capital goods credit for inverted duty structure?					
	Whether Refund and Input Tax credit is claimed for the same transactions?					
	Whether interest on delayed refund is receivable?					
	Others if any specify					
<b>15</b>	<b>Inward supply</b>					
	Have you checked the purchase invoice/ delivery challans with purchase register?					
	Have you checked the HSN Classification for inward supplies?					
	Have you checked Inward supply with the Monthly returns?					
	Have you checked whether any input tax is added to					

	the cost of purchase where input tax credit is not allowable?					
	Have you made a list of inward supply invoices for which there are no corresponding entries in inward supply records and GST return?					
	Have you checked that inward supplies are classified between intra-State, inter-State, Imports etc.?					
	Have you checked that purchases of capital goods are booked as fixed assets and the GST is paid thereon? Have you checked Assets which have depreciated 100%?					
	Have you checked sale / deletion of fixed assets?					
	Others if any specify					
<b>16</b>	<b>Maintenance of Books of Accounts</b>					
	Whether books of accounts are maintained as specified in Section 35 r/w Rules 56, 57 and 58 of the GST Law?					
	Whether Books of accounts are maintained electronically / Manually?					
	Whether books of accounts are maintained at each place of business?					

Whether books of accounts are maintained Manually or Electronically? If the same are maintained Electronically, whether the software used complies with the requirements of the law?					
Whether the copies of Agreements/Agent agreement and other supporting documents are obtained?					
Whether copies of the Audited Financial Statements for each registration have been obtained?					
Whether Transporter/Warehouse keeper has maintained the books of Account as per the law?					
Whether the Register E-way Bill/Delivery challan is maintained as per the law?					
Whether E- Way bills are used for Valid purpose?					
Whether the register of ITC-01, ITC-02, ITC-03 and ITC-04 is maintained as per the GST law?					
Whether the supplier maintains the Cash/Bank Register for recording the transactions entity wise?					
Whether the books of Accounts maintained are					

	centralized or decentralized?					
	Others if any- specify					
<b>17</b>	<b>General</b>					
	Whether the registered person has complied with Anti-Profiteering clause?					
	Whether reliance is placed on any notifications / clarifications / advance ruling / judgement in respect of rate of tax charged and collected. Whether any conflicting Advance Ruling order is applicable?					
	Are there any departmental inspection proceedings for Transitional Credits or any other demands created?					
	Have you checked for any adverse points in reports issued by Internal/ Statutory auditors or any other such reports?					
	Have you checked for any adverse points in reports in the previous year?					
	Have you checked that assessment orders / appeal orders/notices issued by the department, if any?					
	Is there any judicial pronouncement that could be applicable to the dealer?					
	Have you discussed any					

**298 Background Material on Training Program for Government Officials**

	adverse issues arising out of the audit with the client?					
	Have you obtained the letter of appointment / issued the letter of acceptance of audit?					
	Have you come across any unusual transactions?					
	Have you checked miscellaneous receipts / other income?					
	Have you come across any huge or unusual inward or outward supply transactions / tax credits / tax payments etc.?					
	Have you noticed any comments on internal controls, periodicity of updating of accounts / records etc.?					
	Whether the registered person has availed the facility of digital signature?					
	Whether the Auditor has used appropriate Audit tools?					
	Others if any – specify					

Place:

Reviewed by- Manager / Partner / Proprietor

Date:

## SUMMARY OF IMPORTANT GST PROVISIONS

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### BACKGROUND

India has had a number of taxes introduced at various points of time. Under indirect taxes we have had central excise, central sales tax, value added tax, service tax, luxury tax, entertainment tax, betting and gambling tax, entry tax in States and many more. Each of these taxes was administered by State or the Centre or both. They had different threshold exemption, taxed different activities/ events, their own classification entries, valuation principles, demand, recovery mechanisms and procedures, which made it difficult for doing business. There were also many changes in each year making the multiple laws uncertain and unreliable for long term investors in India. The Government as a part of a 40 years old unfinished agenda of implementing value added tax in India merged 11 indirect taxes of the Centre and States. This was done in a unique consensus approach (give and take) to get all States on board which lead to the pristine principles of an ideal GST to be diluted quite substantially. The Goods and Service Tax was been implemented on 1<sup>st</sup> July after Constitutional Amendment in 2016<sup>1</sup>. Basic customs duty on goods imported into India as should be is not part of the GST as it is used to regulate the imports into India. Some transaction / products like electricity, 5 petroleum products, stamp duty, liquor have been kept in out of GST in line with the States demand and considerations of possible fall in gross revenue. Some of them may over period of time be merged depending on the comfort of the State revenues. Presently 5 petroleum products are being seriously examined which do not require any constitutional amendment and only require the GST Council to recommend and Centre and States to agree.

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<sup>1</sup> The Constitution Amendment Bill of 2014 was passed on 14<sup>th</sup> July 2016.

**The main objectives of GST are:**

- Enlarge the tax base now that India is moving towards being a developed economy,
- Encourage the parallel economy which presently contribute less on nothing to the tax to join the mainstream,
- Avoiding the cascading impact of multiple levies. i.e. tax on tax,
- Reduce the multiplicity of taxes on transactions and lead to a common market,
- Reducing the cost of compliance for Government and assessee and
- Reduce the interface between the tax payer and the administrators by using information technology.

**SCHEME OF GST**

**Levy**

- Section 9 of the CGST Act, 2017 and Section 5 of the IGST Act, 2017 provides for the levy of GST on all Intra-state (within-state) and all Inter-state (Outside state) respectively, supply of goods or services or both.
- Thus “supply” comes out to be the ‘taxable event’ under GST.
- Therefore, the GST can be levied where,
  - There is a “supply”
  - Supply should be “intra-state supply” or “Inter-state supply”
  - Supply should be of “goods” or “services”
  - Central Tax (CGST) and State Tax (SGST) are required to be paid on the intra-state supplies and Integrated Tax (IGST) has to be paid on all inter-state supplies.

The above terms are discussed hereunder:.

**Supply**

Supply has been defined to include all the activities which were hitherto covered in the 11 State and Central taxes which have been subsumed in GST. This very wide definition is normally applicable only if activity is in

furtherance of business and with a consideration. The wide definition of “business” means that almost all activities are covered including the activities by Government and supplies to Government unless specifically excluded.

### **Supply with Consideration**

The normal supply includes agreeing to supply goods or services in the course of business.

The basic test for being a ‘supply’ that it must be

- In the course or furtherance of business and
- There must be some consideration involved in it.

Business has been defined widely to include associations; government etc. and one may have to be very careful in taking a view that it is not a business.

It specifically includes: sale, transfer, barter, exchange, license, rental, lease and disposal.

It also specifically includes import of services for a consideration whether or not the activity is a business. Therefore, imports on personal account would be liable.

### **Supply without Consideration**

Schedule I provides for the activities which are considered to be liable even though there has been no consideration. They are:

- ITC availed business assets disposed or permanently transferred.
- Supply made between distinct person (same PAN- different States) which means that stock transfers would also be liable.
- Supply between related persons in the course of business. Services to employees who are also considered as related therefore supplies which are not part of their gross emoluments would also be liable subject to the relaxation upto INR 50,000 per employee in a Financial Year.
- Supply of goods by agent to principal or vice versa when agent is working on behalf of the principal.
- Import of goods from related parties.

**Schedule II-following matters to be treated as a supply of goods or a supply of services:**

**1. Transfer**

- (a) Any transfer of title to goods is a supply of goods.
- (b) Any transfer of goods or right in goods or undivided share without transfer of title is supply of services.
- (c) Any transfer of title in goods under an agreement which stipulates that property in goods will pass at a future date upon payment of full consideration as agreed is a supply of goods.

**2. Land and Building**

- (a) Any lease, tenancy, easement, license to occupy land is a supply of services.
- (b) Any lease or letting out of the building including a commercial, industrial or residential complex for business or comer, either wholly or partly, is a supply of services

**3. Treatment or process Any treatment or process which is being applied to another person's goods is a supply of services**

**4. Transfer of business assets**

- (a) Where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether for a consideration, such transfer or disposal is a supply of goods by the person
- (b) Where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether for a consideration, the usage or making available of such goods is a supply of services
- (c) Where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be taxable person. However, aforesaid

provision of deemed supply of goods shall not apply in the following cases:

- (i) Where the business is transferred as a going concern to another person; or
- (ii) Where the business is carried on by a personal representative who is deemed to be a taxable person

**5. Contains a list of supplies to be treated as “supply of services”.** This is similar to the declared services under the erstwhile Service Tax Law.

**6. The most preferred area of litigation i.e. supply of works contract service in relation to immovable property and supply of food and beverages are being classified as supply of services, therefore limiting the scope of litigation.**

**7. Supply of goods by Association to its members.**

**The main purpose of Schedule II is to minimize the scope of dispute between the department and the tax payer.**

**Supply also excludes certain activities which are not a supply of goods or services [Sch- III] :**

These activities are as under:

- Services by employee to employer
- Services by court or tribunal
- MLAs, MPs and persons who hold position bodies established by Central or State Government.
- Sale of land and sale of building other than those under construction.
- Actionable claims other than lottery, betting and gambling.
- Merchanting trade transactions
- In-bond sales and high-sea sales

### **Composite and Mixed Supply**

In terms of Section 8 of the Act, the tax liability on a composite or a mixed supply shall be determined in the following manner-

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

### **304 Background Material on Training Program for Government Officials**

Example- Supply of food during the course of transportation of passengers by air services shall be treated as supply of transportation of passengers by air.

- (b) a mixed supply two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.

#### **Inter and Intra State supply**

The intra-State supply is where

- the location of the supplier and
- the place of supply

are within the State.

Inter-State supply would be when

- location of the supplier and
- the place of supply of

are in different States or Union territories.

To determine whether within the state or outside one would require examining the place of supply section 12 or 13 of the IGST.

The applicability of types of GST in normal transactions can be seen in table below:

<b>Type of Transaction</b>	<b>Type of Tax</b>
Supply of Goods, or of services, or both within the State (same transaction would suffer both types of tax)	SGST or UTGST of respective State
	CGST
Supply of goods, or of services, or both in course of inter-State trade or commerce	IGST
Supply of goods, or of services, or both in course of Import into the territory of India	IGST

#### **Reverse Charge Mechanism**

In the economy of India, we have had a large number of the goods and services being provided by the unorganised trade/ industry supplying to the final consumer as well as the trade and industry. Some have been specified

as payable by the specified receiver such as Goods Transport agent, sponsored, advocate, services from outside India etc. under section 9 (3). This is a carry forward from the service tax regime. These procurements do not have any exemption and one has to register from day 1.

- Under GST, normally the tax is required to be paid the credit of the government. However, in terms of Section 9(3) the Central Government may, on the recommendation of the Council, by notification, specify categories of supply of goods and/or services the tax on which is payable on reverse charge basis and the tax thereon shall be paid by the recipient of such goods and/or services.
- The list of goods and services on which the tax is required to be paid by the recipient under the reverse charge mechanism has been provided in Annexure 1.

#### **SECTION 9(4)**

In general, there are some suppliers of goods and services who maybe small and below the threshold limit of Rs. 20/ 10 Lakhs. In addition, there are those who have been avoiding the tax by not raising invoices or keeping themselves under the limit by having multiple businesses. Therefore, one more levy on receipts from unregistered suppliers by registered persons had been imposed under section 9 (4) of CGST and 5(4) of IGST. This levy applies when (a) specified goods or services and (b) specified categories of registered recipients, are notified by the Government.

<b>List of services on which GST is to be paid under RCM as per notification No.10/2017-Integrated Tax (Rate) dated 28.06.2017 and amended from time to time</b>				
<b>S No</b>	<b>Description of Service</b>	<b>To be paid by - Recipient being</b>	<b>Notification No.</b>	<b>W.e.f.</b>
1	Any service supplied by any person in non-taxable territory, to any person other than a non-taxable online recipient,	Any person located in the taxable territory	10/2017-Integrated Tax (Rate)	01.07.2017
2	Goods Transport	Received by any	10/2017-	01.07.2017

### 306 Background Material on Training Program for Government Officials

	Agency (who has not paid IGST at 12% inserted vide notification No.22/2017 Integrated Tax (Rate) dated 22.08.2017) provided to persons specified in Note 1 (i)	person specified in <b>Note1(i)</b> below but excludes persons specified in <b>Note1(ii)</b> below	Integrated Tax (Rate)	
3	Legal Services provided by advocates or firm of advocates	Recipient if business entity located in taxable territory	10/2017-Integrated Tax (Rate)	01.07.2017
4	Services supplied by an arbitral Tribunal to business entity.	Recipient if business entity	10/2017-Integrated Tax (Rate)	01.07.2017
5	Sponsorship	Any body corporate or partnership firm	10/2017-Integrated Tax (Rate)	01.07.2017
6	Services provided or agreed to be provided by CG/SG/UT or local authority excluding services mentioned in <b>Note 2</b>	Recipient if business entity	10/2017-Integrated Tax (Rate)	01.07.2017
6A	Services supplied by Central Government, State Government, Union Territory or Local Territory by way of renting Immovable property to a person registered under the CGST Act,2017.	Any person registered under the CGST Act,2017	3/2018-Integrated Tax (Rate)	25.01.2018

**Summary of Important GST Provisions 307**

7	Services by Director to a Company	Recipient if company or body corporate	10/2017-Integrated Tax (Rate)	01.07.2017
8	Service by insurance agent	Recipient is a person carrying on insurance business	10/2017-Integrated Tax (Rate)	01.07.2017
9	Service of a recovery agent	Recipient if banking co. or a financial institution or a NBFC	10/2017-Integrated Tax (Rate)	01.07.2017
10	Transportation of goods by a vessel from outside India upto customs station of clearance in India, supplied by a person located in non taxable territory .	Importer located in the taxable territory.	10/2017-Integrated Tax (Rate)	01.07.2017
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, by an author, music composer, photographer, artist or the like	Recipient if publisher, music company, producer or like	10/2017-Integrated Tax (Rate)	01.07.2017
12	Supply of services by the members of Overseeing Committee to	Recipient if Reserve Bank of India.	34/2017-Integrated Tax (Rate)	13.10.2017

**308 Background Material on Training Program for Government Officials**

	Reserve Bank of India			
13	Services supplied by individual Direct Selling Agents (DSA's) other than body corporate, partnership or LLP.	A banking company or a NBFC, located in the taxable territory.	16/2018-Integrated Tax (Rate)	26.07.2018
14	Services provided by business facilitator (BF)	A banking company , located in the taxable territory	30/2018-Integrated Tax(Rate)	01.01.2019
15	Services provided by an agent of business correspondent (BC)	A business correspondent, located in the taxable territory.	30/2018-Integrated Tax(Rate)	01.01.2019
16	Security services (services by way of supply of security personnel) provided by other than body corporate. Refer <b>Note 3</b> for exceptions.	Any registered person, located in the taxable territory.	30/2018-Integrated Tax(Rate)	01.01.2019

**Note 1**

GTA services when received by the following persons RCM will apply:

- (a) any factory registered under or governed by the Factories Act, 1948;
- (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India;
- (c) any co-operative society established by or under any law;
- (d) any person registered under CGST/SGST/UTGST Act;
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons.
- (g) Casual taxable person

of transport of goods in a goods carriage by road, to,

- (a) a Department or Establishment of the Central Government or State Government or Union territory; or
- (b) local authority; or
- (c) Governmental agencies

Who has taken registration under the CGST Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

**Note 2**

For the following services received from Government or local authority, no RCM

- (1) renting of 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;
  - (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.

**Note 3**

Security services when provided to the following persons, no RCM :

- (1) A department or establishment of the Central Government or State Government or Union Territory or
- (2) Local authority or
- (3) Government agencies  
which has taken registration under the GST only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services
- (4) A person registered under composition scheme (as per section 10 of CGST Act)

<b>List of Goods on which GST is to be paid under RCM as per Notification No. 4/2017-Integrated Tax (Rate) as amended from time to time</b>				
<b>No</b>	<b>Description of Goods</b>	<b>Supplier</b>	<b>Notification No.</b>	<b>W.e.f.</b>
1	Cashew nuts, not shelled or peeled	Agriculturist	04/2017-Integrated Tax (Rate)	01.07.2017
2	Bidi wrapper leaves (tendu)	Agriculturist	04/2017-Integrated Tax (Rate)	01.07.2017
3	Tobacco leaves	Agriculturist	04/2017-Integrated Tax (Rate)	01.07.2017
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	04/2017-Integrated Tax (Rate)	01.07.2017
4A	Raw cotton	Agriculturist	45/2017-Integrated Tax (Rate)	15.11.2017
5	Supply of lottery	State Government, Union Territory or any local authority	04/2017-Integrated Tax (Rate)	01.07.2017
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	37/2017-Integrated Tax (Rate)	13.10.2017
7	Priority Sector Lending Certificates	Any registered person	12/2018-Integrated Tax (Rate)	28.05.2018

### **SMALL SUPPLIER EXEMPTION**

The registration is exempted to those who supply goods or services below an aggregate value of Rs. 20 Lakhs per year. A smaller limit of Rs. 10 Lakhs has been fixed for special category States which are underdeveloped. This exemption however is not available for the following:

1. One who is liable for reverse charge under section 9 (3) of CGST or 5(3) of IGST for specified services,
2. One who is liable for reverse charge under section 9 (4) of CGST or 5(4) of IGST for any supplies from unregistered supplier,
3. Involved in e- commerce business through a e commerce operator,
4. Engages as a casual taxable person or non-resident person making taxable supplies,
5. Online data base service provider outside India,
6. Person who is required to deduct tax,
7. Person who does interstate supply of goods\* (interstate supply of services is allowed within the exemption)
8. Agent of a principal and
9. Any person notified by Government.

Notes:

\*Exemption has been provided to the supplier of 34 handicraft goods subject to the condition of holding PAN number issued under Income Tax law and the aggregate turnover doesn't crosses INR 20 lakhs. And INR 10 Lakhs in case of special category states.

GST Council in its 32rd Meeting has recommended to increase the threshold limit to Rs. 40 lakhs (20 lakhs in specified States) in respect of supply of goods. The States have been given time of 7 days to determine whether they wish to continue with the old limit or new limit.

### **COMPOSITION SCHEME**

In India due to the large number of entrepreneurs being uneducated or unorganised in sectors like man power supply, construction, hotels, small traders States came up with alternative tax collection mechanisms which did

## **312 Background Material on Training Program for Government Officials**

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not need maintenance of proper records. These schemes however were used by many whose turnover was in crores. In some States there was no limit fixed due to compromises made. In GST also considering that such real smaller players are in high numbers a scheme of lower payment of tax has been implemented.

The tax rates are: traders -1%, Specified Manufacturers- 1% and Suppliers of food & beverages- 5%. This is available upto Rs. 1 Crore (to be enhanced to Rs.1.5 crore) subject to the following conditions:

1. Person having business in different States needs to be separately registered in all of them. In other words, a person cannot be in composition in one registration and outside in another registration. The aggregate turnover from all locations should not exceed Rs, 1 crore,
2. Service providers cannot opt for this scheme except those engaged in the supply of food and beverages, (outdoor caterer/hotel etc.). Relaxation of 10% of turnover in the State or Rs. 5 lacs allowed,
3. No input tax credit is available to such person, Such person cannot collect the composition tax from the recipient<sup>\*2</sup>,
4. Composition dealer cannot have any stock which are procured outside state/imported in hand before opting composition,
5. Person who makes any supply of goods through an Electronic Commerce Operator cannot opt for the scheme and
6. Person who is a manufacturer of such goods as may be notified on the recommendation of the Council cannot opt for the scheme. Ice cream, pan masala and Tobacco products under chapter 24 are notified till date.

The disadvantage of the composition scheme when one is an intermediary is that the ITC is not availed + there is a tax outflow which the receiver cannot avail. Therefore, the composition scheme is not beneficial to those in B2B activity but to only those who supply to the final consumer [ B2C].

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<sup>2</sup> Government is examining whether the composition tax charged could be available as credit to the receiver.

## **CLASSIFICATION PRINCIPLES**

We have a number of rates in GST due to the federal structure and varied culture, economic disparity and nature of our people. The broad list of GST rate as per the given schedule is as follows:

### **Rates for Goods**

- 5 per cent. in respect of goods specified in Schedule I,
- 12 per cent. in respect of goods specified in Schedule II,
- 18 per cent. in respect of goods specified in Schedule III,
- 28 per cent. in respect of goods specified in Schedule IV,
- 3 per cent. in respect of goods specified in Schedule V,
- 0.25 per cent. in respect of goods specified in Schedule VI

Additionally, some cesses have also been set out for few products.

### **Rates for Services:**

- 5 per cent. - Rent a cab, job work relating to textiles, GTA service, Print Media advertisement etc.,
- 12 per cent. – Non-A/c Restaurants, Accommodation where tariff is between Rs.1000 to Rs.2500/-, Business class air travel etc.,
- 18 per cent. - General Rate – all services not covered in other rates including specified construction services.
- 28 per cent. - Luxurious hotels, Gambling, Amusement park entry etc.

The detail as to rate of taxation may be determined by referring to Notification No. 1/2017 – CT (R) and 11/2017-CT (R) for the supply of goods and services respectively.

### **Exemptions**

Under all tax laws exemptions are to be read strictly and all conditions thereto should be satisfied. Some exemptions are conditional. The exemption which is unconditional is to be compulsorily availed. The goods which are exempted are set out in schedule – I – notification 1/2017 and services which are exempted have been set out in Notification 12/2017 dt. 28.6.17 as amended from time to time.

### **Valuation**

In GST, the valuation principles under central excise for goods and service tax for services have been adapted with market value concept of Customs added.

The transaction value is to be adopted where the supplier and recipient are not related and the price is the sole consideration. (Section 15) This value needs to be adjusted for aspects which impact the price. The transaction value would include:

- taxes paid other than in GST,
- amounts incurred by the receiver which are in relation of the supply,
- incidental expenses including packing, commission etc. charged by the supplier,
- interest or late fee or penalty for delayed payment of consideration,
- subsidies directly linked to the price other than Central/ State subsidies.

The transaction value (TV) would exclude:

- the discount which is given before or at the time of the supply and
- that which is known at the time of supply (target, quantity discount) provided the recipient has reversed the Input Tax Credit.

Where the TV is not determinable then one would have to refer to the GST Rules 27 to 35. Government has also reserved the right to specify valuation methods. The list of related persons has also been provided.

### **Valuation Rules (Rule 27- 35)**

The valuation rules prescribe different methods for different types of transactions making an attempt to arrive at a fair price (not tainted by relationships and other advantages). Important ones are as under:

### **NORMAL METHOD TO ARRIVE – ADJUSTED TRANSACTION VALUE (RULE 27)**

- (i) When consideration is not wholly in money then the open market value of the supply would be considered. Open market value could be said to be comparable untainted value at the same time.

- (ii) Where not possible to get the above value then the value received in money and the money value of other consideration. Example of this could be as under:
- Amortised value of capital goods supplied free of cost (cost/ possible usage)
  - Advances impacting the price (Advance for machinery/ working capital). The bank interest saved by the supplier,
  - Component supplied free of cost for incorporation. The value of the component,
  - Reasonable means to arrive at the advantage can be used.
- (iii) Where ii) above not possible then the value of goods or services which are akin. This value may require to be adjusted for realities and maybe subjective.
- (iv) Where iii) not possible as 110% of the cost of production or provision of service. (Rule 30)
- (v) Where iv) also not possible then any reasonable means consistent with the above principles. (Rule 31)

### **Pure Agent Supply (Rule 33)**

There are times when the contract could be for supply of some services but could also involve supply of services or goods from other third parties.

Pure agent is one who:

- enters into an agreement to be an agent to incur costs or expenditure while providing the service contracted for,
- does not hold title to the goods or services supplied to the recipient,
- does not use such goods or services for himself or for provision of service of the recipient and
- receives only the actual amount incurred (no margin)

The conditions for excluding value of supply are as under:

- (i) the supplier acts as an agent of the recipient for the supply and payment both received and made on behalf of the recipient,

## **316 Background Material on Training Program for Government Officials**

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- (ii) the payments made to third parties is separately indicated in invoice of such pure agent
- (iii) the above supplies are in addition to services provided on own account.

Examples of such transactions could be as under:

- A Custom House Agent who arranges import may pay port charges, terminal handling charges, rent of plot, pay the customs duties, etc. in addition to his services of providing liaison and co-ordination.

### **Valuation of Supply to Distinct person (branches/ division) (Rule 28)**

In this case the valuation to distinct persons could be the open market value, if not available value of goods or services of like kind and quality and if that is also not possible 110% of cost (Rule 30) or reasonable method (Rule 31)

Further an option of supplier charging 90% of the price charged by the recipient.

A major relaxation is that where the credit is eligible to the recipient, the value declared in the invoice shall be deemed to be the open market value. It is suggested that this relaxation be tempered with reasonableness to avoid disputes.

### **Valuation of supply through Agent (Rule 29)**

In this case an option has been provided for the supply of goods either way of going for the open market value or 90% of the price charged for supply to unrelated parties. If this is not possible then to follow 110% of cost (rule 30) or reasonable method (rule 31).

### **Specific Valuation Methods (Rule 32 Optional)**

- (i) For **exchange of foreign exchange** the value shall be the difference between buying and selling rate as declared by RBI.

If not available then 1% of the value of Indian Rupees received or paid.

Further an yearly option to value at 1% of the gross currency exchanged upto Rs. 1 Lakhs (subject to minimum of Rs 250- If less than 25,000), if more then Rs1,000 + ½ % between 1- 10 Lakhs, if more then 5,000 + 1/10%of amount exceeding 10 lakhs subject to maximum of Rs60,000/-

- (ii) For **Air travel** – 5% of basic fare for domestic or 10% for international fare. Basic fare is the fare used for paying commission in the normal course.
- (iii) For **Life Insurance** Business the value would be arrived at after deducting the investment allocation and where not determinable as in a single premium policy 10% deemed to be value. In all other cases it would be 25% of the 1<sup>st</sup> premium and 12.5% of the subsequent premiums.
- (iv) Resale of **second-hand goods** by person in that business would be the value calculated as the difference between the purchase and sale price. If the difference is negative, no tax need be paid.
- (v) Physical or digital **vouchers** value would be the redemption value. (most cases the face value)

In some cases the tax payer may have charged one consolidated price inclusive of tax. This is also called cum tax value. In such cases the value would be determined as under:

Rate is 18 % IGST then =  $100 \times 100 / 118 = 84.47$ .

### **INPUT TAX CREDIT (ITC)**

The principle of set off is that the GST paid at the earlier stage on supplies received (capital goods, inputs, input services) is allowed as a deduction from the tax payable. In normal businesses the eligible credits are reduced from the cost of procurement/ purchases. In GST the ITC has been expanded partially since there is no indirect tax other than GST. Credit is available unless restricted. To this extent the taxes on taxes is also avoided.

However, where no GST is paid then credit would not be available. The excluded activities where GST is not applicable as on date are:

- (a) Electricity presently a State subject
- (b) Taxes on immovable property also a State subject.
- (c) 5 Petroleum Products which are substantially used in businesses: Petrol, Diesel, Aviation Fuel, Natural Gas\*<sup>3</sup>

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<sup>3</sup> Government is examining whether petroleum products could be included in the GST. Maybe in the next budget.

### **ELIGIBILITY FOR ITC**

GST was to completely remove cascading of multi point duty as well as restrictions built over a period of time. In the earlier regimes the Cenvat Credit as well as VAT ITC was restricted for several items. The credit is available subject to conditions as under:

1. He is having a tax invoice or other tax paying document (Such as Bill of entry, ISD invoice, self-invoice etc.) which has been uploaded by the supplier,
2. He has received the supply or goods or services (except in bill to ship to transactions),
3. Tax has been paid on such supply\*<sup>4</sup> (by the supplier)
4. Return is to be furnished by the receiver (GSTR 3B in present scenario),
5. He is to pay the supplier within 180 days from the invoice date. If not, credit and interest thereon would be added to his output liability\*<sup>5</sup>. Credit of tax available on full payment at any later date without the time limitation provided under section 16(4) (Discussed in point 7).
6. In regard to capital goods where depreciation is claimed on the GST credit availed, then credit is not available i.e. double benefit cannot be claimed
7. The time limit for credit is the due date for filing of the return of September of next financial year or furnishing of the annual return whichever is earlier.

The law also provides for enabling credit of input tax and restrictively capital goods credit in case of various special circumstances such as a composition dealer, a small trader or one who is exempt becoming taxable, one who has taken registration, certificate from a chartered accountant etc. subject to conditions. GST is a procedural law and requires compliance of the rules as prescribed. The vigilant only would be able to avail optimum credit.

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<sup>4</sup> The non-compliance by the supplier is subject to action against him. Making the buyer liable for that is unreasonable and may see challenges.

<sup>5</sup> This again is quite unreasonable and government should not invade the business decision. The major defaulters in making payment in time is the government and the PSUs.

### **Blocked Credits- Section 17(5)**

We examine the continuing restriction under section 17(5) of CGST Act and extent briefly as under:

- (i) Motor Vehicles, vessels, aircraft and Other Conveyances. Exceptions where credit would be available are:
- if used for transportation of goods
  - if used for making taxable supplies (only for such service providers) of: further supply (distributor/ lessors of MV); transportation of passengers (bus operators, cab operator) or for imparting training (driving, flying etc.)

Note: The conveyances for transportation of goods could cover cars, buses, boats, airplanes etc. The industries who could claim the credit for transportation of goods could be any who use them for business. Commonly the transportation / logistic industry, construction industry, mining, manufacturing, catering etc. In the past they may not have availed the credit.

The credit of lease of motor vehicles and other credits related to motor vehicles like insurance, repair etc. used in furtherance of business would be available.

- (ii) Works Contract for immovable property other than plant and machinery or where the service is used further for works contract.
- (iii) Goods and services for construction of immovable property other than plant and machinery for himself. This means that a builder cannot avail the credit for inputs of a contractor for a building meant for renting or manufacture of taxable goods. However, if the contractor / developer is selling the property (before completion) then he can avail the credits of goods or services used.
- (iv) Membership of a club, health or fitness centre are barred even if used for furtherance for business.
- (v) Travel benefits to employees on vacation such as leave or home travel concession
- (vi) Food, beverages, outdoor catering, beauty treatment, health services, cosmetic/ plastic surgery, lease/rental of vehicles and conveyance

unless used for making a further supply in the same category or as an element of composite/ mixed supply and insurance.

- (vii) Goods or services used for personal consumption.
- (viii) Goods lost, stolen, destroyed, written off or disposed off by way of free gift or free samples.

The person who has opted for composition would not be eligible for any credit till he opts out at which time he would be eligible for credit of the stocks in hand. Then on resident dealer who imports goods can utilise the credit of such goods if eligible otherwise.

The person who receives a notice consequent to evasion (Sec 74) or transports goods liable to GST (Sec 129) without payment of tax or such goods are confiscated (sec130) shall not be eligible for ITC.

#### **Apportionment of credit**

The assessee maybe having non-taxable or exempt supplies or use the goods for non-business purposes or a combination. In such cases he would be eligible for only credit to the extent used for taxable and zero rated ( direct exports and SEZ) supplies. This would be as per the rules in this regard.

The value of exempt supplies would include supplies on which recipient is liable to pay under reverse charge\*<sup>6</sup>value of securities\*<sup>7</sup>, sale of land, sale of completed building\*<sup>8</sup>.

For banking, financial institution or a non banking financial company an option of avail 50% of the eligible ITC on capital goods, inputs and input services is available. One can opt for it once a year. This 50% would not apply for transactions within the entity where GST has been paid.

#### **Manner of Utilization of Credit**

The input tax credit would be eligible for set off as under:

1. The CGST SGST and UTGST paid on supply of service to be set off against the output CGST, SGST and UTGST respectively.

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<sup>6</sup> This is wholly unreasonable as credit is not availed by the supplier at all. ITC would not be used for receiving goods or services.

<sup>7</sup> Investments will give income automatically and services used would be minimal and specific services not eligible.

<sup>8</sup>Similarly, sale of land or building in cities the common services would be minimal and specific services not eligible.

2. When an item is procured for resale, then credit of CGST and SGST/UTGST is available for all items.
3. When inputs and consumables are procured for the manufacture of goods on which CGST/SGST/UTGST is paid, then credit of CGST and SGST/UTGST is available for all items.
4. SGST/UTGST would be allowed first to be utilised against SGST/UTGST and then IGST.
5. Similarly, would be allowed first to be utilised against CGST for CGST and then IGST.
6. IGST would be allowed for IGST, CGST and then SGST/UTGST in that order.

The SGST/UTGST would not be allowed to be adjusted to the CGST and vice versa. This may lead to accumulation of credit in some places.

### **Place of Supply**

Place of Supply (POS) have the twin objective of confirming whether a transaction is deemed to be in India or Outside India as well as determine the State/Union Territory in which the levy accrues. The POS under GST generally follows the destination principle. However, to take care of international best practices as well as practical issues to ensure that the States get their dues, some exceptions are there in goods and bit more in services.

The POS for goods would depend on the location of the supplier as well as where is the place of supply. If in the same State then it would be an intra-State supply (State GST + CGST) ) and if not then inter-State supply (IGST). Pertinent Sections in CGST = 10-14; and in IGST= 12 & 13.

### **Time of Supply (TOS)**

The time of supply triggers the levy of GST. The law provides that the TOS would be the earliest of payment, delivery of goods / provision of services, invoicing. Court have opined that the most important activity is supply and if there is a conflict then that time may prevail. Some differences have been carved out when dealing with relatives and differing commercial transactions. Some of those specified are as under:

## **322 Background Material on Training Program for Government Officials**

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Reverse Charge – 60 days from date of issue of invoice or date of payment. If with related parties then date of recording of supply.

Vouchers – Where supply is identifiable along with the rate – then date of issue of voucher. If not, then the date of redemption.

Interest, Late fee or penalty for delay in payment – On receipt of amount.

In case of non-recording- When return filed or payment made (maybe post an audit or investigation)

### **Job Work/ Repair**

The job work route is followed to a large extent to ensure concentration on core competencies, lower costs for specialised agencies and quality enhancement. Job work is understood as working on goods supplied by the principal. There may be situations where some material is also added by the job worker. Where job worker adds substantial material, the transaction may not be called a job work and it may be advisable to supply on payment of tax and get back on payment of tax. Job worker in this case may need to be registered and avail the credit. Section 143 enables supply of goods for job work without Payment of GST. There are time limits for receipt back for inputs, capital goods except for moulds dies, jigs and fixture. When not received back they would be deemed to have been supplied as on the date of initial supply.

The practical business aspects of directly receiving the inputs, capital goods etc, direct supply to customer after the processing, supply to other job workers have been enabled. Scrap and waste maybe supplied back or disposed of by the job worker on payment of appropriate taxes.

Repairs maybe covered herein but not specifically covered.

### **Tax Collection at Source- E- Commerce Operator (ECO)**

The proliferation of internet and purchase through it in India has been tremendous. Supplies of goods and services using software has been growing exponentially and these transactions need to be taxed in India. There are different types of transactions as under:

- (a) ECO provides a place to meet and supplier supplies goods or services directly to the buyer. ECO will get a commission based on amount of per lead.

- (b) ECO supplies the goods or services to the buyer directly or indirectly and payment is made online to the ECO. If direct, then ECO is a regular supplier. If not, then he would be an operator.
- (c) ECO delivers and collects food, merchandise etc. Here if considered an agent then under GST tax needs to be paid either by the supplier or the ECO.
- (d) There could be many variants of the above.

The intermediary software platform on which the buyer and seller meet and complete a transaction has now been made liable to register if he has a presence in India. The ECO who is not having a presence in India would have to have a representative in India who would need to register. The primary responsibility for payment of GST remains with the supplier.

Under Section 52, the ECO would have to deduct 1% or less from the supplier payment and pay the same to the revenue as Tax Collection at Source. This would help the revenue to track those who transact on these sites.

Considering the many facets of such business including the extra territorial jurisdiction and feasibility of monitoring this provision has been put on hold upto 30.9.2018.

#### **Tax Deduction at Source – Specified Recipients**

Section 51 provides similarly that a department of Central/ State government, local authority, Governmental agencies or notified persons shall deduct tax at 1% and pay to Government along with an electronic statement of outward supplies. In the present GST regime, there does not seem to be any reason for this provision to be made applicable. However, once it is notified and then made effective this deduction will have to be done. Presently not applicable till 30.9.2018.

#### **Demand, Interest & Penalties**

The tax may at times not be paid, underpaid, credit may not be reversed or partially reversed, refunds maybe excess claimed due to inadvertence, lack of knowledge or intentionally. The tax payer who identifies the non/ short payments etc. could suo moto pay with interest and disclose in his returns. Section 73 sets out the time limit for order to be 3 years form the due date of furnishing annual return or from date of erroneous refund. The show cause

notice is required to be issued at least 3 months earlier. In cases of fraud, misstatement, suppression leading to short or non- payment or excess credit or erroneous refund then the period for notice within 6 years of the time limit for the order. The show cause notice is required to be issued at least 6 months earlier. There are other offences specified for transportation and dealing in goods/ services without payment of GST. Since the provisions of demand and recovery are especially harsh, tax compliant assesseees may opt for voluntary review of their compliances or get the annual audit of GST done concurrently to avoid interest and penalties.

The notice would need a reply to be made which needs to explain the factual background and the concurrence to the notice or the reasons / ground on which it is not applicable. This would be followed by a personal hearing and on an order dropping the demand or confirming it.

The amount would be recovered by way of voluntary payment or from monies owed to the assessee (bank/ NBFC), by selling goods belonging to assessee, from other person who owe money, as arrears of land revenue through the District Collector or through the magistrate as fine.

#### **Documentation and Records under GST**

The registered person should keep and maintain true and correct, accurate accounts / records at his principal place of business. These would cover:

- (i) Production and Manufacture of goods;
- (ii) Inward and outward supply of goods or services or both;
- (iii) Stock of goods;
- (iv) Input tax credit availed;
- (v) Output tax payable and paid;
- (vi) Separate account of advances received, paid and adjustments made thereto;
- (vii) Names and complete addresses of suppliers and recipients of goods or services or both;
- (viii) Monthly production details in the case of manufacturers and
- (ix) Such other particulars as may be prescribed

In case more than one place of business is specified in the certificate of registration, the accounts relating to each place of business would be kept at such place of business. The accounts and records may be kept and maintained in the electronic form as prescribed.

### **Invoicing under GST**

Invoice is an important part of GST. Sec 31 sets out the timing of the invoice in case of goods and services, continuous supply and revised invoice. The other documents for advance, reverse charge, exception to issue of tax invoice for exempted supplies and composition are also specified.

There is no specific format prescribed in the law for raising an invoice. However, the law prescribes the content in tax invoice as under:

- (a) Name, address and Goods and Services Tax Identification Number of the supplier.
- (b) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolized as “-” and “/” respectively, and any combination thereof, unique for a financial year.
- (c) Date of its issue.
- (d) Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient.
- (e) Name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more.
- (f) Name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice.
- (g) Harmonised System of Nomenclature code for goods or services.
- (h) Description of goods or services.
- (i) Quantity in case of goods and unit or Unique Quantity Code thereof.
- (j) Total value of supply of goods or services or both.

- (k) Taxable value of the supply of goods or services or both taking into account.
- (l) Discount or abatement, if any.
- (m) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess).
- (n) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess). GST law does not allow all-inclusive price.
- (o) Place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce.
- (p) Address of delivery where the same is different from the place of supply.
- (q) Whether the tax is payable on reverse charge basis; and
- (r) Signature or digital signature of the supplier or his authorised representative.

A few optional exclusion of a. to r. above have been provided for insurers, banking and financial institutions and non-banking financial Companies, goods transport agents and passenger transport.

### **DEBIT NOTE/ CREDIT NOTE**

Debit Notes or Credit Notes are issued when there is a variation in the price and the amount payable by the receiver (buyer) increases or decreases after the invoice is issued.

When the amount payable by the buyer to seller decreases –There can be a change in the value of goods after the goods are delivered and invoice issued by the seller. This can be due to a return of goods or due to the bad quality of the goods delivered, short supply etc. The seller issues a Credit Note as a response or acknowledgment to the debit note.

When the amount payable by the buyer to seller increases-When the value of invoice increases, due to extra goods being delivered or the goods already delivered have been charged at a lower price, a debit note is required to be issued. The Debit Note, in this case, is issued by the seller to the buyer.

The tax liability would be adjusted but no reduction in output tax liability of the supplier would be permitted if the incidence of tax and interest on such supply has been passed on to any other person.

### **Export /SEZ supply**

Exports and supply to SEZ, are called as zero-rated whereby no tax is payable subject to following the procedure contained in the rules. The benefit of availment of input tax and refund of accumulated credit would be available in two ways:

- (a) With payment of taxes utilising the credit
- (b) Without payment of tax

Procedure for export with payment of IGST-

1. The assessee has to raise tax invoice mentioning GST rate and what is the tax adjusted.
2. Details to be uploaded in GSTR-1 for the period July 2017 and for another period in GSTR-6A made available only to provide export details.
3. Based on the details uploaded the officers would correlate the EGM details with customs database and process the refund.
4. Later the department may verify the eligibility of credit and call for other required documents.

Procedure for export without payment of IGST-

- the assessee has to obtain the letter of undertaking (LUT). After obtaining LUT, he can supply the goods or services to SEZ unit/Export.
- The assessee has to raise tax invoice without mentioning GST and provide the details in GSTR-3B and GSTR-1,
- Correlate the EGM details with customs database.

### **Deemed Exports**

Section 2(39) the concept of “deemed exports” has been defined in section 147, which means Government, on the recommendations of the council, notify certain supplies of goods as deemed exports, where goods supplied

does not leave India and consideration for such supply is received either in Indian rupees or in any convertible foreign exchange, if such goods are manufactured in India. Supplies to EOU/EHTP/STP/BTP units and supply to advance authorisation or EPCG license holder would be considered as deemed export as per notification no 48/2017-central tax dated 18.10.2017.

### **Supply goods to merchant export**

The merchant exporters have been provided an option due to the refund process not enabled for them.

The following procedure to be followed for charging concessional rate.

1. Registered supplier to supply the goods on a tax invoice.
2. Registered recipient export the goods within a period of ninety days from the date of issue of tax invoice by the registered supplier.
3. The recipient would indicate the GSTIN and tax invoice number of the registered supplier in the shipping bill or bill of export.
4. The recipient would be registered with *Export Promotion Council or a commodity Board* recognized by Dept of Commerce.

The recipient would place an order on the registered supplier for procuring goods at concessional rate. Copy of Order would be submitted to jurisdictional tax officer of the registered supplier.

5. Recipient would move the goods from place of registered supplier
  - (a) Directly to the port, Inland container depots, Airport or Land customs station from where the goods are exported.
  - (b) To registered warehouse from where the said goods would be moved to the port Inland container depot, Airport or Land customs station.
6. Registered recipient after export of goods would provide a copy of shipping bill or bill of export containing details of GSTIN and tax invoice of the registered supplier.
  - (a) Along with proof of export general manifest or export report having been filed with the registered supplier as well as jurisdictional tax officer of such supplier

If Goods are not exported within a period of ninety days from the date of issue of tax invoice the supplier would not be eligible for the deemed export benefit. He has to pay the GST applicable with interest.

### **Imports under GST**

Under GST the imports of goods qualifies as 'inter-state supply' and IGST has to be paid on such import. The import of goods would continue to attract the levy of the customs duty. Moreover, Section 5 of the IGST Act 2017 has adopted the manner of levy, collection of the IGST on import of goods as provided in Section 3 of the Customs Tariff Act, 1975.

### **Transitional Provisions**

The fact that GST was applicable from 1<sup>st</sup> July required many provisions for enabling continuation of business without impacting or stopping them. The main provisions in transition are briefly explained as under:

1. Migration of existing tax payers: All those having a valid PAN were provided a provisional registration and after additional information provided a final registration. Those who did not provide the information got the provisional registration cancelled.
2. Carry forward of cenvat by those registered earlier under central excise or service tax as well as ITC under VAT: The compliance under these laws by the unorganised and smaller assesseees was quite poor and many made mistakes while filing their form (tran-1) which was closed in November 2017. Courts have interfered and for those who did not file due to issues in uploading have been allowed to file again.
3. Balance of Capital goods cenvat credit: This has also been enabled to the extent of credit not carried forward.
4. Credit on stocks: The stocks in hand with a trader, manufacturer or service provider would be in available as inputs, semi-finished goods or finished goods. The tax involved in these goods would be eligible for credit subject to conditions. Two schemes were provided for those who had invoices and those not in possession. Large number of SME have not claimed it (trans-1) and it is understood that many have claimed it excessively.

### **330 Background Material on Training Program for Government Officials**

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Transition provisions were also there for goods or services in transit, Input Service Distributor balance, centralised service providers, job work, price revisions, refunds, goods on which TDS was deducted under the VAT law etc. The law provided whether the issue would be under the earlier law or GST.

# 15

## SUMMARY OF COMPLIANCES AND PENALTIES UNDER GST

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### INTRODUCTION TO COMPLIANCE UNDER GST

Under the erstwhile Indirect tax regime, various returns are required to be filed under the respective act like Value Added Tax Act, Finance Act, Excise act. In the same line, GST act also makes provisions for filing returns for every registered person on monthly or quarterly basis depending on the type of business.

Summary of returns notified under GST are

<b>Return Form</b>	<b>Particulars</b>	<b>Applicability in 2017-18</b>
GSTR-1	Details of outward supplies of goods and/or services effected	Yes
GSTR-1A	Details of auto drafted supplies from GSTR 2, GSTR 4 or GSTR 6	No
GSTR-2	Details of inward supplies of goods and/or services, claiming input tax credit.	No (was made applicable only for July 2017 month)
GSTR-2A	Details of auto drafted supplies from GSTR 1, GSTR 5, GSTR 6, GSTR 7 and GSTR 8	Yes
GSTR-3	Monthly return consolidating outward supplies and inward supplies along with the payment of tax.	No

**332 Background Material on Training Program for Government Officials**

GSTR-3B	Monthly consolidated return for the temporary period from Jul 2017- Mar 2018 (and continued)	Yes
GSTR-4	Return for composition taxable person	Yes
GSTR-4A	Auto-drafted details for registered person opting for composition levy from GSTR-1, GSTR 5, GSTR 7	No
GSTR-5	Return for Non-Resident foreign taxable person	Yes
GSTR-5A	Details of supplies of online information and database access or retrieval services by a person located outside India made to non-taxable persons in India	Yes
GSTR-6	Return for Input Service Distributor	Yes
GSTR-6A	Details of supplies auto drafted from GSTR 1	Yes
GSTR-7	Return for tax deducted at source.	No. (Provision for TDS has been made effective w.e.f. 1.10.2018 onwards)
GSTR-8	Statement of Tax collected at source	No. (Provision for TDS has been made effective w.e.f. 1.10.2018 onwards)
GSTR-9	Annual Return	Yes (date extended to 30 <sup>th</sup> June 2019)
GSTR-9A	Annual Return for persons under composition scheme	Yes (date extended to 30 <sup>th</sup> June 2019)

**Summary of Compliances and Penalties Under GST 333**

GSTR-9B	Annual Return for E Commerce Operators	No
GSTR-9C	GST Reconciliation Statement (audit by CA/CMA)	Yes (date extended to 30 <sup>th</sup> June 2019)
GSTR-10	Final Return	Yes
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming refund	Yes

**Form GSTR-1**

It is a form prescribed to report details of outward supplies made during a particular tax period. Every registered person other than the composition dealer or a person providing online information and database access or retrieval services shall be required to furnish the details of outward supplies of goods or services or both in Form GSTR-1 electronically through common portal.

The details to be furnished in Form GSTR -1 shall include:

Description	Remarks
B2B Supplies	Details of invoices of Taxable supplies made to other registered taxpayers
B2BA Supplies	Amended details of invoices of Taxable supplies made to other registered taxpayers
B2C Large	Invoices for Taxable outward supplies to consumers where (a) The place of supply is outside the state where the supplier is registered and (b) The total invoice value is more that Rs 2,50,000
Amended B2C Large	Amended invoices for Taxable outward supplies to consumers where (a) The place of supply is outside the state where the supplier is registered and (b) The total invoice value is more that Rs 2,50,000

**334 Background Material on Training Program for Government Officials**

B2C Small	Supplies made to consumers and unregistered persons of the following nature (a) Intra-State: any value (b) Inter-State: Invoice value Rs 2.5 lakh or less Only net figure after debit/credit notes need to be disclosed
Amended B2C Small	Amended supplies made to consumers and unregistered persons of the following nature (a) Intra-State: any value (b) Inter-State: Invoice value Rs 2.5 lakh or less
Credit/Debit Note	Credit/ Debit Notes/Refund vouchers issued to the registered taxpayers during the tax period. Debit or credit note issued against invoice will be reported here against original invoice, hence fill the details of original invoice also which was furnished in B2B, B2CL section of earlier/current period tax period.
Amended Credit/Debit Note	Amended Credit/ Debit Notes/Refund vouchers issued to the registered taxpayers during the tax period. Debit or credit note issued against invoice will be reported here against original invoice, hence fill the details of original invoice also which was furnished in B2B, B2CL section of earlier/current period tax period.
Credit/Debit note for unregistered person	Credit/ Debit Notes/Refund vouchers issued to the unregistered persons against interstate invoice value is more than Rs 2.5 lakh
Amended Credit/Debit note for unregistered person	Amended Credit/ Debit Notes/Refund vouchers issued to the unregistered persons against interstate invoice value is more than Rs 2.5 lakh
Export	Exports supplies including supplies to SEZ/SEZ Developer or deemed exports
Amended Export	Amended Exports supplies including supplies to SEZ/SEZ Developer or deemed exports
Tax liability on advances	Tax liability arising on account of receipt of consideration for which invoices have not been issued in the same tax period.

## Summary of Compliances and Penalties Under GST 335

Amended tax liability advances	on	Amended Tax liability arising on account of receipt of consideration for which invoices have not been issued in the same tax period.
Advance Adjustments		Adjustment of tax liability for tax already paid on advance receipt of consideration and invoices issued in the current period for the supplies.
Amended advance adjustments		Amended Adjustment of tax liability for tax already paid on advance receipt of consideration and invoices issued in the current period for the supplies.
Nil exempted and non - GST supplies	Rated, and - GST	Details of Nil Rated, Exempted and Non- GST Supplies made during the tax period
HSN Summary		HSN wise summary of goods /services supplied during the tax period
List of documents		Details of various documents issued by the taxpayer during the tax period

The details of outward supplies shall be made available electronically to the concerned registered recipients in Form GSTR-2A, Form GSTR-4A or in Form GSTR-6A as the case may be for accepting, correcting or deleting the said inward supplies based on the records available with the recipient.

### **Form GSTR 2**

Currently the requirement for filing Form GSTR-2 has been deferred. Summary of the original requirement provided under the GST law is provided below

1. Every registered person other than the composition dealer or a person providing online information and database access or retrieval services shall be required to furnish the details of inward supplies of goods or services or both in Form GSTR-2 electronically through common portal on the basis of the information contained in Form GSTR-2A
2. Any registered person who has availed input tax credit in respect of invoices or debit notes relating to inward supply which has not matched with the corresponding outward supply or IGST paid in respect of goods imported by him, shall upon discovery of any error or

omission therein, rectify the same in the tax period in which it is discovered.

3. However, the time limit to rectify such error is the last date for filing return for the month of September following the end of the financial year to which the details pertain or furnishing of the relevant annual return, whichever is earlier.
4. The registered person shall be required to specify the inward supplies on which he is not eligible, either fully or partially, for input tax credit in Form GSTR- 2.
5. The registered person shall declare the quantum of ineligible input tax credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and cannot be determined at the invoice level in Form GSTR-2.

**Form GSTR-2A:**

Form GSTR-2A enables a registered person to track the invoice details uploaded by their vendors. This could provide some information with respect to the compliance levels of the vendors. Considering the proposed implementation of single return, wherein input tax credit can be availed only based on the invoices uploaded by the vendor, it would be important to verify the compliance status of the vendors vide Form GSTR-2A

1. The following details shall be auto-populated in Form GSTR- 2A:
  - (a) The details of invoice furnished by a registered person in Form GSTR-1
  - (b) The details of invoice furnished by an input service distributor in Form GSTR-6
  - (c) The details of invoice furnished by a non-resident taxable person in Form GSTR-5
  - (d) The details of tax deducted at source furnished by a deductor in Form GSTR-7
  - (e) The details of tax collected at source furnished by an e-commerce operator in Form GSTR-8

The above details can be accepted, modified or deleted by the service recipient/deductee.

2. The details of inward supplies of goods or services or both furnished in Form GSTR -2A shall also include:

- (a) invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons;
- (b) import of goods and services made; and
- (c) debit and credit notes, if any, received from supplier

### **Form GSTR-3**

Currently the requirement for filing Form GSTR-3 has been deferred. Summary of the original requirement provided under the GST law is provided below

- 1. Every registered person other than the composition dealer or a person providing online information and database access or retrieval services or an Input Service Distributor or a non-resident taxable person or a person deducting tax or an e-commerce operator collecting tax at source shall furnish a return in Form GSTR -3 electronically in common portal.
- 2. Part A of Form GSTR- 3 shall be generated automatically based on the information contained in Form GSTR- 1 and Form GSTR- 2.
- 3. The registered person shall be required to discharge the liability towards tax, interest, late fee, penalty, interest or any other amount payable under this Act or provision of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in Part B of the return in FORM GSTR-3.
- 4. A registered person, claiming refund of any balance in the electronic cash ledger, may claim such refund in Part B of the return in FORM GSTR-3 and such return shall be deemed to be an application filed for claiming refund.

### **Form GSTR-3B**

Every registered person other than the composition dealer or a person providing online information and database access or retrieval services or an Input Service Distributor or a non-resident taxable person or a person

deducting tax or an e-commerce operator collecting tax at source shall be required to furnish a summary of outward and inward supplies in Form GSTR- 3B till such date notified by the government.

**Form GSTR-4**

1. Every composition dealer shall on the basis of the details contained in Form GSTR- 4A, after adding, deleting or correcting the details, furnish the quarterly return in Form GSTR 4 electronically through common portal.
2. The registered person who opts to pay tax under composition scheme with effect from the first day of a month which is not the first month of a quarter shall furnish the return in FORM GSTR-4 for that period of the quarter for which he has paid tax under composition scheme and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under section 10.
3. A registered person who has opted to pay tax under composition scheme from the beginning of the financial year, shall be required to file all the returns, which he is required to file relating to the period prior to his opting of composition scheme, till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier
4. A registered person opting to withdraw from the composition scheme, shall be required to file the returns in Form GSTR- 4, till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier

**Form GSTR- 5**

1. Every registered non-resident taxable shall furnish a return in FORM GSTR-5 through common portal.
2. The return shall be filed within twenty days after the end of a tax period or within seven days after the last day of the validity period of registration, whichever is earlier.

**Form GSTR-5A**

1. Every registered person providing online information and data base

access or retrieval services from a place outside India to a person in India other than a registered person shall file return in FORM GSTR-5A.

2. The return shall be filed on or before the twentieth day of the month succeeding the calendar month or part thereof.

#### **Form GSTR-6**

Every input service distributor shall, on the basis of the details contained in Form GSTR-6A, after deleting, correcting or accepting the details, furnish return in Form GSTR-6 containing the tax invoice on which credit has been received.

#### **Form GSTR-7**

1. A registered person who is required to deduct tax at source, shall furnish a return in Form GSTR-7 containing the details of tax deducted at source.
2. The details furnished by such person, shall be made available to the recipients in Form GSTR-2A or Form GSTR-4A.
3. The certificate to this effect will be available to the deductee in Form GSTR-7A.

#### **Form GSTR-8**

1. A electronic commerce operator who is required to collect tax at source, shall furnish a return in Form GSTR-8 containing the details of supplies effected through such operator and the amount of tax collected at source.
2. The details furnished by such person, shall be made available to each of the suppliers in Form GSTR-2A.

#### **Form GSTR-9**

1. Every registered person other than the composition dealer or an Input Service Distributor or a non-resident taxable person or a casual taxable person or a person deducting tax or an e-commerce operator collecting tax at source shall be required to furnish an annual return in Form GSTR-9
2. Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited and he

shall furnish a copy of audited annual accounts and a reconciliation statement in form GSTR-9C.

3. GSTR-9 is summary of the transactions reported in the GSTR-3B. The last date for the FY 2017-18 has been extended to the 30<sup>th</sup> June 2019 as against the original date of 31<sup>st</sup> December, 2018.

**Form GSTR-9A**

1. Similar to regular taxpayers, the persons registered under composition scheme are also required to file the Annual Return in GSTR-9A.
2. This is summary of all the transactions reported during the year.

**Form GSTR-9B**

1. This is applicable to the persons registered as e-commerce operator. However, considering that the e-commerce provisions were not implemented during the FY 2017-18, the Government has not notified the Form GSTR-9B for this year.

**Form GSTR-9C**

1. Every registered person whose aggregate turnover exceeds Rs. 2 crore are required to get their books of account audited by Chartered Accountant or Cost Accountant.
2. The audit format requires reconciliation of turnover as per books of account with turnover declared in the GSTR-9. Further, the input tax credits as per books should be compared with the ITC shown in GSTR-9.

**Form GSTR-10**

Every registered person whose registration has been cancelled shall be required to furnish a final return in Form GSTR-10.

**Form GSTR-11**

1. Every person who has been issued a Unique Identity Number and claims refund of the taxes paid on his inward supplies, shall furnish the details of such supplies of taxable goods or services or both electronically in FORM GSTR-11, along with application for such refund claim

2. Every person who has been issued a Unique Identity Number for purposes other than refund of the taxes paid shall furnish the details of inward supplies of taxable goods or services or both as may be required by the proper officer in Form GSTR-11.

### **INTRODUCTION TO PENALTIES PROVISIONS UNDER GST**

The penalty provisions are very important part of any taxation statute. It acts as deterrent and force the taxpayers to be compliant as the cost of non-compliance could be very high. However, it does not mean that any or all non-compliance by the tax payers could result in the penalty. There has to be a specific offence or non-compliance and such non-compliance should get covered in any of the specific penal provisions.

The concept of 'mens rea' is very relevant in the penal provisions as all non-compliance cannot be penalised especially in cases where there is requirement to establish the existence of mens rea i.e. guilty mind by the taxpayers.

Important penal provisions under GST are summarised below which could be used as ready referencer.

#### **1. Penalty upto Rs. 25,000/-**

- Failure to furnish information by electronic commerce operator in response to notice {Section 52(14)}
- Aiding or abetting any of the offences specified above in Sl No. 9 to Sl. No. 29 {sec 122 (3)}
- Acquiring possession of, or concerning himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation {sec 122 (3)}
- Receiving, or in any way concerning with the supply of, or in any other manner dealing with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act {sec 122 (3)}
- Failure to appear before the officer, when issued with a summon to give evidence or produce document in an enquiry {sec 122 (3)}

- Failure to issue invoice in accordance with the provisions or failure to account for an invoice in his books of account {sec 122 (3)}
- General penalty {sec 125}
- 2. Penalty amount being higher of Rs. 10,000/- and amount equivalent to the tax/ input tax credit {122 (1)}**
- Supply without issue of invoice or issue of incorrect or false invoice
- Issue of invoice or bill without supply
- Tax collected but not deposited within a period of 3 months from the due date
- Tax collected in contravention of the Act but not deposited within a period of 3 months from the due date
- Failure to deduct tax or short-deduction or failure to pay deducted tax under Section 51
- Failure to collect tax at source or short-collection or failure to pay collected tax under Section 52
- Taking/ utilisation of input tax credit without actual receipt fully/partially
- Fraudulent obtains refund of tax
- Taking/distributing input tax credit in violation of Section 20
- Falsifying or substituting financial records/ producing fake accounts or documents/ furnishing false information or return with intent to evade payment of tax due
- Failure to obtain registration
- Furnishing false information with regard to particulars specified as mandatory
- Obstruction or prevention of any officer in discharge of his duties under the Act
- Transportation of any taxable goods without the cover of documents as specified

- Suppression of turnover leading to evasion of tax
  - Failure to keep, maintain or retain books of account and other documents in accordance with the provisions
  - Failure to furnish information called for by the officer or furnishing false information/ documents
  - Supplying, transporting or storing any goods which he has reason to believe are liable to confiscation
  - Issuance of any invoice or document by using the identification number of another taxable person
  - Tampering with or destroying any material evidence
  - Disposing off or tampering with any goods that have been detained, seized, or attached under the Act
- 3. Penalty equivalent to higher of 10% of tax or Rs. 10,000/-**
- Tax not paid, short paid or erroneously refunded for reasons other than fraud, wilful misstatement or suppression of facts {Section 73(9)}
- 4. Penalty equivalent to the tax specified in notice**
- Tax not paid, short paid or erroneously refunded for reasons of fraud, wilful misstatement or suppression of facts {Section 74(1)}
  - Tax collected but not deposited {Section 76(2)}
- 5. Penalty equivalent to 15% of such tax on the basis of ascertainment of tax**
- Tax not paid, short paid or erroneously refunded for reasons of fraud, wilful misstatement or suppression of facts - Payment before service of notice {Section 74(5)}
- 6. Penalty equivalent to 25% of tax**
- Tax not paid, short paid or erroneously refunded for reasons of fraud, wilful misstatement or suppression of facts: *Payment within 30 days of notice* {Section 74(8)}

**7. Penalty equivalent to 50% of tax**

- Tax not paid, short paid or erroneously refunded for reasons of fraud, wilful misstatement or suppression of facts: Payment within 30 days of order {Section 74(11)}

**8. Provision of section 73 and 74 would be applicable for determination of penalty:**

- Taxable person not eligible for composition levy {section 10 (5)}

**9. Penalty upto Rs. 10,000/- and Rs. 100/day till continuance of offence, subject to maximum of Rs. 25,000/-**

- Failure to furnish information return as per Section 150 {Sec 123}
- Failure to furnish statistics/information as per Section 151 {Sec 124}

**Prosecution Provisions:**

Nature of offences and prosecution provisions applicable thereto are as below:

<b>Event</b>	<b>Provision</b>
<ul style="list-style-type: none"> <li>— Supply without issue of invoice/ incorrect/ false invoice</li> <li>— Issue of invoice without supply</li> <li>— Tax collected but failure to pay beyond a period of 3 months from the due date</li> <li>— Tax collected in contravention of the Act but failure to pay beyond a period of 3 months from the due date</li> <li>— Taking/utilizing input tax credit without actual receipt of goods/services</li> <li>— Fraudulently obtains refund, evades tax, avails input tax credit</li> <li>— Acquiring possession of, or concerning himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other</li> </ul>	<p>Amount of tax evaded &gt; Rs. 500 lakhs: Imprisonment upto five years and fine. The offence shall be cognizable and non bailable</p> <p>Amount of tax evaded &gt; Rs. 500 lakhs &lt; Rs. 200 lakhs: Imprisonment upto 3 years and fine</p> <p>Amount of tax evaded &gt; Rs. 200 lakhs &lt; Rs. 100 lakhs: Imprisonment upto 1 year and fine</p>

**Summary of Compliances and Penalties Under GST 345**

<b>Event</b>	<b>Provision</b>
<p>manner dealing with any goods which he knows or has reason to believe are liable to confiscation</p> <ul style="list-style-type: none"> <li>– Receiving, or in any way concerning with the supply of, or in any other manner dealing with any supply of services which he knows or has reason to believe are in contravention of any provisions of this Act</li> <li>– Failure to supply information which is required to be supplied/ supply of false information</li> <li>– Attempting to commit or abetting the commission of any of the above offences</li> </ul>	
<ul style="list-style-type: none"> <li>– Falsifying/substituting financial records; producing fake accounts/ documents with intention to evade tax</li> <li>– Obstructing/preventing any officer in charge of his duties</li> <li>– Tamper with or destroys any material or evidence or document</li> </ul>	<p>imprisonment for a term which may extend to six months or with fine or with both.</p>
<ul style="list-style-type: none"> <li>– Second or subsequent conviction under Section 132(1)</li> </ul>	<p>Imprisonment upto 5 years and fine</p>

# 16

## COMMON CONCEPTUAL ERRORS IN GST

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### BACKGROUND

It is said that awareness of errors is the first step towards correcting them. It is because unless we are aware of the errors committed, we would not take any steps towards rectifying them. Errors prove costly under any taxation regime. Errors could be classified into two categories, i.e. clerical error and conceptual error.

**Clerical errors:** - Minor, inadvertent negligence in computing a figure, or recording or copying a fact or statement is called clerical mistake. For example, if the actual GST liability is Rs. 1,320 and the client had disclosed Rs. 1,230, this error would be termed as that of clerical in nature.

**Conceptual errors:** - Any error occurring due to wrong understanding of law could be termed as a conceptual error. These errors, being repetitive in nature, put the taxpayers into lot of worry and tension in the long run unless corrective actions are taken to correct the same.

Some of the common conceptual errors are enlisted so that necessary steps to prevent the same are undertaken. The common conceptual errors could be:

**1. ERRORS IN CLASSIFICATION:** - They occur when a specified goods or service has been classified wrongly.

- (1) Classification of goods as a service (and vice versa) or classification of item under one chapter heading into another leading into incorrect rates of GST discharged, wrong exemption claimed, wrong determination of time of supply. This would eventually lead into demand on multiple persons in the supply chain without credit. This may also result in incorrect ITC availment.

Example could be classifying outdoor catering as food and beverages, which would result in differential GST, rate of 13% (since outdoor catering is liable for 18%, whereas food is liable for 5%). Furthermore, ITC would be available for an outdoor caterer but the same is restricted for restaurants.

- (2) The wrong classification of bundled services also proves fatal, mainly because of the continuity of such transactions. A mixed supply wrongly classified as composite supply (and vice versa), would generally result in excess/short discharge of GST.

For example, applying different rates of GST on goods and transportation charges would mean a violation of composite supply provision requires to charge full GST on the rate of goods.

- (3) Raising of tax invoice as supply of goods instead of supply of services for job work activity performed on principal's goods.
- (4) GTO services classified under GTA, and considered for reverse charge outward liability.
- (5) Classifying EOU transactions or other deemed export transactions as zero-rated supply under GST.

**2. ERRORS IN TAXABILITY:** They occur due to incorrect determination of levy of GST or incorrect interpretation of exemptions.

- (1) In case of an item of supply that was exempt under earlier regime but taxable under GST regime, the assessee might continue to treat the same as exempt resulting in erroneous exemption.
- (2) If goods/ service are absolutely exempt, but assessee opts to pay GST on the same for the purpose of claiming ITC, such ITC availment could be denied as there was absolute exemption from payment of GST.

Example could be charging GST on electricity in order to avoid reversal of common ITC under rule 42 and rule 43.

- (3) If assessee claims any exemption or opts to pay GST at concessional rate (without fulfilling the necessary conditions attached), it might result in short-discharge of GST. For example, claiming ITC when opting to pay 5% GST on renting of motor vehicle.

- (4) Non-availment of eligible ITC on exports of exempted goods on the assumption that ITC is not eligible on the same. For example, not claiming ITC when assessee is involved in 100% export of liquor.
- (5) Claiming benefit of exports without payment of tax without executing letter of undertaking or bond.
- (6) Considering all foreign currency receipts as exports/zero-rated supplies as per GST without paying heed to other conditions to be specified.  
For example, treating a foreign currency receipt from a branch as export of service.
- (7) Wrong payment of GST under RCM for services, which does not fall under notified services, provided under u/s 9(3). For example, paying GST on courier services equating them with GTA services.
- (8) Non discharge of GST on items specified in Schedule I of CGST Act.  
For instance, non-payment of GST in case of principal-agent transactions.
- (9) GST not discharged on advance received towards taxable supply of service.
- (10) Mis-classification of advances as deposits, thereby resulting in non-payment of GST on advances.
- (11) GST liability on goods not received from job worker within the prescribed time, as specified in section 143.
- (12) GST liability not remitted on waste or scrap generated during job work.

**3. INCORRECT DETERMINATION OF PLACE OF SUPPLY:**  
Wrong place of supply would result in paying wrong type of taxes or paying taxes when there is no levy of GST.

- (1) Wrong discharge of GST (under RCM) without ascertaining place of supply. This could have negative impact on profitability if the payer is not eligible for full ITC.

Such cases would usually be observed in case of services from overseas vendors. Further, the department may also dispute such ITC stating that the same to be wrongly paid.

- (2) Incorrect determination of place of supply resulting in incorrect type of tax discharged. For example, paying CGST, SGST for an inter-state supply (or vice-versa).
- (3) Considering Ship to location as place of supply in a Bill to-Ship to transaction.
- (4) Not charging integrated tax for renting of immovable property located in a state other than the registered state.
- (5) Treating a non-taxable transaction as taxable (or vice versa) by virtue of incorrect place of supply.
- (6) Considering registered location of recipient as per GSTIN instead of delivery location for supply of goods.
- (7) Considering activity as export of services despite goods being made physically available by the recipient to the supplier.
- (8) Considering location of goods as place of supply instead of registered recipient location for goods transport services.
- (9) Intermediary services considered as export of services, although place of supply is the location of the supplier of service.

**4. ERRORS IN TIME OF SUPPLY:** These errors usually result in early/late discharge of GST or in excess/short discharge of GST, in case of change in GST rate.

- (1) Early /delayed payment of GST due to non-compliance of time of supply provisions.
- (2) Excess/short payment of GST on account of non-compliance with time of supply pertaining to change in rate of tax. (
- (3) Taxability on provisions made where the supplier of service is location outside taxable territory and the supplier and recipient are associated enterprises.

**5. ERRORS IN VALUATION:** - They would result in GST short-paid or excess discharged.

- (1) Claiming pure agent deduction without satisfying the necessary conditions prescribed (rule 33).

- (2) Wrongly claimed deduction on post sale discounts (without compliance of section 15(3) (b).
- (3) Non-monetary consideration ignored (rule 27) for valuation purpose.
- (4) GST not discharged on Interest/penalty collected for delayed payments.
- (5) Ignoring rule 28 in case of related party transactions.

**6. ERRORS IN ITC & PAYMENT OF TAX:** - These errors result in wrong or excess availment of ITC payment of tax.

- (1) ITC availed on photocopy of invoices without having the original invoice.
- (2) ITC availed without receipt of goods merely based on invoice.
- (3) Non-remittance of statutory dues (i.e. GST) to government after collecting from customers. Invocation of demand u/s 74 leads to denial of credit to customer and could hamper the reputation of the company.
- (4) Non-reversal of ITC along with interest in cases where payment is not made to supplier within 180 days from invoice date (or) not availing credit reversed after making payment to vendor.
- (5) ITC wrongly availed on restricted supplies u/s 17(5).
- (6) Non-availment of input tax credit on bank charges, vehicle insurance, asset insurance and telephone bills.
- (7) Wrong reversal of ITC on warranty replacements (which forms part of cost of the product).
- (8) Non-reversal of proportionate common input tax credit in respect of exempted supplies and non-business use, i.e. non-application of rule 42 and rule 43 in case of exempted supplies or usage for non-business purpose.
- (11) Proportionate ITC reversal on annual basis not made, as per rule 42(2).
- (12) Wrong reversal of ITC on capital goods using procedure prescribed u/r 42 instead of rule 43 (Rule 42 is applicable only for inputs and input services)

- (13) Availment of RCM credit in subsequent months, which would have an impact on cash flow.
- (14) ITC missed GTA services when option of 5% GST payment opted under RCM. (The restriction of ITC applies only for the supplier; thus, recipient may avail ITC irrespective of rate of tax)
- (15) ITC missed out due to incorrect interpretation of section 17(5). Example: Non-availing ITC in case of repairs and maintenance to building (not capitalised)
- (16) ITC pertaining to various locations not distributed under ISD.

**7. OTHER ERRORS:** Some other conceptual errors would also become known such as,

- (1) Collection of GST by unregistered persons/ composition dealers, even though prohibited under law.
- (2) Failure to obtain mandatory registration in case of interstate taxable supplies of goods. (Not applicable for supply of services)
- (3) Refund benefit under GST not exercised by exporter.
- (4) ITC reversed merely on the oral instructions of departmental officers/audit parties without ascertaining reason for the same.
- (5) Wrong application of interest rates. Example, interest on delayed payment made at 24%, instead of 18%.
- (6) Not applying for refund of excess tax paid under cash ledger through Form RFD-01A.
- (7) Benefits under other indirect tax laws not being explored, i.e. FTP, Customs.

GST law being new and with rapid changes, there could always be possibility of assessee missing out on some of these important conceptual aspects and end up resulting non-compliance of the law. However, there is need to make a distinction between erroneous application of law and fraudulent actions undertaken to with an intent to evade the tax. All the taxpayers should not be seen as having mala fide intention considering that the level of mistakes committed in the early years of implementation of GST could be very high.



# The Central Goods and Services Tax Act, 2017



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,  
SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS  
Notification No. 1/2017 – Central Tax

New Delhi, the 19<sup>th</sup> June, 2017  
29 Jyaistha, 1939 Saka

**G.S.R. ....(E).**— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 22<sup>nd</sup> day of June, 2017, as the date on which the provisions of sections 1, 2, 3, 4, 5, 10, 22, 23, 24, 25, 26, 27, 28, 29, 30, 139, 146 and 164 of the said Act shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)  
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

**Government of India**

**Ministry of Finance**

Department of Revenue

Central Board of Excise and Customs

Notification No. 9/2017 – Central Tax

New Delhi, the 28<sup>th</sup> June, 2017

7 Ashadha, 1939 Saka

G.S.R. ....(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of July, 2017, as the date on which the provisions of sections 6 to 9, 11 to 21, 31 to 41, 42 except the proviso to sub-section (9) of section 42, 43 except the proviso to sub-section (9) of section 43, 44 to 50, 53 to 138, 140 to 145, 147 to 163, 165 to 174 of the said Act, shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

**Press Information Bureau  
Government of India  
Ministry of Finance**

08-July-2017 20:23 IST

The State of Jammu and Kashmir joins GST today making the GST truly a "one nation, one tax" regime.

The President of India has promulgated today two ordinances, namely, the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 extending the domain of Central GST Act and the Integrated GST Act to the State of Jammu and Kashmir, with effect from 8th July, 2017. With this, the State of Jammu and Kashmir has become part of the GST regime, making GST truly a "one nation, one tax" regime.

Earlier, the Goods and Services Tax was launched in the country from the midnight of 1st July, 2017. However, because of the special provisions applicable to the State of Jammu and Kashmir extra steps had to be taken before the State could join the GST fold.

On 6th July 2017, the State of Jammu and Kashmir had taken the first step towards adopting the GST regime with the President of India giving assent to the Constitution (Application to Jammu and Kashmir) Amendment Order, 2017. Resultantly, the One Hundred and First Amendment Act, 2016 to the Constitution of India that paved the way for introduction of GST in the country, became applicable to the State of Jammu and Kashmir also. Following this, on 7th July, 2017, the Jammu and Kashmir Goods and Services Tax Bill, 2017 was passed by the State Legislature, empowering the State to levy State GST on intra-state supplies with effect from 8th July, 2017.

Concomitantly, the President of India has promulgated two ordinances, namely, the Central Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 and the Integrated Goods and Services Tax (Extension to Jammu and Kashmir) Ordinance, 2017 extending the domain of Central GST Act and the Integrated GST Act to the State of Jammu and Kashmir, with effect from 8th July, 2017.



**Chapter-I**  
**PRELIMINARY**

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**1. Short title, extent and commencement**

- (1) This Act may be called the Central Goods and Services Tax Act, 2017.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**2. Definitions**

In this Act, unless the context otherwise requires,--

- (1) “**actionable claim**” shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;
- (2) “**address of delivery**” means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;
- (3) “**address on record**” means the address of the recipient as available in the records of the supplier;
- (4) “**adjudicating authority**” means any authority, appointed or authorized to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs<sup>1</sup>, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171<sup>2</sup>.
- (5) “**agent**” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;
- (6) “**aggregate turnover**” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of

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<sup>1</sup> Effective date yet to be notified.

persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

- (7) **“agriculturist”** means an individual or a Hindu Undivided Family who undertakes cultivation of land—
- (a) by own labour, or
  - (b) by the labour of family, or
  - (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;
- (8) **“Appellate Authority”** means an authority appointed or authorised to hear appeals as referred to in section 107;
- (9) **“Appellate Tribunal”** means the Goods and Services Tax Appellate Tribunal constituted under section 109;
- (10) **“appointed day”** means the date on which the provisions of this Act shall come into force;
- (11) **“assessment”** means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;
- (12) **“associated enterprises”** shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961;
- (13) **“audit”** means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;
- (14) **“authorised bank”** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act;
- (15) **“authorised representative”** means the representative as referred to in section 116;
- (16) **“Board”** means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;
- (17) **“business”** includes—
- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and
- (i) Any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;
- (18) ~~“business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.~~
- ~~Explanation. For the purposes of this clause, factors that should be considered in determining whether goods or services are related include —~~
- ~~(a) the nature of the goods or services;~~
- ~~(b) the nature of the production processes;~~
- ~~(c) the type or class of customers for the goods or services;~~
- ~~(d) the methods used to distribute the goods or supply of services; and~~
- ~~(e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;<sup>1</sup>~~
- (19) “capital goods” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;
- (20) “casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;
- (21) “central tax” means the central goods and services tax levied under section 9;

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<sup>1</sup> Effective date yet to be notified.

- (22) “**cess**” shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act;
- (23) “**chartered accountant**” means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949;
- (24) “**Commissioner**” means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;
- (25) “**Commissioner in the Board**” means the Commissioner referred to in section 168;
- (26) “**common portal**” means the common goods and services tax electronic portal referred to in section 146;
- (27) “**common working days**” in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government;
- (28) “**company secretary**” means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980;
- (29) “**competent authority**” means such authority as may be notified by the Government;
- (30) “**composite supply**” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;
- Illustration: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.*
- (31) “**Consideration**” in relation to the supply of goods or services or both includes—
- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:

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

- (32) **“continuous supply of goods”** means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;
- (33) **“continuous supply of services”** means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;
- (34) **“conveyance”** includes a vessel, an aircraft and a vehicle;
- (35) **“cost accountant”** means a cost accountant as defined in clause (1b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959;
- (36) **“Council”** means the Goods and Services Tax Council established under article 279A of the Constitution;
- (37) **“credit note”** means a document issued by a registered person under sub-section (1) of section 34;
- (38) **“debit note”** means a document issued by a registered person under sub-section (3) of section 34;
- (39) **“deemed exports”** means such supplies of goods as may be notified under section 147;
- (40) **“designated authority”** means such authority as may be notified by the Board;
- (41) **“document”** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000;
- (42) **“drawback”** in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;
- (43) **“electronic cash ledger”** means the electronic cash ledger referred to in sub-section (1) of section 49;
- (44) **“electronic commerce”** means the supply of goods or services or both, including digital products over digital or electronic network;
- (45) **“electronic commerce operator”** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

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<sup>1</sup> Effective date yet to be notified

- (46) **“electronic credit ledger”** means the electronic credit ledger referred to in sub-section (2) of section 49;
- (47) **“exempt supply”** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;
- (48) **“existing law”** means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;
- (49) **“family”** means,—
- (i) the spouse and children of the person, and
  - (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;
- (50) **“fixed establishment”** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
- (51) **“Fund”** means the Consumer Welfare Fund established under section 57;
- (52) **“goods”** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- (53) **“Government”** means the Central Government;
- (54) **“Goods and Services Tax (Compensation to States) Act”** means the Goods and Services Tax (Compensation to States) Act, 2017;
- (55) **“goods and services tax practitioner”** means any person who has been approved under section 48 to act as such practitioner;
- (56) **“India”** means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;
- (57) **“Integrated Goods and Services Tax Act”** means the Integrated Goods and Services Tax Act, 2017;
- (58) **“integrated tax”** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;

- (59) “**input**” means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;
- (60) “**input service**” means any service used or intended to be used by a supplier in the course or furtherance of business;
- (61) “**Input Service Distributor**” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;
- (62) “**input tax**” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
- (a) the integrated goods and services tax charged on import of goods;
  - (b) the tax payable under the provisions of sub-sections (3) and (4) of section 9;
  - (c) the tax payable under the provisions of *sub-sections (3) and (4)* of section 5 of the Integrated Goods and Services Tax Act;
  - (d) the tax payable under the provisions of *sub-sections (3) and (4)* of section 9 of the respective State Goods and Services Tax Act; or
  - (e) the tax payable under the provisions of *sub-sections (3) and (4)* of section 7 of the Union Territory Goods and Services Tax Act,
- but does not include the tax paid under the composition levy;
- (63) “**input tax credit**” means the credit of input tax;
- (64) “**intra-State supply of goods**” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;
- (65) “**intra-State supply of services**” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;
- (66) “**invoice**” or “**tax invoice**” means the tax invoice referred to in section 31;
- (67) “**inward supply**” in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;
- (68) “**job work**” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly;
- (69) “**local authority**” means—
- (a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution;

- (b) a "Municipality" as defined in clause (e) of article 243P of the Constitution;
  - (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
  - (d) a Cantonment Board as defined in section 3 of the Cantonments Act 2006;
  - (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;
  - (f) Development Board constituted under article 371 and article 1371J of the Constitution; or
  - (g) a Regional Council constituted under article 371A of the Constitution;
- (70) **"location of the recipient of services"** means,—
- (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
  - (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
  - (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
  - (d) in absence of such places, the location of the usual place of residence of the recipient;
- (71) **"location of the supplier of services"** means,—
- (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
  - (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
  - (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and
  - (d) in absence of such places, the location of the usual place of residence of the supplier;

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<sup>1</sup> Effective date yet to be notified

- (72) “**manufacture**” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;
- (73) “**market value**” shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;
- (74) “**mixed supply**” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply;
- Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.*
- (75) “**money**” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;
- (76) “**motor vehicle**” shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988;
- (77) “**non-resident taxable person**” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;
- (78) “**non-taxable supply**” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;
- (79) “**non-taxable territory**” means the territory which is outside the taxable territory;
- (80) “**notification**” means a notification published in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;
- (81) “**other territory**” includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114);
- (82) “**output tax**” in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;
- (83) “**outward supply**” in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or

any other mode, made or agreed to be made by such person in the course or furtherance of business;

- (84) **“person”** includes—
- (a) an individual;
  - (b) a Hindu Undivided Family;
  - (c) a company;
  - (d) a firm;
  - (e) a Limited Liability Partnership;
  - (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
  - (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;
  - (h) any body corporate incorporated by or under the laws of a country outside India;
  - (i) a co-operative society registered under any law relating to co-operative societies;
  - (j) a local authority;
  - (k) Central Government or a State Government;
  - (l) society as defined under the Societies Registration Act, 1860;
  - (m) trust; and
  - (n) every artificial juridical person, not falling within any of the above;
- (85) **“place of business”** includes—
- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
  - (b) a place where a taxable person maintains his books of account; or
  - (c) a place where a taxable person is engaged in business through an agent, by whatever name called;
- (86) **“place of supply”** means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act;
- (87) **“prescribed”** means prescribed by rules made under this Act on the recommendations of the Council;
- (88) **“principal”** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

- (89) “**principal place of business**” means the place of business specified as the principal place of business in the certificate of registration;
- (90) “**principal supply**” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;
- (91) “**proper officer**” in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;
- (92) “**quarter**” shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;
- (93) “**recipient**” of supply of goods or services or both, means—
- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
  - (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,
- and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;
- (94) “**registered person**” means a person who is registered under section 25 but does not include a person having a Unique Identity Number;
- (95) “**regulations**” means the regulations made by the Board under this Act on the recommendations of the Council;
- (96) “**removal**” in relation to goods, means—
- (a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
  - (b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;
- (97) “**return**” means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;
- (98) “**reverse charge**” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act;

- (99) **“Revisional Authority”** means an authority appointed or authorised for revision of decision or orders as referred to in section 108;
- (100) **“Schedule”** means a Schedule appended to this Act;
- (101) **“securities”** shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;
- (102) **“services”** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;<sup>1</sup>
- (103) **“State”** includes a Union territory with Legislature;
- (104) **“State tax”** means the tax levied under any State Goods and Services Tax Act;
- (105) **“supplier”** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;
- (106) **“tax period”** means the period for which the return is required to be furnished;
- (107) **“taxable person”** means a person who is registered or liable to be registered under section 22 or section 24;
- (108) **“taxable supply”** means a supply of goods or services or both which is leviable to tax under this Act;
- (109) **“taxable territory”** means the territory to which the provisions of this Act apply;
- (110) **“telecommunication service”** means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;
- (111) **“the State Goods and Services Tax Act”** means the respective State Goods and Services Tax Act, 2017;
- (112) **“turnover in State”** or **“turnover in Union territory”** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;

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<sup>1</sup> Effective date yet to be notified

- (113) **“usual place of residence”** means--
- (a) in case of an individual, the place where he ordinarily resides;
  - (b) in other cases, the place where the person is incorporated or otherwise legally constituted;
- (114) **“Union territory”** means the territory of—
- (a) the Andaman and Nicobar Islands;
  - (b) Lakshadweep;
  - (c) Dadra and Nagar Haveli;
  - (d) Daman and Diu
  - (e) Chandigarh; and
  - (f) other territory.
- Explanation* –For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;
- (115) **“Union territory tax”** means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;
- (116) **“Union Territory Goods and Services Tax Act”** means the Union Territory Goods and Services Tax Act, 2017;
- (117) **“valid return”** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full;
- (118) **“voucher”** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
- (119) **“works contract”** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;
- (120) words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;
- (121) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

**Chapter-II**  
**ADMINISTRATION**

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**3. Officers under this Act**

The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely: --

- (a) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,
- (b) Chief Commissioners of Central Tax or Directors General of Central Tax,
- (c) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,
- (d) Commissioners of Central Tax or Additional Directors General of Central Tax,
- (e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,
- (g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
- (h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and
- (i) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act.

**4. Appointment of officers**

- (1) The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.
- (2) Without prejudice to the provisions of sub-section (1), the Board may, by order, authorise any officer referred to in clauses (a) to (h) of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

**5. Powers of officers**

- (1) Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.
- (2) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.
- (3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

- (4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.
- 6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances**
- (1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.
- (2) Subject to the conditions specified in the notification issued under sub-section (1),--
- (a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;
- (b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.
- (3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

**Chapter-III**  
**LEVY AND COLLECTION OF TAX**

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**7. Scope of supply**

- (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;
  - (b) import of services for a consideration whether or not in the course or furtherance of business <sup>1</sup>and;
  - (c) the activities specified in Schedule I, made or agreed to be made without a consideration;
  - (d) ~~the activities to be<sup>2</sup> treated as supply of goods or supply of services as referred to in Schedule II.~~
- (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.;
- (2) Notwithstanding anything contained in sub-section (1), --
- (a) activities or transactions specified in Schedule III; or
  - (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,
- shall be treated neither as a supply of goods nor a supply of services.
- (3) Subject to the provisions of sub-sections (1), (1A) <sup>3</sup>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.

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<sup>1</sup> Effective date yet to be notified.

<sup>2</sup> Effective date yet to be notified.

<sup>3</sup> Effective date yet to be notified.

**8. Tax liability on composite and mixed supplies**

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

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

**9. Levy and Collection**

- (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.
- (2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
- (3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.<sup>1</sup>
- (5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

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<sup>1</sup> Effective date yet to be notified.

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

#### 10. Composition levy

(1) Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding, --

- (a) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,
- (b) two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
- (c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers,

subject to such conditions and restrictions as may be prescribed:

Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees<sup>1</sup>, as may be recommended by the Council.

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.<sup>2</sup>

(2) The registered person shall be eligible to opt under sub-section (1), if--

- (a) save as provided in sub-section (1), he is not engaged in the supply of services<sup>3</sup>
- (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;
- (c) he is not engaged in making any inter-State outward supplies of goods;

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

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- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

- (3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).
- (4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- (5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

*Notified vide Notification No. 8/2017-Central Tax dt. 27<sup>th</sup> June 2017*

Provided that the aggregate turnover in the preceding financial year shall be fifty lakh rupees in the case of an eligible registered person, registered under section 25 of the said Act, in any following States, namely: -

- (i) Arunachal Pradesh,
- (ii) Assam,
- (iii) Manipur,
- (iv) Meghalaya,
- (v) Mizoram,
- (vi) Nagaland,
- (vii) Sikkim,
- (viii) Tripura,
- (ix) Himachal Pradesh:

Provided further that the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods, the description of which is specified in column (3) of the Table below and falling under

the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table:-

TABLE S. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

#### 11. Power to grant exemption from tax

- (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such *explanation* shall have effect as if it had always been the part of the first such notification or order, as the case may be.

*Explanation* – For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

**Chapter-IV**  
**TIME AND VALUE OF SUPPLY**

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**12. Time of supply of goods**

- (1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.
- (2) The time of supply of goods shall be the earlier of the following dates, namely:—
- (a) the date of issue of invoice by the supplier or the last date on which he is required, under ~~sub-section (1)~~ of section 31, to issue the invoice with respect to the supply; or

- (b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.

*Explanation 1.*—For the purposes of clauses (a) and (b), “**supply**” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

*Explanation 2.*—For the purposes of clause (b), “**the date on which the supplier receives the payment**” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

- (3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:—
- (a) the date of the receipt of goods; or
- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

- (4) In case of supply of vouchers by a supplier, the time of supply shall be—
- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases.

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<sup>1</sup> Effective date yet to be notified

- (5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—
- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
  - (b) in any other case, be the date on which the tax is paid.
- (6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

### 13. Time of supply of services

- (1) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.
- (2) The time of supply of services shall be the earliest of the following dates, namely:—
- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under ~~sub-section (2)~~<sup>1</sup> of section 31 or the date of receipt of payment, whichever is earlier; or
  - (b) the date of provision of service, if the invoice is not issued within the period prescribed under ~~sub-section (2)~~ of section 31 or the date of receipt of payment, whichever is earlier; or
  - (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply;

Provided that where the supplier of taxable service receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

*Explanation.*—For the purposes of clauses (a) and (b)—

- (i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
  - (ii) **“the date of receipt of payment”** shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.
- (3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely: –
- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

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<sup>1</sup> Effective date yet to be notified.

- (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

- (4) In case of supply of vouchers by a supplier, the time of supply shall be--
- (a) the date of issue of voucher, if the supply is identifiable at that point; or
- (b) the date of redemption of voucher, in all other cases.
- (5) Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall--
- (a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, be the date on which the tax is paid.
- (6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

#### 14. Change in rate of tax in respect of supply of goods or services

Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely: --

- (a) in case the goods or services or both have been supplied before the change in rate of tax, --
- (i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
- (ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or
- (iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

- (b) in case the goods or services or both have been supplied after the change in rate of tax,--
- (i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or
  - (ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
  - (iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

*Explanation.*—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

#### 15. Value of taxable supply

- (1) The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.
- (2) The value of supply shall include---
- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;
  - (b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
  - (c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;
  - (d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

- (e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

*Explanation* – For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

- (3) The value of the supply shall not include any discount which is given--
- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) after the supply has been effected, if—
- (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
- (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.
- (4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.
- (5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

*Explanation* - For the purposes of this Act,—

- (a) persons shall be deemed to be “related persons” if--
- (i) such persons are officers or directors of one another's businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third persons; or
- (viii) they are members of the same family;
- (b) the term “person” also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

**Chapter-V**  
**INPUT TAX CREDIT**

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**16. Eligibility and Conditions for taking Input Tax Credit**

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.
- (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, --
- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both.

Explanation — For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services--

- (i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
- (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.<sup>1</sup>
- (c) subject to the provisions of section 41 or section 43A<sup>2</sup>, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and
- (d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of

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<sup>1</sup> Effective date yet to be notified.

<sup>2</sup> Effective date yet to be notified.

one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

- (3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.
- (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

#### 17. Apportionment of credit and blocked credits

- (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
- (2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.
- (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

*Explanation.*—For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.<sup>1</sup>

- (4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. Of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

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<sup>1</sup> Effective date yet to be notified

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

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

“(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;
- (D) imparting training on flying such aircraft;

(aa) vessels and aircraft except when they are used—

- (i) for making the following taxable supplies, namely:—
  - (A) further supply of such vessels or aircraft; or
  - (B) transportation of passengers; or
  - (C) imparting training on navigating such vessels; or
  - (D) imparting training on flying such aircraft;
- (ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) :

Provided that the input tax credit in respect of such services shall be available —

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged—
  - (i) in the manufacture of such motor vehicles, vessels or aircraft; or
  - (ii) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

- (b) the following supply of goods or services or both—
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:
- Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
- (ii) membership of a club, health and fitness centre; and
- (iii) travel benefits extended to employees on vacation such as leave or home travel concession:
- Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.<sup>1</sup>
- (c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;
- (d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
- Explanation* – For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;
- (e) goods or services or both on which tax has been paid under section 10;
- (f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g) goods or services or both used for personal consumption;
- (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

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<sup>1</sup> Effective date yet to be notified

- (6) The Government may prescribe the manner in which the credit referred to in sub-35 sections (1) and (2) may be attributed.

*Explanation* - For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

- (i) land, building or any other civil structures;
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises.

#### 18. Availability of credit in special circumstances

- (1) Subject to such conditions and restrictions as may be prescribed—
- (a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
  - (b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;
  - (c) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:  
Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;
  - (d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:  
Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

- (2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.
  - (3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.
  - (4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:  

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.
  - (5) The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.
  - (6) In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:  

Provided that 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 under section 15.
- 19. Taking input tax credit in respect of inputs and capital goods sent for job work**
- (1) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job-worker for job-work.
  - (2) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job-work without being first brought to his place of business.
  - (3) Where the inputs sent for job work are not received back by the principal after completion of job-work or otherwise or are not supplied from the place of business of

the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

- (4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.
- (5) Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job-work without being first brought to his place of business.
- (6) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

- (7) Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

*Explanation* – For the purpose of this section, “principal” means the person referred to in section 143.

#### 20. 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 and 92A<sup>1</sup> of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

#### 21. Manner of recovery of credit distributed in excess

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.

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<sup>1</sup> Effective date yet to be notified.

**Chapter-VI**  
**REGISTRATION**

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**22. Persons liable for registration**

- (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that 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 ten lakh rupees.

Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.<sup>1</sup>

- (2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.
- (3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
- (4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

*Explanation* – For the purposes of this section,—

- (i) the expression “**aggregate turnover**” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
- (ii) the supply of goods, after completion of job-work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and

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<sup>1</sup> Effective date yet to be notified

the value of such goods shall not be included in the aggregate turnover of the registered job worker;

- (iii) the expression “**special category States**” shall mean the States as specified in sub-clause (g) of clause (4) of Article 279A of the Constitution.

### 23. Persons not liable for registration

- (1) The following persons shall not be liable to registration, namely:--
- (a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
- (b) an agriculturist, to the extent of supply of produce out of cultivation of land.
- (2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

### 24. Compulsory registration in certain cases

Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act, --

- (i) persons making any inter-State taxable supply;
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) person who are required to pay tax under sub-section (5) of section 9;
- (v) non-resident taxable persons making taxable supply;
- (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input Service Distributor, whether or not separately registered under this Act;
- (ix) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;
- (x) every electronic commerce operator;
- (xi) every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person; and

- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

## 25. Procedure for registration

- (1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.<sup>1</sup>

*Explanation* - Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate base line is located.

- (2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed..<sup>2</sup>

- (3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.
- (4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
- (6) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration:

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

- (7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.
- (8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.
- (9) Notwithstanding anything contained in sub-section (1),--
  - (a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and
  - (b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.
- (10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.
- (11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.
- (12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

#### **26. 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.

**27. Special provisions relating to casual taxable person and non-resident taxable person**

- (1) The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.

- (2) A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought

- (3) The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

**28. Amendment of registration**

- (1) Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.

- (2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:

Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

- (3) Any rejection or approval of amendments under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

**29. Cancellation of registration or suspension<sup>1</sup>**

(1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

- (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
- (b) there is any change in the constitution of the business; or
- (c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.

Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.<sup>2</sup>

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
- (b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or
- (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

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

Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.<sup>3</sup>

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

<sup>3</sup> Effective date yet to be notified

- (3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.
- (4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.
- (5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:
- Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.
- (6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

### **30. Revocation of cancellation of registration**

- (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.
- (2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:
- Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.
- (3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

**Chapter-VII**  
**TAX INVOICE, CREDIT AND DEBIT NOTES**

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**31. Tax invoice**

- (1) A registered person supplying taxable goods shall, before or at the time of,—
- (a) removal of goods for supply to the recipient, where the supply involves movement of goods; or
  - (b) delivery of goods or making available thereof to the recipient, in any other case,
- issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

- (2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
  - (b) tax invoice may not be issued.
- (3) Notwithstanding anything contained in sub-sections (1) and (2)—
- (a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;
  - (b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;
  - (c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:
- Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

- (d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;
  - (e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;
  - (f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;
  - (g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.
- (4) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.
- (5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,--
- (a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;
  - (b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
  - (c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.
- (6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.
- (7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

*Explanation* - For the purposes of this section, the expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier.

**32. Prohibition of unauthorised collection of tax**

- (1) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.
- (2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

**33. Amount of tax to be indicated in tax invoice and other documents**

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

**34. Credit and debit notes**

- (1) Where one or more tax invoices have <sup>1</sup>been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year <sup>2</sup>containing such particulars as may be prescribed.
- (2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:  
  
Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.
- (3) Where one or more tax invoices have <sup>3</sup>been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year <sup>4</sup>containing such particulars as may be prescribed.
- (4) Any registered person who issues a debit note in relation to a supply of goods or

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<sup>1</sup> Effective date yet to be notified.

<sup>2</sup> Effective date yet to be notified.

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<sup>4</sup> Effective date yet to be notified

services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

*Explanation* - For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

**Chapter-VIII**  
**ACCOUNTS AND RECORDS**

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**35. Accounts and other records**

- (1) Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—
- (a) production or manufacture of goods;
  - (b) inward and outward supply of goods or services or both;
  - (c) stock of goods;
  - (d) input tax credit availed;
  - (e) output tax payable and paid; and
  - (f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

- (2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.
- (3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.
- (4) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.
- (5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

- (6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

**36. Period of retention of accounts**

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

Chapter-IX  
RETURNS

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**37. Furnishing details of outward supplies**

- (1) Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

- (2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.
- (3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

*Explanation* - For the purposes of this Chapter, the expression "**details of outward supplies**" shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

**38. Furnishing details of inward supplies**

(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section (1) of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section (1) of section 37.

(2) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed:

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section (2) or sub-section (4) of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(5) Any registered person, who has furnished the details under sub-section (2) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section (2) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

### 39. Furnishing of returns

- (1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form, manner and within such time <sup>1</sup>as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, ~~on or before the twentieth day of the month succeeding such calendar month or part thereof~~<sup>2</sup>.

Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall furnish return for every quarter or part thereof, subject to such conditions and safeguards as may be specified therein.<sup>3</sup>

- (2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.
- (3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.
- (4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.
- (5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the end of a calendar month or within seven days after the last day of the period of registration specified under sub-section (1) of section 27, whichever is earlier.
- (6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

<sup>3</sup> Effective date yet to be notified

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

- (7) Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

Provided that the Government may, on the recommendations of the Council, notify certain classes of registered persons who shall pay to the Government the tax due or part thereof as per the return on or before the last date on which he is required to furnish such return, subject to such conditions and safeguards as may be specified therein.<sup>1</sup>

- (8) Every registered person who is required to furnish a return under sub-section (1) or sub-section (2) shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

- (9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) or sub-section (5) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in such form and manner as may be prescribed<sup>2</sup>, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year to which such details pertain<sup>3</sup>, or the actual date of furnishing of relevant annual return, whichever is earlier.

- (10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

#### 40. First return

Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

#### 41. Claim of input tax credit and provisional acceptance thereof

- (1) Every registered person shall, subject to such conditions and restrictions as may be

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

<sup>3</sup> Effective date yet to be notified

prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

- (2) The credit referred to in sub-section (1) shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

#### 42. Matching, reversal and reclaim of input tax credit

- (1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched--

- (a) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period;
- (b) with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and
- (c) for duplication of claims of input tax credit.

- (2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.

- (3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

- (4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.

- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

- (6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

- (7) The recipient shall be eligible to reduce, from his output tax liability, the amount added

under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.

- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

#### 43. Matching, reversal and reclaim of reduction in output tax liability

- (1) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the “**supplier**”) for a tax period shall, in such manner and within such time as may be prescribed, be matched—
- (a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the “**recipient**”) in his valid return for the same tax period or any subsequent tax period; and
- (b) for duplication of claims for reduction in output tax liability.
- (2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.
- (3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which

discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.
- (8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:  
Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.
- (10) The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

#### 43A.

- (1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.
- (2) Notwithstanding anything contained in section 41, section 42 or section 43, the procedure for availing of input tax credit by the recipient and verification thereof shall be such as may be prescribed.
- (3) The procedure for furnishing the details of outward supplies by the supplier on the common portal, for the purposes of availing input tax credit by the recipient shall be such as may be prescribed.

- (4) The procedure for availing input tax credit in respect of outward supplies not furnished under sub-section (3) shall be such as may be prescribed and such procedure may include the maximum amount of the input tax credit which can be so availed, not exceeding twenty per cent. of the input tax credit available, on the basis of details furnished by the suppliers under the said sub-section.
- (5) The amount of tax specified in the outward supplies for which the details have been furnished by the supplier under sub-section (3) shall be deemed to be the tax payable by him under the provisions of the Act.
- (6) The supplier and the recipient of a supply shall be jointly and severally liable to pay tax or to pay the input tax credit availed, as the case may be, in relation to outward supplies for which the details have been furnished under sub-section (3) or sub-section (4) but return thereof has not been furnished.
- (7) For the purposes of sub-section (6), the recovery shall be made in such manner as may be prescribed and such procedure may provide for non-recovery of an amount of tax or input tax credit wrongly availed not exceeding one thousand rupees.
- (8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, the details of which can be furnished under sub-section (3) by a registered person,—
  - (i) Within six months of taking registration;
  - (ii) Who has defaulted in payment of tax and where such default has continued for more than two months from the due date of payment of such defaulted amount, shall be such as may be prescribed.<sup>1</sup>

#### 44. Annual return

- (1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.
- (2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

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<sup>1</sup> Effective date yet to be notified

**45. Final return**

Every registered person who is required to furnish a return under sub-section (1) of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

**46. Notice to return defaulters**

Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

**47. Levy of late fee**

- (1) Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.
- (2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.

**48. Goods and services tax practitioners**

- (1) The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.
- (2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 and to perform such other functions <sup>1</sup>in such manner as may be prescribed.
- (3) Notwithstanding anything contained in sub-section (2), the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

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<sup>1</sup> Effective date yet to be notified

**Chapter-X**  
**PAYMENT OF TAX**

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**49. Payment of tax, interest, penalty and other amounts**

- (1) Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.
- (2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41 or section 43A<sup>1</sup>, to be maintained in such manner as may be prescribed.
- (3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.
- (5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of--
  - (a) 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 as the case may be, Union territory tax, in that order;
  - (b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
  - (c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax<sup>2</sup>

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

- (d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
- Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax.<sup>1</sup>
- (e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and
- (f) the State tax or Union territory tax shall not be utilised towards payment of central tax.
- (6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.
- (7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.
- (8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:--
- (a) self-assessed tax, and other dues related to returns of previous tax periods;
- (b) self-assessed tax, and other dues related to the return of the current tax period;
- (c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74.
- (9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

*Explanation* - For the purposes of this section,—

- (a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;
- (b) the expression,—
- (i) **“tax dues”** means the tax payable under this Act and does not include interest, fee and penalty; and
- (ii) **“other dues”** means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

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<sup>1</sup> Effective date yet to be notified

**50. Interest on delayed payment of tax**

- (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.
- (2) 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.
- (3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

**51. Tax deduction at source**

- (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—
  - (a) a department or establishment of the Central Government or State Government; or
  - (b) local authority; or
  - (c) Governmental agencies; or
  - (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as "**the deductor**"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "**the deductee**") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

*Explanation.*—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

- (2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.
- (3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.
- (4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.
- (5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.
- (6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.
- (7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.
- (8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:  
Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

## 52. Collection of tax at source

- (1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

*Explanation* - For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

- (2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
- (3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.
- (4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.
- (5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.
- (6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:  

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.
- (7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.
- (8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.
- (9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

- (10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in 50 his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.
- (11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.
- (12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—
- (a) supplies of goods or services or both effected through such operator during any period; or
  - (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.
- (13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.
- (14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

*Explanation* - For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

### 53. Transfer of input tax credit

On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

**Chapter-XI**  
**REFUNDS**

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**54. Refund of Tax**

- (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in the return furnished under section 39 in such manner as may be prescribed.

- (2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.
- (3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than--

- (i) zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

- (4) The application shall be accompanied by—
- (a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and
  - (b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which

such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

- (5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.
- (6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.
- (7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.
- (8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—
  - (a) refund of tax paid on export <sup>1</sup>of goods or services or both or on inputs or input services used in making such exports<sup>2</sup>;
  - (b) refund of unutilised input tax credit under sub-section (3);
  - (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
  - (d) refund of tax in pursuance of section 77;
  - (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
  - (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

- (9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).
- (10) Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—
- (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
  - (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

*Explanation* - For the purposes of this sub-section, the expression “specified date” shall mean the last date for filing an appeal under this Act.

- (11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.
- (12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.
- (13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.
- (14) Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

*Explanation* - For the purposes of this section,—

- (1) “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).

- (2) “relevant date” means—
- (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—
    - (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
    - (ii) if the goods are exported by land, the date on which such goods pass the frontier; or
    - (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
  - (b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
  - (c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—
    - (i) receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India<sup>1</sup>, where the supply of services had been completed prior to the receipt of such payment; or
    - (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;
  - (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
  - (e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises<sup>2</sup>
  - (f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
  - (g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
  - (h) in any other case, the date of payment of tax.

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

**55. Refund in certain cases**

The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them.

**56. Interest on delayed refunds**

If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

*Explanation* – For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

In exercise of the powers conferred by sub-sections (1) and (3) of section 50, sub-section (12) of section 54 and section 56 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby fixes the rate of interest per annum, for the purposes of the sections as specified in column (2) of the Table below, as mentioned in the corresponding entry in column (3) of the said

Table.

Serial Number	Section	Rate of Interest (in per cent)
1	Sub-section (1) of section 50	18
2	sub-section (3) of section 50	24

3	sub-section (12) of section 54	6
4	section 56	9
5	proviso to section 56	9

**57. Consumer Welfare Fund**

The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund, -

- (a) the amount referred to in sub-section (5) of section 54;
  - (b) any income from investment of the amount credited to the Fund; and
  - (c) such other monies received by it,
- in such manner as may be prescribed.

**58. Utilisation of Fund**

- (1) All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.
- (2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor General of India.

**Chapter-XII**  
**ASSESSMENT**

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**59. Self-assessment**

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.

**60. Provisional assessment**

(1) Subject to the provisions of sub-section (2), where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section (1), pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

(4) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section (7) of section 39 or the rules made thereunder, at the rate specified under sub-section (1) of section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.

(5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section (3), subject to the provisions of sub-section (8) of section 54, interest shall be paid on such refund as provided in section 56.

**61. Scrutiny of returns**

(1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the

discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

- (2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.
- (3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

**62. Assessment of non-filers of returns**

- (1) Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person 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 specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.
- (2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section (1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section (1) of section 50 or for payment of late fee under section 47 shall continue.

**63. Assessment of unregistered persons**

Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section (2) of section 29 but who was liable to pay tax, the proper officer may 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:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

**64. Summary assessment in certain special cases**

- (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, 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:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

- (2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

## Chapter-XIII

### AUDIT

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#### 65. Audit by tax authorities

- (1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.
- (2) The officers referred to in sub-section (1) may conduct audit at the place of business of the registered person or in their office.
- (3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.
- (4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

*Explanation* – For the purposes of this sub-section, the expression “commencement of audit” shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

- (5) During the course of audit, the authorised officer may require the registered person,—
  - (i) to afford him the necessary facility to verify the books of account or other documents as he may require;
  - (ii) to furnish such information as he may require and render assistance for timely completion of the audit.
- (6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.
- (7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

#### 66. Special audit

- (1) If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a

communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

- (2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:  
Provided that the Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of ninety days.
- (3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.
- (4) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section (1) which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.
- (5) The expenses of the examination and audit of records under sub-section (1), including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.
- (6) Where the special audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

**CHAPTER-XIV**  
**INSPECTION, SEARCH, SEIZURE AND ARREST**

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**67. Power of inspection, search and seizure**

(1) Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that--

- (a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or
- (b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorized by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

(4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are

suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

- (5) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.
- (6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.
- (7) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:  
Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.
- (8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.
- (9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.
- (10) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.
- (11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

- (12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

**68. Inspection of goods in movement**

- (1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.
- (2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.
- (3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

**69. Power to arrest**

- (1) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.
- (2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty four hours.
- (3) Subject to the provisions of the Code of Criminal Procedure, 1973,—
- (a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;
- (b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

**70. Power to summon persons to give evidence and produce documents**

- (1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or

any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.

- (2) Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code.

#### **71. Access to business premises**

- (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.
- (2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—
- (i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
  - (ii) trial balance or its equivalent;
  - (iii) statements of annual financial accounts, duly audited, wherever required;
  - (iv) cost audit report, if any, under section 148 of the Companies Act, 2013;
  - (v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and
  - (vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

#### **72. Officers to assist proper officers**

- (1) All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act.
- (2) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

**Chapter-XV**  
**DEMANDS AND RECOVERY**

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- 73. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.**
- (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.
  - (2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order.
  - (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
  - (4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
  - (5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
  - (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1) or, as the case may be, the statement under sub-section (3), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
  - (7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.

- (8) Where any person chargeable with tax under sub-section (1) or sub-section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
- (9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.
- (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.
- (11) Notwithstanding anything contained in sub-section (6) or sub-section (8), penalty under sub-section (9) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.
- 74. Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts**
- (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.
- (2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.
- (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
- (4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.

- (5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.
- (6) The proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.
- (7) Where the proper officer is of the opinion that the amount paid under sub-section (5) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (8) Where any person chargeable with tax under sub-section (1) pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.
- (9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.
- (10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.
- (11) Where any person served with an order issued under sub-section (9) pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

*Explanation 1.*— For the purposes of section 73 and this section,—

- (i) the expression “**all proceedings in respect of the said notice**” shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

*Explanation 2.*—For the purposes of this Act, the expression “**suppression**” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act

or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

**75. General provisions relating to determination of tax**

- (1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74, as the case may be.
- (2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.
- (3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.
- (4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.
- (5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:  
Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.
- (6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- (7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.
- (8) Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.
- (9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.
- (10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section (10) of section 73 or within five years as provided for in sub-section (10) of section 74.

- (11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section (10) of section 73 or sub-section (10) of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.
- (12) 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.
- (13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

#### **76. Tax collected but not paid to Government**

- (1) Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.
- (2) Where any amount is required to be paid to the Government under sub-section (1), and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.
- (3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section (2), determine the amount due from such person and thereupon such person shall pay the amount so determined.
- (4) The person referred to in sub-section (1) shall in addition to paying the amount referred to in sub-section (1) or sub-section (3) also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

- (5) An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.
- (6) The proper officer shall issue an order within one year from the date of issue of the notice.
- (7) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.
- (8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.
- (9) The amount paid to the Government under sub-section (1) or sub-section (3) shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section (1).
- (10) Where any surplus is left after the adjustment under sub-section (9), the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.
- (11) The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

**77. Tax wrongfully collected and paid to Central Government or State Government**

- (1) A registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the central tax and the Union territory tax payable.

**78. Initiation of recovery proceedings**

Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated:

Provided that where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.

**79. Recovery of tax**

- (1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:—
- (a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;
  - (b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;
  - (c)
    - (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;
    - (ii) every person to whom the notice is issued under sub-clause (i) shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;
    - (iii) in case the person to whom a notice under sub-clause (i) has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;
    - (iv) the officer issuing a notice under sub-clause (i) may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;
    - (v) any person making any payment in compliance with a notice issued under sub-clause (i) shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge

- of the liability of such person to the person in default to the extent of the amount specified in the receipt;
- (vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause (i) shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;
  - (vii) where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;
- (d) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;
  - (e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;
  - (f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.
- (2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section (1), the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

- (3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.
- (4) Where the amount recovered under sub-section (3) is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

Explanation.--For the purposes of this section, the word person shall include "distinct persons" as referred to in sub-section (4) or, as the case may be, sub-section (5) of section 25.<sup>1</sup>

#### **80. Payment of tax and other amount in instalments**

On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:

Provided that where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

#### **81. Transfer of property to be void in certain cases**

Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

#### **82. Tax to be first charge on property**

Notwithstanding anything to the contrary contained in any law for the time being in

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<sup>1</sup> Effective date yet to be notified

force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.

**83. Provisional attachment to protect revenue in certain cases**

- (1) Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.
- (2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

**84. Continuation and validation of certain recovery proceedings**

Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as "Government dues"), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then--

- (a) where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;
- (b) where such Government dues are reduced in such appeal, revision or in other proceedings--
  - (i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;
  - (ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;
  - (iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

**Chapter-XVI**  
**LIABILITY TO PAY IN CERTAIN CASES**

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**85. Liability in case of transfer of business**

- (1) Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.
- (2) Where the transferee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.

**86. Liability of agent and principal**

Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.

**87. Liability in case of amalgamation or merger of Companies**

- (1) When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.
- (2) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.

**88. Liability in case of Company in liquidation**

- (1) When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereafter in this section referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.
- (2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he

receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

- (3) When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

#### **89. Liability of directors of private Company**

- (1) Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.
- (2) Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section (1) shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company:

Provided that nothing contained in this sub-section shall apply to any personal penalty imposed on such director.

#### **90. Liability of partners of Firm to pay tax**

Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

**91. Liability of guardians, trustees, etc.**

Where the business in respect of which any tax, interest or penalty is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

**92. Liability of Court of Wards, etc.**

Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

**93. Special provisions regarding liability to pay tax, interest or penalty in certain cases**

(1) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then--

(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and

(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(2) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable

to pay the tax, interest or penalty due from the taxable person under this Act up to the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition.

- (3) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution.
- (4) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,—
- (a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or
- (b) is a trustee who carries on the business under a trust for a beneficiary,
- then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the termination of guardianship or trust but has remained unpaid or is determined thereafter.

**94. Liability in other cases**

- (1) Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—
- (a) the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and
- (b) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.
- (2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

- (3) The provisions of sub-section (1) shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.

*Explanation* –For the purposes of this Chapter,--

- (i) a “**Limited Liability Partnership**” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a firm;
- (ii) “**court**” means the District Court, High Court or Supreme Court.

**Chapter-XVII**  
**ADVANCE RULING**

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**95. Definitions**

In this Chapter, unless the context otherwise requires,—

- (a) **“advance ruling”** means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;
- (b) **“Appellate Authority”** means the Appellate Authority for Advance Ruling referred to in section 99;
- (c) **“applicant”** means any person registered or desirous of obtaining registration under this Act;
- (d) **“application”** means an application made to the Authority under sub-section (1) of section 97;
- (e) **“Authority”** means the Authority for Advance Ruling referred to in section 96.

**96. Authority for advance ruling**

Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

**97. Application for Advance Ruling**

- (1) An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.
- (2) The question on which the advance ruling is sought under this Act, shall be in respect of,—
  - (a) classification of any goods or services or both;
  - (b) applicability of a notification issued under the provisions of this Act;
  - (c) determination of time and value of supply of goods or services or both;
  - (d) admissibility of input tax credit of tax paid or deemed to have been paid;
  - (e) determination of the liability to pay tax on any goods or services or both;
  - (f) whether applicant is required to be registered;

- (g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

**98. Procedure on receipt of application**

- (1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

- (2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

- (3) A copy of every order made under sub-section (2) shall be sent to the applicant and to the concerned officer.
- (4) Where an application is admitted under sub-section (2), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.
- (5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.
- (6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.
- (7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

**99. Appellate Authority for Advance Ruling**

Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

**100. Appeal to Appellate Authority**

- (1) The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section (4) of section 98, may appeal to the Appellate Authority.
- (2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

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

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

**101. Orders of Appellate Authority**

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

**102. Rectification of Advance Ruling**

The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is

brought to its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

### 103. Applicability of Advance Ruling

- (1) The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—
  - (a) on the applicant who had sought it in respect of any matter referred to in sub-section (2) of section 97 for advance ruling;
  - (b) on the concerned officer or the jurisdictional officer in respect of the applicant
- (2) The advance ruling referred to in sub-section (1) shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

### 104. Advance ruling to be void in certain circumstances

- (1) Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

*Explanation* – The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74.

- (2) A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

### 105. Powers of Authority and Appellate Authority

- (1) The Authority or the 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 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.

**106. Procedure of Authority and Appellate Authority**

The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

**Chapter-XVIII**  
**APPEALS AND REVISION**

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**107. Appeals to Appellate Authority**

- (1) Any person aggrieved 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 may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.
- (2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.
- (3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.
- (4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.
- (5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.
- (6) No appeal shall be filed under sub-section (1), unless the appellant has paid—
  - (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
  - (b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order subject to a maximum of twenty-five crore rupees<sup>1</sup>, in relation to which the appeal has been filed.

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<sup>1</sup> Effective date yet to be notified

- (7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.
- (8) The Appellate Authority shall give an opportunity to the appellant of being heard.
- (9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:  
Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.
- (10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.
- (11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:  
Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:  
Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.
- (12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.
- (13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:  
Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.
- (14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.
- (15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.

- (16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

**108. Powers of Revisional Authority**

- (1) Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

- (2) The Revisional Authority shall not exercise any power under sub-section (1), if—
- (a) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or
  - (b) the period specified under sub-section (2) of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or
  - (c) the order has already been taken for revision under this section at an earlier stage; or
  - (d) the order has been passed in exercise of the powers under sub-section (1):

Provided that the Revisional Authority may pass an order under sub-section (1) on any point which has not been raised and decided in an appeal referred to in clause (a) of sub-section (2), before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause (b) of that sub-section, whichever is later.

- (3) Every order passed in revision under sub-section (1) shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.
- (4) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate

Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2) where proceedings for revision have been initiated by way of issue of a notice under this section.

- (5) Where the issuance of an order under sub-section (1) is stayed by the order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of limitation referred to in clause (b) of sub-section (2).
- (6) For the purposes of this section, the term,--
  - (i) **"record"** shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;
  - (ii) **"decision"** shall include intimation given by any officer lower in rank than the Revisional Authority.g

#### **109. Constitution of Appellate Tribunal and Benches thereof**

- (1) The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.
- (2) The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as "Regional Benches"), State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").
- (3) The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).
- (4) The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).
- (5) The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.
- (6) The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that the Government shall, on receipt of a request from any State

Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Provided further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.

- (7) The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section (5).
- (8) The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.
- (9) Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.
- (10) In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:

Provided that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

- (11) If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.
- (12) The Government, in consultation with the President may, for the administrative convenience, transfer—
  - (a) any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or

- (b) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.
- (13) The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.
- (14) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

**110. President and Members of Appellate Tribunal, their qualification, appointment, conditions of service, etc.**

- (1) A person shall not be qualified for appointment as—
  - (a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;
  - (b) a Judicial Member, unless he—
    - (i) has been a Judge of the High Court; or
    - (ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or
    - (iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;
  - (c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;
  - (d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.
- (2) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise, the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

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

- (3) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.
- (4) The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.
- (5) The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.
- (6) No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.
- (7) Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.
- (8) The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:  
Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.
- (9) The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.
- (10) The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.
- (11) The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

- (12) The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:

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

- (13) The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who—

- (a) has been adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such President, State President or Member; or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest:

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

- (14) Without prejudice to the provisions of sub-section (13),—
- (a) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;
  - (b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the

State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.

- (15) The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section (14).
- (16) The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section (14).
- (17) Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.

#### **111. Procedure before Appellate Tribunal**

- (1) The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.
- (2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—
  - (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of documents;
  - (c) receiving evidence on affidavits;
  - (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office;
  - (e) issuing commissions for the examination of witnesses or documents;
  - (f) dismissing a representation for default or deciding it ex parte;

- (g) setting aside any order of dismissal of any representation for default or any order passed by it ex parte; and
  - (h) any other matter which may be prescribed.
- (3) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—
- (a) in the case of an order against a company, the registered office of the company is situated; or
  - (b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.
- (4) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

#### 112. Appeals to Appellate Tribunal

- (1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.
- (2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.
- (3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.
- (4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the

Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).

- (5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).
- (6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.
- (7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.
- (8) No appeal shall be filed under sub-section (1), unless the appellant has paid—
  - (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and
  - (b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order subject to a maximum of fifty crore rupees<sup>1</sup>, in relation to which the appeal has been filed.
- (9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.
- (10) Every application made before the Appellate Tribunal,—
  - (a) in an appeal for rectification of error or for any other purpose; or
  - (b) for restoration of an appeal or an application,shall be accompanied by such fees as may be prescribed.

### 113. Orders of Appellate Tribunal

- (1) The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such

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<sup>1</sup> Effective date yet to be notified

directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

- (2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

- (3) The Appellate Tribunal may amend any order passed by it under sub-section (1) so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State tax or the Commissioner of the Union territory tax or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.

- (4) The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.
- (5) The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.
- (6) Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

#### **114. Financial and administrative powers of President**

The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be prescribed:

Provided that the President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.

#### **115. Interest on refund of amount paid for admission of appeal**

Where an amount paid by the appellant under sub-section (6) of section 107 or sub-section (8) of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under

section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

**116. Appearance by authorised representative**

(1) Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.

(2) For the purposes of this Act, the expression "authorised representative" shall mean a person authorised by the person referred to in sub-section (1) to appear on his behalf, being—

- (a) his relative or regular employee; or
- (b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or
- (c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or
- (d) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years:

Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or

- (e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

(3) No person,—

- (a) who has been dismissed or removed from Government service; or
- (b) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or
- (c) who is found guilty of misconduct by the prescribed authority;
- (d) who has been adjudged as an insolvent,

shall be qualified to represent any person under sub-section (1)—

- (i) for all times in case of persons referred to in clauses (a), (b) and (c); and

- (ii) for the period during which the insolvency continues in the case of a person referred to in clause (d).
- (4) Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

#### 117. Appeal to High Court

- (1) Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

- (2) An appeal under sub-section (1) shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

- (3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

- (4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

- (5) The High Court may determine any issue which--

- (a) has not been determined by the State Bench or Area Benches; or

- (b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section (3).

- (6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

- (7) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

- (8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.
- (9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

**118. Appeal to Supreme Court**

- (1) An appeal shall lie to the Supreme Court—
  - (a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or
  - (b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.
- (2) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.
- (3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

**119. Sums due to be paid notwithstanding appeal, etc.**

Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section (1) of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

**120. Appeal not to be filed in certain cases**

- (1) The Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.
- (2) Where, in pursuance of the orders or instructions or directions issued under sub-section (1), the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the central tax from filing appeal or application in any other case involving the same or similar issues or questions of law.

- (3) Notwithstanding the fact that no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section (1), no person, being a party in appeal or application shall contend that the officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.
- (4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section (1).

**121. Non-appealable decisions and orders**

Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by an officer of central tax if such decision taken or order passed relates to any one or more of the following matters, namely:—

- (a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or
- (b) an order pertaining to the seizure or retention of books of account, register and other documents; or
- (c) an order sanctioning prosecution under this Act; or
- (d) an order passed under section 80.

**Chapter-XIX**  
**OFFENCES AND PENALTIES**

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**122. Penalty for certain offences**

- (1) Where a taxable person who--
  - (i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;
  - (ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;
  - (iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
  - (iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
  - (v) fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section (2) thereof, the amount deducted as tax;
  - (vi) fails to collect tax in accordance with the provisions of sub-section (1) of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section (3) of section 52;
  - (vii) takes or *utilises input* tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;
  - (viii) fraudulently obtains refund of tax under this Act;
  - (ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;
  - (x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;
  - (xi) is liable to be registered under this Act but fails to obtain registration;
  - (xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;
  - (xiii) obstructs or prevents any officer in discharge of his duties under this Act;
  - (xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;

- (xv) suppresses his turnover leading to evasion of tax under this Act;
- (xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;
- (xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;
- (xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;
- (xix) issues any invoice or document by using the registration number of another registered person;
- (xx) tampers with, or destroys any material evidence or document;
- (xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

- (2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—
  - (a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;
  - (b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.
- (3) Any person who—
  - (a) aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section (1);
  - (b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

- (c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
- (d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;
- (e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account, shall be liable to a penalty which may extend to twenty five thousand rupees.

**123. Penalty for failure to furnish information return**

If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section (3) thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues:

Provided that the penalty imposed under this section shall not exceed five thousand rupees.

**124. Fine for failure to furnish statistics**

If any person required to furnish any information or return under section 151,—

- (a) without reasonable cause fails to furnish such information or return as may be required under that section, or
- (b) wilfully furnishes or causes to furnish any information or return which he knows to be false,

he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty five thousand rupees.

**125. General penalty**

Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to twenty five thousand rupees.

**126. General disciplines related to penalty**

- (1) No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

*Explanation* – For the purpose of this sub-section,—

- (a) a breach shall be considered a ‘**minor breach**’ if the amount of tax involved is less than five thousand rupees;
  - (b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.
- (2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.
  - (3) No penalty shall be imposed on any person without giving him an opportunity of being heard.
  - (4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.
  - (5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.
  - (6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

#### **127. Power to impose penalty in certain cases**

Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.

#### **128. Power to waive penalty or fee or both**

The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

#### **129. Detention, seizure and release of goods and conveyances in transit**

- (1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—
  - (a) on payment of the applicable tax and penalty equal to one hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of

an amount equal to two per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

- (b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;
- (c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

- (2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.
- (3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause (a) or clause (b) or clause (c).
- (4) No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard.
- (5) On payment of amount referred in sub-section (1), all proceedings in respect of the notice specified in sub-section (3) shall be deemed to be concluded.
- (6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section (1) within fourteen days <sup>1</sup>of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

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

### 130. Confiscation of goods or conveyances and levy of penalty

- (1) Notwithstanding anything contained in this Act, if any person—
  - (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
  - (ii) does not account for any goods on which he is liable to pay tax under this Act; or
  - (iii) supplies any goods liable to tax under this Act without having applied for registration; or

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<sup>1</sup> Effective date yet to notified

- (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
- (iv) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

- (2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

- (3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1), shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.
- (4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.
- (5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.
- (6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.
- (7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

**131. Confiscation or penalty not to interfere with other punishments**

Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

**132. Punishment for certain offences**

- (1) Whoever commits any of the following offences, namely:—
- (a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;
  - (b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;
  - (c) avails input tax credit using such invoice or bill referred to in clause (b);
  - (d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;
  - (e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
  - (f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;
  - (g) obstructs or prevents any officer in the discharge of his duties under this Act;
  - (h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;
  - (i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;
  - (j) tampers with or destroys any material evidence or documents;
  - (k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

- (l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section--
- (i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;
  - (ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;
  - (iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;
  - (iv) in cases where he commits or abets the commission of an offence specified in clause (f) or clause (g) or clause (j), he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.
- (2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.
- (3) The imprisonment referred to in clauses (i), (ii) and (iii) of sub-section (1) and sub-section (2) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.
- (4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section (5) shall be non-cognizable and bailable.
- (5) The offences specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) and punishable under clause (i) of that sub-section shall be cognizable and non-bailable.
- (6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

*Explanation* - For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund

wrongly taken under the provisions of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

### 133. Liability of officers and certain other persons

- (1) Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under sub-section (1) of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.
- (2) Any person—
- (a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;
  - (b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

### 134. Cognizance of offences

No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

### 135. Presumption of culpable mental state

In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

*Explanation* - For the purposes of this section,—

- (i) the expression “**culpable mental state**” includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;
- (ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

**136. Relevancy of statements under certain circumstances**

A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

- (a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or
- (b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

**137. Offences by Companies**

- (1) Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or karta or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section (2) shall, mutatis mutandis, apply to such persons.
- (4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

*Explanation* – For the purposes of this section,—

- (i) “**company**” means a body corporate and includes a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

### 138. Compounding of offences

(1) Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

- (a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section;
- (b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;
- (c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;
- (d) a person who has been convicted for an offence under this Act by a court;
- (e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; and
- (f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of 5 tax, interest and penalty involved in such offences.

- (2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.
- (3) On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

## Chapter-XX

### TRANSITIONAL PROVISIONS

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#### 139. Migration of existing taxpayers

- (1) On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section (2), shall be liable to be cancelled if the conditions so prescribed are not complied with.
- (2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.
- (3) The certificate of registration issued to a person under sub-section (1) shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

#### 140. Transitional arrangements for input tax credit

- (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit of eligible duties <sup>1</sup>carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

- (i) where the said amount of credit is not admissible as input tax credit under this Act; or
  - (ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or
  - (iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.
- (2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

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<sup>1</sup> Effective date yet to be notified

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

*Explanation* – For the purposes of this sub-section, the expression “**unavailed CENVAT credit**” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law;

- (3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—
- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
  - (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
  - (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
  - (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
  - (v) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

- (4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

- (a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and
  - (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).
- (5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the *books of account* of such person within a period of thirty days from the appointed day:
- Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:
- Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.
- (6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:--
- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
  - (ii) the said registered person is not paying tax under section 10;
  - (iii) the said registered person is eligible for input tax credit on such inputs under this Act;
  - (iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and
  - (v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.
- (7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.
- (8) Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a

return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:

Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

- (9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.
- (10) The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.

*Explanation 1.*- For the purposes of sub-sections (1), (3), (4) and (6), the expression “eligible duties” means—

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- (vi) ~~the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and~~<sup>1</sup>

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<sup>1</sup> Effective date yet to be notified

- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001;

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

*Explanation 2.* - For the purposes of sub-section (1) and <sup>1</sup>(5), the expression “eligible duties and taxes” means—

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;
- (iv) ~~the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;~~<sup>2</sup>
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and
- (viii) the service tax leviable under section 66B of the Finance Act, 1994,

in respect of inputs and input services received on or after the appointed day.

*Explanation 3.*—For removal of doubts, it is hereby clarified that the expression “eligible duties and taxes” excludes any cess which has not been specified in *Explanation 1* or *Explanation 2* and any cess which is collected as additional duty of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975.<sup>3</sup>

#### 141. Transitional provisions relating to job work

- (1) Where any inputs received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:

<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

<sup>3</sup> Effective date yet to be notified

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142.

- (2) Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as "the said goods") are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

- (3) Where any excisable goods manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause (a) of sub-section (8) of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

- (4) The tax under sub-sections (1), (2) and (3) shall not be payable, only if the manufacturer and the job-worker declare the details of the inputs or goods held in stock by the job-worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

**142. Miscellaneous transitional provisions**

- (1) Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

- (2) (a) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act;
- (b) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

- (3) Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944:

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

- (4) Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

- (5) Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944.

- (6) (a) every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act:

Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

- (b) every proceeding of appeal, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law and if any amount of credit becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.
- (7) (a) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, review or

reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

- (b) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.
- (8) (a) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;
- (b) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.
- (9) (a) where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;
- (b) where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the 1 of 1944. provisions of sub-section (2) of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

- (10) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.
- (11) (a) notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;
- (b) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;
- (c) where tax was paid on any supply both under the Value Added Tax Act and under section 32 of 1994. 45 Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.
- (12) Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

- (13) Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

*Explanation* - For the purposes of this Chapter, the expressions "**capital goods**", "**Central Value Added Tax (CENVAT) credit**" "**first stage dealer**", "**second stage dealer**", "**manufacture**" shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 or the rules made thereunder.

**Chapter-XXI**  
**MISCELLANEOUS**

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**143. Job work procedure**

(1) A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job-work and from there subsequently send to another job worker and likewise, and shall,—

- (a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;
- (b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job-worker as his additional place of business except in a case—

- (i) where the job worker is registered under section 25; or
- (ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

Provided further that the period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.<sup>1</sup>

- (2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.
- (3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out.
- (4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of

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<sup>1</sup> Effective date yet to be notified

clause (a) of sub-section (1) or are not supplied from the place of business of the job worker in accordance with the provisions of clause (b) of sub-section (1) within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job-worker on the day when the said capital goods were sent out.

- (5) Notwithstanding anything contained in sub-sections (1) and (2), any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

Explanation.--For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

#### 144. Presumption as to documents in certain cases

Where any document--

- (i) is produced by any person under this Act or any other law for the time being in force; or
- (ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or
- (iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force,

and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—

- (a) unless the contrary is proved by such person, presume—
  - (i) the truth of the contents of such document;
  - (ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

#### 145. Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence

- (1) Notwithstanding anything contained in any other law for the time being in force,—

- (a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or
- (b) a facsimile copy of a document; or
- (c) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or
- (d) any information stored electronically in any device or media, including any hard copies made of such information,

shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

- (2) In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,—
  - (a) identifying the document containing the statement and describing the manner in which it was produced;
  - (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer, shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

#### 146. Common Portal

The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

#### 147. Deemed Exports

The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

#### 148. Special procedure for certain processes

The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.

**149. Goods and services tax compliance rating**

- (1) Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.
- (2) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.
- (3) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

**150. Obligation to furnish information return**

- (1) Any person, being—
  - (a) a taxable person; or
  - (b) a local authority or other public body or association; or
  - (c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or
  - (d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or
  - (e) a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934; or
  - (f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or
  - (g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or
  - (h) a Registrar within the meaning of the Companies Act, 2013; or
  - (i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or
  - (j) the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or
  - (k) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; or
  - (l) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996; or

- (m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or
  - (n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or
  - (o) a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or
  - (p) any other person as may be specified, on the recommendations of the Council, by the Government, who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.
- (2) Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.
- (3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section (1) or sub-section (2), the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

#### 151. Power to collect statistics

- (1) The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.
- (2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected

**152. Bar on disclosure of information**

- (1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.
- (2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.
- (3) Nothing in this section shall apply to the publication of any information relating to <sup>10</sup> a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

**153. Taking assistance from an expert**

Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.

**154. Power to take samples**

The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

**155. Burden of proof**

Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

**156. Persons deemed to be public servants**

All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

**157. Protection of action taken under this Act**

- (1) No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

- (2) No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

**158. Disclosure of information by a public servant**

- (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.
- (2) Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).
- (3) Nothing contained in this section shall apply to the disclosure of,—
- (a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or
  - (b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or
  - (c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or
  - (d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or
  - (e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or
  - (f) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or
  - (g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

- (h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
- (i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practicing company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or
- (j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
- (k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or
- (l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

**159. Publication of information in respect of persons in certain cases**

- (1) If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.
- (2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

*Explanation* – In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

**160. Assessment proceedings, etc., not to be invalid on certain grounds**

- (1) No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of

the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

- (2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

**161. Rectification of errors apparent on the face of record**

Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

**162. Bar on jurisdiction of Civil Courts**

Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

**163. Levy of fee**

Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

**164. Power of Government to make rules**

- (1) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.
- (2) Without prejudice to the generality of the provisions of sub-section (1), the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.
- (3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.
- (4) Any rules made under sub-section (1) or sub-section (2) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

**165. Power to make regulations**

The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

**166. Laying of rules, regulations and notifications**

Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

**167. Delegation of powers**

The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.

**168. Power to issue instructions or directions**

- (1) The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all

other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

- (2) The Commissioner specified in clause (91) of section 2, sub-section (3) of section 5, clause (b) of sub-section (9) of section 25, sub-sections (3) and (4) of section 35, sub-section (1) of section 37, sub-section (2) of section 38, sub-section (6) of section 39, sub-section (5) of section 66, sub-section (1) of section 143, sub-section (1) of section 151, clause (l) of sub-section (3) of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

**169. Service of notice in certain circumstances**

- (1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—
- (a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or
  - (b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or
  - (c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or
  - (d) by making it available on the common portal; or
  - (e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or
  - (f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.
- (2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

- (3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

**170. Rounding off of tax, etc**

The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

**171. Anti-profiteering measure**

- (1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
- (2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.
- (3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

**172. Removal of difficulties**

- (1) If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

**173. Amendment of Act 32 of 1994**

Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

**174. Repeal and saving**

- (1) Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the

Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed.

- (2) The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as "such amendment" or "amended Act", as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall not—
- (a) revive anything not in force or existing at the time of such amendment or repeal; or
  - (b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or
  - (c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:  
Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or
  - (d) affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or
  - (e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;
  - (f) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.
- (3) The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

## SCHEDULE-I

[See Section 7]

### ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

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

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<sup>1</sup> Effective date yet to be notified

## SCHEDULE-II

[See Section 7]

### ACTIVITIES OR TRANSACTIONS <sup>1</sup>TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. **Transfer**
  - (a) any transfer of the title in goods is a supply of goods;
  - (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
  - (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.
2. **Land and Building**
  - (a) any lease, tenancy, easement, licence to occupy land is a supply of services;
  - (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.
3. **Treatment or process**

Any treatment or process which is applied to another person's goods is a supply of services.
4. **Transfer of business assets**
  - (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;
  - (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;
  - (c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
    - (i) the business is transferred as a going concern to another person; or
    - (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

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<sup>1</sup> Effective date yet to be notified

**5. Supply of services**

The following shall be treated as supply of service, namely:—

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

*Explanation* - For the purposes of this clause—

- (1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—
  - (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
  - (ii) a chartered engineer registered with the Institution of Engineers (India); or
  - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;
- (2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;
- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- (f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

**6. Composite supply**

The following composite supplies shall be treated as a supply of services, namely:—

## Schedule-II

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- (a) works contract as defined in clause (119) of section 2; and
- (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

### 7. Supply of Goods

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

### SCHEDULE-III

[See Section 7]

#### ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any court or Tribunal established under any law for the time being in force.
  - (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
  - (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
  - (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
6. Actionable claims, other than lottery, betting and gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
8.
  - (a) Supply of warehoused goods to any person before clearance for home consumption;
  - (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.<sup>1</sup>

*Explanation 1* - For the purposes of paragraph 2, the term "**Court**" includes District Court, High Court and Supreme Court.

*Explanation 2*.--For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962.<sup>2</sup>

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<sup>1</sup> Effective date yet to be notified

<sup>2</sup> Effective date yet to be notified

## STATEMENT OF OBJECTS AND REASONS

Presently, the Central Government levies tax on, manufacture of certain goods in the form of Central Excise duty, provision of certain services in the form of *service tax and on* inter-State sale of goods in the form of Central Sales tax. Similarly, the State Governments levy tax *on retail* sales in the form of value added tax, entry of goods in the State in the form of entry tax, luxury tax and purchase tax, etc. Accordingly, there is multiplicity of taxes which are being levied on the same supply chain.

2. The present tax system on goods and services is facing certain difficulties as under—
  - (i) there is cascading of taxes as taxes levied by the Central Government are not available as set off against the taxes being levied by the State Governments;
  - (ii) certain taxes levied by *the State Governments* are not allowed as set off for payment of other taxes being levied by them;
  - (iii) the variety of Value Added Tax Laws in the country with disparate tax rates and dissimilar tax practices divides the country into separate economic spheres; and
  - (iv) the creation of tariff and non-tariff barriers such as octroi, entry tax, check posts, etc., hinder the free flow of trade throughout the country. Besides that, the large number of taxes create high compliance cost for the taxpayers in the form of number of returns, payments, etc.
3. In view of the aforesaid difficulties, all the above mentioned taxes are proposed to be subsumed in a single tax called the goods and services tax which will be levied on supply of goods or services or both at each stage of supply chain starting from manufacture or import and till the last retail level. So, any tax that is presently being levied by the Central Government or the State Governments on the supply of goods or services is going to be converged in goods and services tax which is proposed to be a dual levy where the Central Government will levy and collect tax in the form of central goods and services tax and the State Government will levy and collect tax in the form of state goods and services tax on intra-State supply of goods or services or both.
4. In view of the above, it has become necessary to have a Central legislation, namely the Central Goods and Services Tax Bill, 2017. The proposed legislation will confer power upon the Central Government for levying goods and services tax on the supply of goods or services or both which takes place within a State. The proposed legislation will simplify and harmonise the indirect tax regime in the country. It is expected to reduce cost of production and inflation in the economy, thereby making the Indian trade and industry more competitive, domestically as well as internationally. Due to the seamless transfer of input tax credit from one stage to another in the chain of value addition, there is an in-built mechanism in the design of goods and services tax that would incentivise tax compliance by taxpayers. The proposed goods and services tax will broaden the tax base, and result in better tax compliance due to a robust information technology infrastructure.
5. The Central Goods and Services Tax Bill, 2017, inter alia, provides for the following, namely:—

## Schedule-II

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- (a) to levy tax on all intra-State supplies of goods or services or both except supply of alcoholic liquor for human consumption at a rate to be notified, not exceeding twenty per cent. as recommended by the Goods and Services Tax Council (the Council);
  - (b) to broad base the input tax credit by making it available in respect of taxes paid on any supply of goods or services or both used or intended to be used in the course or furtherance of business;
  - (c) to impose obligation on electronic commerce operators to collect tax at source, at such rate not exceeding one per cent. of net value of taxable supplies, out of payments to suppliers supplying goods or services through their portals;
  - (d) to provide for self-assessment of the taxes payable by the registered person;
  - (e) to provide for conduct of audit of registered persons in order to verify compliance with the provisions of the Act;
  - (f) to provide for recovery of arrears of tax using various modes including detaining and sale of goods, movable and immovable property of defaulting taxable person;
  - (g) to provide for powers of inspection, search, seizure and arrest to the officers;
  - (h) to establish the Goods and Services Tax Appellate Tribunal by the Central Government for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority;
  - (i) to make provision for penalties for contravention of the provisions of the proposed Legislation;
  - (j) to provide for an anti-profiteering clause in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers; and
  - (k) to provide for elaborate transitional provisions for smooth transition of existing taxpayers to goods and services tax regime.
6. The Notes on clauses explain in detail the various provisions contained in the Central Goods and Services Tax Bill, 2017.
7. The Bill seeks to achieve the above objectives.

NEW DELHI;

ARUN JAITLEY

*The 23<sup>rd</sup> March, 2017.*

## **NOTES ON CLAUSES**

*Clause 1* provides for short title, extent and commencement of the proposed Act.

*Clause 2* defines various terms and expressions used in the proposed Act.

*Clause 3* provides for appointment of Commissioners and other class of officers as may be required for carrying out the purposes of the proposed Act. This clause also provides that the officers under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the proposed Act.

*Clause 4* provides for appointment of officers in addition to the officers appointed under clause 3 of the proposed legislation.

*Clause 5* provides for powers to officers to discharge functions under the proposed Act.

*Clause 6* provides for authorisation of State tax and Union territory tax officers, subject to such conditions as shall be notified by the Central Government on recommendations of the Council, to be proper officers for the purposes of the proposed Act.

*Clause 7* provides the scope of supply. This clause provides for activities to be treated as supply. This clause further provides that certain activities, specified in Schedule I of the proposed Act, even made or agreed to be made without a consideration shall be treated as supply. This clause also provides activities which are neither supply of goods nor supply of services.

*Clause 8* provides for the tax liability on a composite or a mixed supply.

*Clause 9* provides for levy and collection of central tax on all intra-State supplies of goods or services or both except on the supply of alcoholic liquor for human consumption, on the value determined under clause 15 at a rate not exceeding forty per cent. This clause further provides that—

- (i) central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel to be levied with effect from a date notified by the Central Government on the recommendations of the Council;
- (ii) the Central Government to notify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both, on the recommendations of the Council;
- (iii) the central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis;
- (iv) the Central Government may notify categories of services, the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, on the recommendations of the Council.

*Clause 10* provides for composition levy. It is an alternative method of levy of tax designed for small taxpayers whose turnover is upto prescribed limit. This clause also provides that certain categories of supplies or suppliers cannot opt for composition levy. A person opting to pay

under this clause can neither take credit of taxes paid on inputs nor it can collect any tax from the recipient.

*Clause 11* confers powers on the Central Government to exempt either absolutely or conditionally goods or services or both of any specified description from the whole or part of the central tax, on the recommendations of the Council. It also confers powers on the Central Government to exempt from payment of tax any goods or services or both, by special order, on the recommendations of the Council.

*Clause 12* provides for time of supply of goods. This clause extensively elaborates time of supply in normal situations, in reverse charge situations, in situations of supply of voucher and remainder situations.

*Clause 13* provides for time of supply of services. This clause extensively elaborates time of supply in normal situations, in reverse charge situations, in situations of supply of voucher and remainder situations.

*Clause 14* provides for time of supply of goods or services or both where rate of tax changes.

*Clause 15* provides for value of taxable supply. This clause provides that the value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable given the conditions that the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. This clause enumerates the items which are to be included in the value and the items which are not to be included in the value for the purpose of calculation of tax. This clause also provides power to make rules of valuation in certain situations.

*Clause 16* provides for eligibility, conditions and time period for taking input tax credit. This clause provides that a registered person is entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business.

*Clause 17* provides for apportionment of input tax credit and blocked input tax credit. This clause provides for the extent of apportionment of credit where the goods or services or both are used partly for the purpose of any business and partly for other purposes or where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies. This clause further provides for a specific mechanism of taking of input tax credit by a banking company or a financial institution including a non-banking financial company engaged in supplying services by way of accepting deposits, extending loans or advances. This clause also provides the list of supplies on which input tax credit cannot be availed of.

*Clause 18* provides for availability of credit in special circumstances like new registration, shifting from composition levy to normal levy, exempted supplies becoming taxable and *vice versa*.

*Clause 19* provides for special provision for taking input tax credit by a person (called "principal") who has sent inputs or capital goods for job work subject to prescribed conditions.

## *Notes on Clauses*

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*Clause 20* provides for an "Input Service Distributor" who shall distribute the credit of input tax in prescribed manner and subject to specified conditions.

*Clause 21* provides for manner of recovery of excess input tax credit distributed by the Input Service Distributor along with interest thereon.

*Clause 22* seeks to create liability for registration on every supplier 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 prescribed amount. This clause creates liability for registration under the proposed Act with effect from the appointed day on every person who is registered under an existing law.

*Clause 23* provides that certain categories of persons are not liable for registration.

*Clause 24* provides for compulsory registration of certain suppliers notwithstanding that their aggregate turnover is below the exempted threshold provided in clause 22.

*Clause 25* provides for procedure of registration. This clause provides that every person who is liable to be registered shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration. This clause further provides that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business. This clause also provides that every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate base line is located. This clause also provides for voluntary registration. This clause also provides that certain organisations would be issued Unique Identity Number mainly for the purpose of refund of taxes paid on inward supplies.

*Clause 26* provides for deemed registration or rejection of application for registration under the proposed Act where registration number or Unique Identity Number has been issued or rejected under States Goods and Services Tax Act.

*Clause 27* provides for special provisions for a casual taxable person and a non-resident taxable person.

*Clause 28* provides for amendment of registration. This clause also provides for deemed approval or rejection of amendment where any approval or rejection of amendments has been done under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

*Clause 29* provides that the proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration under certain specified circumstances. This clause further provides that cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under the proposed Act.

*Clause 30* provides for revocation of cancellation of registration where the registration had been cancelled by the proper officer on his own motion. This clause further provides that the revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under the proposed Act.

*Clause 31* provides for issuance of tax invoice within the prescribed period showing the prescribed particulars. This clause also empowers the Government to specify services, for which any other document issued in lieu of tax invoice, shall be deemed to be tax invoice and also specify services where no tax invoice is required to be issued. This clause provides for issue of documents other than tax invoice in certain cases.

*Clause 32* prohibits an unregistered person to collect tax. This clause also provides that a registered person shall collect tax in accordance with the provisions of the proposed Act.

*Clause 33* provides that where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate the amount of tax forming part of the price in all documents relating to assessment, tax invoice and other like documents.

*Clause 34* provides for issuance of a credit notes and debit notes in specified situations. This clause also provides for maximum time and return in which details of credit note and debit note are required to be declared.

*Clause 35* provides that every registered person shall keep and maintain at his principal place of business records showing true account of specified particulars. This clause casts responsibility on owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter to maintain specified records. This clause empowers the Commissioner to notify a class of taxable persons to maintain additional accounts or documents for specified purpose or to maintain accounts in other prescribed manner. This clause provides that every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant.

*Clause 36* requires every registered person to retain books of account or other records until the expiry of seventy two months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

*Clause 37* provides for manner and time of furnishing of the details of outward supplies by a registered person, other than certain specified categories of registered persons, and manner and time of communication of these details to the corresponding recipients. This clause further provides for manner and time of acceptance or rejection of the details communicated from the recipients. This clause also provides for manner of and time period for rectification of error or omission and payment of tax and interest, if any, as a consequence of the unmatched details of outward supplies with inward supplies of the recipient.

*Clause 38* provides for manner and time of furnishing of the details of inward supplies by a registered person, other than certain specified categories of registered persons, including

verification, validation, modification or deletion of details of outward supplies furnished by the corresponding suppliers. This clause further provides for manner and time of communication of the details of supplies, as modified or accepted by the recipient, to the corresponding supplier. This clause also provides for manner and time period for rectification of error or omission and payment of tax and interest, if any, as a consequence to the unmatched details.

*Clause 39* provides for manner, conditions and time of furnishing of returns by different categories of registered persons. This clause further provides that the tax is required to be paid by the due date of filing of return. This clause also provides for the time limit upto which rectification of any omission or incorrect particulars in the return can be carried out.

*Clause 40* provides that every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

*Clause 41* provides that every registered person shall be entitled to provisionally take the credit of eligible input tax subject to prescribed conditions and restrictions. This clause further provides that the credit taken on provisional basis shall be utilised only for payment of output tax self-assessed in the return in which the credit on provisional basis is taken.

*Clause 42* provides for matching, in prescribed time and manner, of details of inward supplies furnished by a recipient for a tax period with the corresponding details. This clause also provides for the consequences of mis-match.

*Clause 43* provides for matching, in prescribed time and manner, of details of every credit note relating to outward supply furnished by a supplier for a tax period with the corresponding details. This clause also provides for the consequences of mis-match.

*Clause 44* provides that every registered person, other than certain specified category of persons, shall furnish an annual return along with a copy of the audited annual accounts, a reconciliation statement and such other particulars as may be prescribed.

*Clause 45* provides that every registered person whose registration has been cancelled shall furnish a final return within prescribed period.

*Clause 46* provides for issuance of notice to registered person who has failed to furnish a return.

*Clause 47* provides for levy of fee for delayed filing of return.

*Clause 48* provides for the manner of approval of goods and services tax practitioner, their eligibility conditions, duties and obligations, manner of removal. This clause also provides that a registered person may authorise a practitioner for filing of various returns, but all the responsibilities under the proposed Act lie with the registered person.

*Clause 49* provides for payment of tax, interest, penalty and other amounts. This clause further provides for maintenance of electronic cash ledger. This clause provides that the input tax credit as self-assessed in the return of a registered person shall be credited to his

electronic credit ledger. This clause also provides for the manner in which the amount in the electronic cash ledger or electronic credit ledger can be used. This clause also provides for the ordering of the utilisation of input tax credit for payment of tax, and provides restriction on certain cross-utilisation. This clause also requires a person to discharge his liabilities in a given order.

*Clause 50* provides for interest on delayed payment of tax. This clause fixes the ceiling of interest rate in normal and other specified situations.

*Clause 51* provides for deduction of tax at source by Government departments, local authorities, government agencies and other notified persons, at the rate of one per cent. from the payment made or credited to the supplier in specified situations. This clause elaborates on date of deduction, date of payment of the deducted amount to the credit of Government and filing of prescribed statements.

*Clause 52* provides for collection of tax at source by an electronic commerce operator, at a notified rate where the consideration for supplies is to be collected by the operator. This clause elaborates on date of collection, date of payment of the amount to the credit of Government and filing of prescribed statements.

*Clause 53* provides that on utilisation of input tax credit availed under the proposed Act for payment of tax dues under the Integrated Goods and Services Tax Act, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in prescribed manner and time.

*Clause 54* provides that refund of excess tax and interest or any other amount paid can be claimed before the expiry of two years from the relevant date. This clause further provides that in case of zero-rated supplies and inverted tax structure, refund of unutilised input tax credit can be claimed. This clause also provides for the time limit within which the refund application has to be decided. This clause also provides that in case of zero-rated supplies advance refund of ninety per cent. can be granted. This clause provides that a person claiming refund has to prove that he is not enriching himself unjustly by passing on the incidence of tax. If the incidence of tax has been passed by the applicant to some other person then the tax or other amount which is otherwise refundable shall be credited to a Fund called the Consumer Welfare Fund.

*Clause 55* provides for refund of taxes paid on the notified supplies of goods or services or both received by specified person or class of persons.

*Clause 56* provides for payment of interest on delayed payment of refund. It fixes the ceiling of interest rate in normal and other specified situations.

*Clause 57* provides that tax and other amounts which are otherwise refundable barring unjust enrichment shall be credited to a Consumer Welfare Fund.

*Clause 58* provides that the money in the Consumer Welfare Fund would be used for the welfare of the consumers. This clause also provides that the Government or the authority

## *Notes on Clauses*

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specified by it shall maintain proper and separate account of the Fund and prepare an annual statement of accounts.

*Clause 59* provides for self-assessment by every registered person.

*Clause 60* provides for provisional assessment on request by a taxable person in specified situations. This clause provides for the manner of paying tax and also the manner and time limits for finalising of provisional assessment.

*Clause 61* provides for scrutiny of returns and other particulars and manner of sorting out the discrepancies in the returns and also taking corrective measures for realisation of short-payment.

*Clause 62* provides procedure of assessment of persons who have not filed returns by the due dates. This clause provides that the proper officer may proceed to assess the tax liability of the non-filer to the best of his judgment.

*Clause 63* provides procedure of assessment of persons who are not registered though they are liable to get registered. This clause provides that the proper officer may proceed to assess the tax liability of the unregistered person to the best of his judgment.

*Clause 64* provides for summary assessment in special circumstances with the permission of Additional Commissioner or Joint Commissioner.

*Clause 65* provides detailed procedure for conduct of audit of records, maintained by a registered person, to verify the correctness of tax liability and tax payment.

*Clause 66* provides for audit of a registered person, under certain circumstances, by a chartered accountant or a cost accountant.

*Clause 67* provides for power and provides for the detailed procedure for carrying out search, seizure and inspection to unearth non-compliance of provisions of the proposed Act. This power can be exercised by an officer not below the rank of Joint Commissioner or by an officer authorised by Joint Commissioner.

*Clause 68* provides for inspection of goods in movement. This clause provides that the Government may require the person-in-charge of a conveyance carrying any consignment of goods of value exceeding specified amount to carry with him prescribed documents and devices.

*Clause 69* provides for power to arrest a person who has committed certain specified offence.

*Clause 70* provides for power to summon any person whose attendance is considered necessary in any inquiry.

*Clause 71* provides that any authorised officer shall have access to any place of business of a registered person for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

*Clause 72* provides for officers of Police, Railways, Customs and other officers engaged in collection of land revenue to assist officers involved in implementation of the proposed Act.

*Clause 73* provides for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts. This clause further provides that the adjudication order will be issued within three years from the due date of filing of annual return for the year to which the discrepancy is noticed. This clause also provides that the show cause notice is required to be issued at least three months prior to the time limit. It has also been provided that SCN need not be issued if tax along with interest is paid before issue of such notice. This clause also provides that where any person chargeable with tax pays the tax along with interest within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the notice shall be deemed to be concluded.

*Clause 74* provides that in cases of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised, for reasons of fraud or wilful misstatement or suppression of facts, the adjudication order will be issued within five years from the due date of filing of annual return for the year to which the discrepancy is noticed. Further, the show cause notice is required to be issued at least six months prior to the time limit. This clause also provides that such notice need not be issued if tax along with interest and penalty equal to fifteen per cent. of tax is paid before issue of such notice. This clause also provides that where any person chargeable with tax pays the tax along with interest and penalty equal to twenty five per cent. of tax within thirty days of issue of show cause notice, all proceedings in respect of the notice shall be deemed to be concluded. This clause also provides that where any person chargeable with tax pays the tax along with interest and penalty equal to fifty per cent. of tax within thirty days of communication of order, all proceedings in respect of the notice shall be deemed to be concluded.

*Clause 75* provides for general provisions for determination of tax. This clause provides that the period of stay, if any, would be excluded while calculating the time period for issuance of show cause notice or passing of order. This clause further provides that the time period during which appeal is pending in any appellate fora would be excluded while calculating the time period for issuance of such notice or passing of order. This clause also provides that no such notice needs to be issued for recovery of unpaid self-assessed tax as per return and interest thereon. This clause also provides that the adjudication proceedings shall be deemed to be concluded, if the order is not issued within the statutory time limit.

*Clause 76* provides that any amount collected as tax, along with interest, from customers shall be paid to account of the Government regardless of whether the supplies are taxable or not. This clause further provides for issuance of a show cause notice for the amount collected but not deposited. This clause also provides that the order needs to be issued within one year from the date of issuance of such notice.

*Clause 77* provides for refund of central tax in situations where intra-State supplies are subsequently held to be inter-State supplies.

## *Notes on Clauses*

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*Clause 78* provides that any amount payable in pursuance of an order shall be paid by such person within a period of three months, except in certain specified cases, from the date of service of order failing which recovery proceedings shall be initiated.

*Clause 79* provides for various modes of recovery of amount payable under the proposed Act.

*Clause 80* provides for payment of arrears in a maximum of twenty-four instalments.

*Clause 81* provides that transfer of property would be void in certain specified circumstances.

*Clause 82* provides that liabilities under the proposed Act shall be the first charge on the property of the taxable person, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016.

*Clause 83* provides that during the pendency of any proceedings under certain sections of the proposed Act, the Commissioner by order in writing attach provisionally any property for a period of one year from the date of the order for provisional attachment.

*Clause 84* provides for continuation and validation of certain recovery proceedings.

*Clause 85* provides that where a taxable person transfers his business in whole or in part, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer.

*Clause 86* provides that where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods.

*Clause 87* provides for the liability of companies when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise.

*Clause 88* provides for the liability of company and its directors when any company is being wound up.

*Clause 89* provides for the liability of director of a private company.

*Clause 90* provides for the liability of the firm and each of the partners of the firm.

*Clause 91* provides for the liability of guardians and trustees acting on behalf of a minor or other incapacitated person.

*Clause 92* provides for the liability of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager.

*Clause 93* provides for special provisions regarding liability to pay tax, interest or penalty in certain cases.

*Clause 94* provides for liability where a taxable person is a firm or an association of persons or a Hindu undivided family and such firm, association or family has discontinued business.

*Clause 95* contains definitions of the terms and expressions used in the Chapter on Advance Ruling.

*Clause 96* provides that the Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for Advance Ruling in respect of that State or Union territory under the proposed Act.

*Clause 97* provides for form, manner and fee for filing of an application for advance ruling. This clause also lists the nature of questions on which advance ruling can be sought.

*Clause 98* provides for the detailed procedure for filing of an application for advance ruling. This clause provides that the advance ruling is to be pronounced within ninety days from the date of receipt of application.

*Clause 99* provides that the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union Territory under the proposed Act.

*Clause 100* provides that any party aggrieved by any advance ruling may appeal to the Appellate Authority within a period of thirty days from the date on which the ruling sought to be appealed against is communicated.

*Clause 101* provides that the Appellate Authority shall pass order within a period of ninety days from the date of filing of the appeal or a reference. This clause also provides that where the members of the Appellate Authority differ on any point referred to in appeal or reference; it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

*Clause 102* provides that the Authority or the Appellate Authority may amend any order passed by it so as to rectify any error apparent on the face of the record, except under certain specified circumstances, within a period of six months from the date of the order.

*Clause 103* provides that the advance ruling shall be binding only on the applicant and on the concerned officer or the jurisdictional officer in respect of the applicant. This clause also provides that the advance ruling shall be binding unless there is a change in law or facts.

*Clause 104* provides that the advance ruling shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.

*Clause 105* provides that the Authority or the Appellate Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the proposed Act.

*Clause 106* provides that the Authority or the Appellate Authority shall have power to regulate its own procedure.

*Clause 107* provides the tax payer or the department may appeal against any decision or order passed by an adjudicating authority under the proposed Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act within three months or six

months respectively. The clause provides for a pre-deposit of ten per cent. for admittance of the appeal filed by the tax payer and grant of automatic stay on the remaining amount.

*Clause 108* provides power of revision to the Commissioner. The clause provides that the Revisional Authority, on his own motion, or upon request from Commissioner of State tax or the Commissioner of Union territory tax may revise an order passed by an officer subordinate to him if he considers it to be erroneous and prejudicial to the interest of revenue.

*Clause 109* provides for constitution of Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority. The clause provides for formation of National, Regional, State and Area Benches.

*Clause 110* provides for the qualification, appointment, conditions of services, removal of the President and Members of the Appellate Tribunal.

*Clause 111* provides for the procedure to be followed by the Appellate Tribunal while disposing of any proceedings before it or appeal presented before it.

*Clause 112* provides for the detailed procedure for filing of appeal before the Appellate Tribunal. The clause further provides for filing of appeal by order passed under the State Goods and Services Tax Act and the Union Territory Goods and Services Act to be appealed in the Tribunal. The clause also provides for a pre-deposit of twenty per cent. of amount of tax in dispute for admittance of appeal filed by the taxpayer in the Appellate Tribunal and grant of automatic stay on the remaining amount.

*Clause 113* provides for the process to be followed by Appellate Tribunal while confirming, modifying or annulling the decision or order against which an appeal has been filed.

*Clause 114* provides for financial and administrative power of the President of the Appellate Tribunal over the National and Regional Benches.

*Clause 115* provides for payment of interest where the pre-deposits are required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal.

*Clause 116* provides for qualification, disqualification and other procedures relating to authorised representative.

*Clause 117* provides that the appeals to the High Court can be filed by a person, aggrieved by an order of the State Bench or Area Bench of the Tribunal, within one hundred and eighty days. This clause also provides that the High Court may admit the appeal on substantial question of law.

*Clause 118* provides for appeal before the Supreme Court from an order of the National Bench or Regional Benches of the Appellate Tribunal, or from any judgment given or order passed by the High Court.

*Clause 119* provides that sums due to the Government in accordance with an order passed by the National, Regional, State, Area Bench or a High Court shall be payable notwithstanding that an appeal has been preferred to the High Court or the Supreme Court.

## *Notes on Clauses*

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*Clause 120* confers powers on the Board to issue orders or instructions or directions fixing monetary limits below which appeals will not be filed by the department.

*Clause 121* provides for matters in which any decision taken or order passed by an officer of central tax cannot be appealed against.

*Clause 122* provides for a list of offences such as supply of goods without invoice, issue of invoice without supply, etc., which shall be liable to penalty. The clause also provides for offences such as aiding or abetting offences specified, fails to appear on a summon, etc., will be liable of a penalty of twenty-five thousand rupees.

*Clause 123* provides for a penalty for failure to furnish information return under clause 150.

*Clause 124* provides for a fine on any person who fails to furnish any information or return under clause 151.

*Clause 125* provides for a general penalty extending to twenty-five thousand rupees for any contravention to the provisions of the proposed Act and where no penalty has been separately specified for such contravention.

*Clause 126* provides for general disciplines which shall be followed by the officer imposing penalty under the proposed Act.

*Clause 127* provides for the proper officer to impose penalty which is not covered under any proceedings under specified clauses of the proposed Act.

*Clause 128* confers power to the Government to waive penalty in part or full, any penalty referred to in specified sections of the proposed Act or any late fee for specified class of taxpayers and under specified circumstances.

*Clause 129* provides for provisions relating to detention, seizure and release of goods and conveyances in transit. This clause also provides for penalty which shall be payable for release of such goods.

*Clause 130* provides for provisions relating to confiscation of goods or conveyances. This clause also provides for a fine which shall be payable for release of such goods.

*Clause 131* clarifies that confiscation made or penalty imposed under the provisions of the proposed Act should not prevent the infliction of any other punishment imposed under provisions of the proposed Act or under any other law for the time being in force.

*Clause 132* provides for a list of offences which shall be punishable with gradation of fine and imprisonment depending on the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken. This clause also provides for offences which shall be non-cognisable and bailable or cognisable and non-bailable.

*Clause 133* provides for punishment and imprisonment for wrongful declaration of information by any person engaged in connection with the collection of statistics under clause 151 or any person engaged in connection with the provision of service on the common portal or the agent of common portal.

## *Notes on Clauses*

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*Clause 134* provides for restriction to Courts to take cognizance of any offence under the proposed Act or the rules made thereunder except with the previous sanction of the Commissioner.

*Clause 135* provides presumption of culpable mental state by the court unless otherwise proved by the accused.

*Clause 136* provides for relevancy of the statements made and signed by a person on appearance in response to any summons.

*Clause 137* provides that if the person who committed an offence is a company, the person who was in charge and responsible for the conduct of business of the company shall be deemed to be guilty of the offence and punished accordingly.

*Clause 138* provides for compounding of any offence under the proposed Act, either before or after the institution of prosecution, by the Commissioner on payment of a prescribed compounding amount.

*Clause 139* provides for migration of taxpayers registered under the existing law to be issued provisional registration under the proposed Act, if the said taxpayer is required to be registered under the provisions of the proposed Act.

*Clause 140* provides for transitional arrangements for carrying forward of input tax credit available under the existing law.

*Clause 141* provides for transitional provisions relating to job work.

*Clause 142* provides for miscellaneous provisions for transition of existing tax payers in various situations.

*Clause 143* provides for the procedure and conditions for sending any inputs or capital goods, without payment of tax to a job worker for job-work.

*Clause 144* provides for presumption to be made for documents tendered by the prosecution in evidence unless the contrary is proved by the person being prosecuted.

*Clause 145* provides for admissibility of micro films, facsimile copies of documents and computer printouts as evidence.

*Clause 146* provides for notification of the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and other functions.

*Clause 147* confers powers on the Government to notify certain supplies of goods as deemed exports on the recommendations of the Council.

*Clause 148* confers powers on the Government to notify certain classes of registered persons, and the special procedures to be followed by such persons on the recommendations of the Council.

*Clause 149* provides for the assignment and provision of parameters for Goods and Services tax compliance rating.

## *Notes on Clauses*

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*Clause 150* provides for list of persons who are obligated to furnish information return and the procedure to be followed by such persons.

*Clause 151* confers powers on the Commissioner to direct collection of statistics relating to any matter in connection with the proposed Act.

*Clause 152* provides for situations and instances where there is a bar on disclosure of information required under clause 151.

*Clause 153* confers powers on officers to take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings.

*Clause 154* provides for the power of the Commissioner or an officer authorised by him to take samples of goods from the possession of any taxable person.

*Clause 155* provides that the burden of proving rightful claim of input tax credit will lie on the person claiming the credit.

*Clause 156* provides that all persons discharging functions under the proposed Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

*Clause 157* provides that no suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other officer appointed or authorised under the proposed Act for anything which is in good faith done or intended to be done under the proposed Act or rules made thereunder.

*Clause 158* provides that no particulars contained in any statement made, return furnished or accounts or documents produced in accordance with the proposed Act should be disclosed. The clause also provides for specific circumstances under which such information can be disclosed.

*Clause 159* confers power on the Commissioner, or any other officer authorised by him to publish the name of any person and any other particulars relating to any proceedings or prosecution under the proposed Act if it is necessary in public interest to do so.

*Clause 160* provides that no assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of the proposed Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission.

*Clause 161* provides that any authority can rectify any error which is apparent on the face of record in any decision or order or notice or certificate or any other document.

*Clause 162* restricts civil courts to have jurisdiction to deal with or decide any question arising from or relating to anything done under the proposed Act.

*Clause 163* provides that a fee may be charged for a copy of any order or document provided to any person on an application made by him.

### *Notes on Clauses*

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*Clause 164* confers powers on the Central Government to make rules for carrying out the provisions of the proposed Act on recommendations of the Council.

*Clause 165* confers powers on the Board to make regulations for carrying out the provisions of the proposed Act.

*Clause 166* provides for laying of rules, regulations and notifications made by the Central Government before each House of the Parliament.

*Clause 167* provides that the Commissioner may direct that any power exercisable by any authority or officer under the proposed Act may be exercisable also by another authority or officer, subject to specified conditions.

*Clause 168* confers powers to the Board to issue orders, instructions or directions to the central tax officers for uniform implementation of the provisions of the proposed Act.

*Clause 169* provides for methods which should be followed for communication of any decision, order, summons, notice or other communication under the proposed Act.

*Clause 170* provides for rounding off of tax, interest, penalty, fine or any other sum payable and the amount of refund or any other sum due.

*Clause 171* provides that it is mandatory to pass on the benefit due to reduction in rate of tax or from input tax credit to the consumer by way of commensurate reduction in prices.

*Clause 172* confers powers on the Central Government to make such provisions not inconsistent with the provisions of the proposed Act or the rules or regulations by a general or special order, on the recommendations of the Council within a period of three years from the date of commencement of the proposed Act.

*Clause 173* provides for omitting Chapter V of the Finance Act, 1994, save as otherwise provided in the proposed Act.

*Clause 174* provides repeal of certain Acts and savings of certain actions.

## FINANCIAL MEMORANDUM

*Clause 53* of the Bill provides for apportionment of tax and settlement of funds on account of transfer of utilisation of input tax credit under this Bill for the payment of tax dues under the integrated goods and services tax by the Central Government.

2. *Clause 96* of the Bill provides for the establishment of an Authority for Advance Ruling under the State Goods and Services Tax Act or Union Territory Goods and Services Tax Act and adoption of the same under the Central Goods and Services Tax Act.
3. *Clause 99* of the Bill provides for the establishment of an Appellate Authority for Advance Ruling under the State Goods and Services Tax Act or Union Territory Goods and Services Tax Act and adoption of the same under the Central Goods and Services Tax Act.
4. Sub-clause (1) of clause 109 of the Bill provides for the establishment of the Goods and Services Tax Appellate Tribunal by the Central Government for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority. Sub-clause (8) of clause 110 of the Bill provides for the salary and allowances payable to the President and Members of the Appellate Tribunal.
5. Sub-clause (2) of clause 171 of the Bill provides for establishment of an authority for an anti-profiteering clause in order to ensure that business passes on the benefit of reduced tax incidence on goods or services or both to the consumers.
6. The total financial implications in terms of recurring and non-recurring expenditure involved in carrying out the various functions under the proposed Legislation would be borne by the Central Government. Most of the existing officers and staff of the Central Board of Excise and Customs would be used for carrying out the various functions under the Bill. However, it is not possible to estimate the exact recurring and non-recurring expenditure from the Consolidated Fund of India at this stage.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 164 of the Central Goods and Services Bill, 2017 seeks to empower the Central Government to make rules, inter alia, in the following matters, namely:—

1. (a) collection of taxes under section 9; (b) restrictions and conditions applicable to person opting for composition levy on under section 10; (c) value of the supply of goods or services or both under section 15; (d) conditions and restrictions on availing input tax credit and categories of tax paying documents under section 16; (e) depreciation on capital goods and plant and machinery as specified under section 18; (f) conditions and restrictions to allow input tax credit on inputs sent to a job-worker for job-work under section 19; (g) conditions and restrictions to allow input tax credit on capital goods sent to a job worker for job work under section 19; (h) manner of distribution of input tax credit by input service distributor under section 20; (i) manner and conditions for getting registered under section 25; (j) conditions for getting separate registration for business vertical under section 25; (k) period in which tax invoice is to be issued under section 31; (l) particulars to be declared on a tax invoice and a time in which such invoices are to be issued under section 31; (m) particulars to be declared on a credit or debit note under section 34; (n) particulars required to be maintained by a registered person at his principal place of business under section 35; (o) form and manner in which details of outward supplies are to be declared under section 37; (p) form and manner in which details of inward supplies are to be declared under section 38; (q) form and manner in which a return is to be filed by the registered person under section 39; (r) conditions and restrictions for provisional acceptance and claim of input tax credit under section 41; (s) calculation of interest on delayed payment of tax under section 50; (t) manner in which tax is to be deducted at source under section 51; (u) manner in which tax is to be collected at source under section 52; (v) manner and time for transfer of input tax credit under section 53; (w) form and manner in which application of refund is to be made under section 54; (x) condition and restrictions on refund in certain cases under section 55; (y) manner in which consumer welfare fund is to be constituted under section 57; (z) manner in which consumer welfare fund is to be utilised under section 58; (za) form in which a bond for provisional assessment is to be filed under section 60; (zb) manner in which returns are to be scrutinised under section 61; (zc) frequency and manner in which audit will be taken by tax authorities under section 65; (zd) manner in which advance ruling pronounced is to be certified under section 98; (ze) form, manner and fee for appeal to Appellate Authority under section 100; (zf) manner in which Advance Ruling pronounced by the Appellate Authority is to be certified under section 101; (zg) appeals to Appellate Authority under section 107; (zh) constitution of selection committee and their manner of working for selection of the Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches under section 110; (zi) verification of memorandum of cross objection under section 112; (zj) manner in which President exercise his financial and administrative powers under section 114; (zk) time, form and manner in which persons furnish information return under section 150; (zl) form and manner in which statistics is to be collected under section 151; (zm) fee for taking a copy of any order or document under section 163; (zn)

powers and discharge such functions under section 171; and (zo) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

2. *Clause 165* of the Bill empowers the Board to make regulations to provide for any matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulations.
3. The matters in respect of which the said rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.



# The Integrated Goods and Services Tax Act, 2017



[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
DEPARTMENT OF REVENUE  
CENTRAL BOARD OF EXCISE AND CUSTOMS

Notification No. 1/2017 – Integrated Tax

New Delhi, the 19<sup>th</sup> June, 2017  
29 Jyaistha, 1939 Saka

**G.S.R. ....(E).**— In exercise of the powers conferred by sub-section (3) of section 1 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government hereby appoints the 22<sup>nd</sup> day of June, 2017, as the date on which the provisions of sections 1, 2, 3, 14, 20 and 22 of the said Act shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy.S.L.)  
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs

Notification No. 3/2017 – Integrated Tax

New Delhi, the 28<sup>th</sup> June, 2017

7 Ashadha, 1939 Saka

G.S.R. ....(E).— In exercise of the powers conferred by sub-section (3) of section 1 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government hereby appoints the 1<sup>st</sup> day of July, 2017, as the date on which the provisions of sections 4 to 13, 16 to 19, 21, 23 to 25 of the said Act, shall come into force.

[F. No. 349/72/2017-GST]

(Dr. Sreeparvathy S.L.)

Under Secretary to the Government of India

**CHAPTER-I**  
**PRELIMINARY**

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**1. Short title, extent and commencement**

- (1) This Act may be called the Integrated Goods and Services Tax Act, 2017.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**2. Definitions**

In this Act, unless the context otherwise requires,--

- (1) **“Central Goods and Services Tax Act”** means the Central Goods and Services Tax Act, 2017;
- (2) **“central tax”** means the tax levied and collected under the Central Goods and Services Tax Act;
- (3) **“continuous journey”** means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

Explanation.--For the purposes of this clause, the term **“stopover”** means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

- (4) **“customs frontiers of India”** means the limits of a customs area as defined in section 2 of the Customs Act, 1962;
- (5) **“export of goods”** with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;
- (6) **“export of services”** means the supply of any service when,--
  - (i) the supplier of service is located in India;
  - (ii) the recipient of service is located outside India;
  - (iii) the place of supply of service is outside India;
  - (iv) the payment for such service has been received by the supplier of service in

convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India<sup>1</sup> ; and

- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;
- (7) **“fixed establishment”** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;
- (8) **“Goods and Services Tax (Compensation to States) Act”** means the Goods and Services Tax (Compensation to States) Act, 2017;
- (9) **“Government”** means the Central Government;
- (10) **“import of goods”** with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;
- (11) **“import of services”** means the supply of any service, where--
  - (i) the supplier of service is located outside India;
  - (ii) the recipient of service is located in India; and
  - (iii) the place of supply of service is in India;
- (12) **“integrated tax”** means the integrated goods and services tax levied under this Act;
- (13) **“intermediary”** means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;
- (14) **“location of the recipient of services”** means,--
  - (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
  - (b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
  - (c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
  - (d) in absence of such places, the location of the usual place of residence of the recipient;

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<sup>1</sup> Effective date yet to be notified

- (15) **“location of the supplier of services”** means,—
- (a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
  - (b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
  - (c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
  - (d) in absence of such places, the location of the usual place of residence of the supplier;
- (16) **“non-taxable online recipient”** means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.
- Explanation.—For the purposes of this clause, the expression **“governmental authority”** means an authority or a board or any other body,—
- (i) set up by an Act of Parliament or a State Legislature; or
  - (ii) established by any Government,
- with ninety per cent. or more participation by way of equity or control, to carry out any function entrusted to a Panchayat under article 243G or<sup>2</sup> to a municipality under article 243W of the Constitution;
- (17) **“online information and database access or retrieval services”** means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—
- (i) advertising on the internet;
  - (ii) providing cloud services;
  - (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

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<sup>2</sup> Effective date yet to be notified

- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
  - (v) online supplies of digital content (movies, television shows, music and the like);
  - (vi) digital data storage; and
  - (vii) online gaming;
- (18) “**output tax**”, in relation to a taxable person, means the integrated tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;
- (19) “**Special Economic Zone**” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005;
- (20) “**Special Economic Zone developer**” shall have the same meaning as assigned to it in clause (g) of section 2 of the Special Economic Zones Act, 2005 and includes an Authority as defined in clause (d) and a Co-Developer as defined in clause (f ) of section 2 of the said Act;
- (21) “**supply**” shall have the same meaning as assigned to it in section 7 of the Central Goods and Services Tax Act;
- (22) “**taxable territory**” means the territory to which the provisions of this Act apply;
- (23) “**zero-rated supply**” shall have the meaning assigned to it in section 16;
- (24) words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;
- (25) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

**CHAPTER-II**  
**ADMINISTRATION**

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**3. Appointment of officers**

The Board may appoint such central tax officers as it thinks fit for exercising the powers under this Act.

**4. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances**

Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.

**CHAPTER-III**  
**LEVY AND COLLECTION OF TAX**

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**5. Levy and Collection**

- (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both; except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.

- (2) The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
- (3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- (4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.<sup>3</sup>
- (5) The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

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<sup>3</sup> Effective date yet to be notified

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

**6. Power to grant exemption from tax**

- (1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
- (2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- (3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an Explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such Explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

*Explanation.*— For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

**CHAPTER-IV**  
**DETERMINATION OF NATURE OF SUPPLY**

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**7. Inter-State supply**

- (1) Subject to the provisions of section 10, supply of goods, where the location of 45 the supplier and the place of supply are in--
- (a) two different States;
  - (b) two different Union territories; or
  - (c) a State and a Union territory,
- shall be treated as a supply of goods in the course of inter-State trade or commerce.
- (2) Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.
- (3) Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in--
- (a) two different States;
  - (b) two different Union territories; or
  - (c) a State and a Union territory,
- shall be treated as a supply of services in the course of inter-State trade or commerce.
- (4) Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.
- (5) Supply of goods or services or both,--
- (a) when the supplier is located in India and the place of supply is outside India;
  - (b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or
  - (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,
- shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

**8. Intra-State supply**

- (1) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:
- Provided that the following supply of goods shall not be treated as intra-State supply, namely:--

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
  - (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
  - (iii) supplies made to a tourist referred to in section 15.
- (2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Explanation 1.--For the purposes of this Act, where a person has,--

- (i) an establishment in India and any other establishment outside India;
- (ii) an establishment in a State or Union territory and any other establishment outside *that State or Union territory*; or
- (iii) an establishment in a State or Union territory and any other establishment ~~being a business vertical~~<sup>4</sup> registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

*Explanation 2.*--A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

#### 9. Supplies in territorial waters

Notwithstanding anything contained in this Act,--

- (a) where the location of the supplier is in the territorial waters, the location of such supplier; or
  - (b) where the place of supply is in the territorial waters, the place of supply,
- shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

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<sup>4</sup> Effective date yet to be notified

## CHAPTER-V

### PLACE OF SUPPLY OF GOODS OR SERVICES OR BOTH

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#### 10. Place of supply of goods other than supply of goods imported into, or exported from India

- (1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—
- (a) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;
  - (b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;
  - (c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
  - (d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;
  - (e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.
- (2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

#### 11. Place of supply of goods imported into, or exported from India

The place of supply of goods,—

- (a) imported into India shall be the location of the importer;
- (b) exported from India shall be the location outside India.

#### 12. Place of supply of services where location of supplier and recipient is in India

- (1) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.
- (2) The place of supply of services, except the services specified in sub-sections (3) to (14),—

- (a) made to a registered person shall be the location of such person;
  - (b) made to any person other than a registered person shall be,—
    - (i) the location of the recipient where the address on record exists; and
    - (ii) the location of the supplier of services in other cases.
- (3) The place of supply of services,—
- (a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
  - (b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or
  - (c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or
  - (d) any services ancillary to the services referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:
- Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.
- Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.
- (4) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.
  - (5) The place of supply of services in relation to training and performance appraisal to,—
    - (a) a registered person, shall be the location of such person;
    - (b) a person other than a registered person, shall be the location where the services are actually performed.

- (6) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or *amusement* park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.
- (7) The place of supply of services provided by way of,—
- (a) organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
  - (b) services ancillary to organisation of any of the events or services referred to in clause (a) , or assigning of sponsorship to such events,—
    - (i) to a registered person, shall be the location of such person;
    - (ii) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

*Explanation.*—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

- (8) The place of supply of services by way of transportation of goods, including by mail or courier to,—
- (a) a registered person, shall be the location of such person;
  - (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

- (9) The place of supply of passenger transportation service to,—
- (a) a registered person, shall be the location of such person;
  - (b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).

*Explanation.*—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

- (10) The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.
- (11) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—
- (a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
  - (b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;
  - (c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—
    - (i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or
    - (ii) by any person to the final subscriber, be the location where such pre-payment is received or such vouchers are sold;
  - (d) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

Provided that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

Provided further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

*Explanation.*—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

- (12) The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

- (13) The place of supply of insurance services shall,—
- (a) to a registered person, be the location of such person;
  - (b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.
- (14) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

**13. Place of supply of services where location of supplier or location of recipient is outside India**

- (1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

- (2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

- (3) The place of supply of the following services shall be the location where the services are actually performed, namely:—

- (a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process<sup>1</sup>

- (b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.
- (4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.
- (5) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.
- (6) Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.
- (7) Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.
- (8) The place of supply of the following services shall be the location of the supplier of services, namely:—
  - (a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
  - (b) intermediary services;
  - (c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

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<sup>1</sup> Effective date yet to be notified

*Explanation.*—For the purposes of this sub-section, the expression,—

- (a) “**account**” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;
  - (b) “**banking company**” shall have the same meaning as assigned to it under clause (a) of section 45A of the Reserve Bank of India Act, 1934;
  - (c) “**financial institution**” shall have the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934;
  - (d) “**non-banking financial company**” means,—
    - (i) a financial institution which is a company;
    - (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or
    - (iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.
- (9) The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.
- (10) The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.
- (11) The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.
- (12) The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

*Explanation*—For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied, namely:—

- (a) the location of address presented by the recipient of services through internet is in the taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- (c) the billing address of the recipient of services is in the taxable territory;
- (d) the internet protocol address of the device used by the recipient of services is in the taxable territory;

- (e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
  - (f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
  - (g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.
- (13) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.
- 14. Special provision for payment of tax by a supplier of online information and database access or retrieval services**
- (1) On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:
- Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely:--
- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
  - (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
  - (c) the intermediary involved in the supply does not authorise delivery; and
  - (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.
- (2) The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

For the purposes of this section, -

- (a) "online information and database access or retrieval services" has the same meaning as assigned to it in sub-section (17) of section 2 of the said Act;
- (b) "non-taxable online recipient" has the same meaning as assigned to it in sub-section (16) of section 2 of the said Act.

## CHAPTER-VI

### REFUND OF INTEGRATED TAX TO INTERNATIONAL TOURIST

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#### 15. Refund of integrated tax paid on supply of goods to tourist leaving India

The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

*Explanation*--For the purposes of this section, the term "**tourist**" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

**CHAPTER-VII**  
**ZERO RATED SUPPLY**

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**16. Zero rated supply**

- (1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—
- (a) export of goods or services or both; or
  - (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.
- (2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.
- (3) A registered person making zero rated supply shall be eligible to claim refund 30 under either of the following options, namely:—
- (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
  - (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,
- in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

**CHAPTER-VIII**  
**APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS**

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**17. Apportionment of tax and settlement of funds**

- (1) Out of the integrated tax paid to the Central Government,--
- (a) in respect of inter-State supply of goods or services or both to an unregistered person or to a registered person paying tax under section 10 of the Central Goods and Services Tax Act;
  - (b) in respect of inter-State supply of goods or services or both where registered person is not eligible for input tax credit;
  - (c) in respect of inter-State supply of goods or services or both made in a financial year to a registered person, where he does not avail of the input tax credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was made;
  - (d) in respect of import of goods or services or both by an unregistered person or by a registered person paying tax under section 10 of the Central Goods and Services Tax Act;
  - (e) in respect of import of goods or services or both where the registered person is not eligible for input tax credit;
  - (f) in respect of import of goods or services or both made in a financial year by a registered person, where he does not avail of the said credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was received,

the amount of tax calculated at the rate equivalent to the central tax on similar intra-State supply shall be apportioned to the Central Government.

- (2) The balance amount of integrated tax remaining in the integrated tax account in respect of the supply for which an apportionment to the Central Government has been done under sub-section (1) shall be apportioned to the,--
- (a) State where such supply takes place; and
  - (b) Central Government where such supply takes place in a Union territory:

Provided that where the place of such supply made by any taxable person cannot be determined separately, the said balance amount shall be apportioned to,--

- (a) Each of the States; and
- (b) Central Government in relation to Union territories,

in proportion to the total supplies made by such taxable person to each of such States or Union territories, as the case may be, in a financial year:

Provided further that where the taxable person making such supplies is not identifiable, the said balance amount shall be apportioned to all States and the Central Government in proportion to the amount collected as State tax or, as the case may be, Union territory tax, by the respective State or, as the case may be, by the Central Government during the immediately preceding financial year.

- (2A) The amount not apportioned under sub-section (1) and sub-section (2) may, for the time being, on the recommendations of the Council, be apportioned at the rate of fifty per cent. to the Central Government and fifty per cent. to the State Governments or the Union territories, as the case may be, on ad hoc basis and shall be adjusted against the amount apportioned under the said sub-sections.<sup>6</sup>
- (3) The provisions of sub-sections (1) and (2) relating to apportionment of integrated tax shall, mutatis mutandis apply to the apportionment of interest, penalty and compounding amount realised in connection with the tax so apportioned.
- (4) Where an amount has been apportioned to the Central Government or a State Government under sub-section (1) or sub-section (2) or sub-section (3), the amount collected as integrated tax shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the central tax account or Union territory tax account, an amount equal to the respective amounts apportioned to the Central Government and shall transfer to the State tax account of the respective States an amount equal to the amount apportioned to that State, in such manner and within such time as may be prescribed.
- (5) Any integrated tax apportioned to a State or, as the case may be, to the Central Government on account of a Union territory, if subsequently found to be refundable to any person and refunded to such person, shall be reduced from the amount to be apportioned under this section, to such State, or Central Government on account of such Union territory, in such manner and within such time as may be prescribed.

#### 18. Transfer of input tax credit

On utilisation of credit of integrated tax availed under this Act for payment of,—

- (a) Central tax in accordance with the provisions of sub-section (5) of section 49 of the Central Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the central tax account in such manner and within such time as may be prescribed;

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<sup>6</sup> Effective date yet to be notified

- (b) Union territory tax in accordance with the provisions of section 9 of the Union Territory Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the Union territory tax account in such manner and within such time as may be prescribed;
- (c) State tax in accordance with the provisions of the respective State Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and shall be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the appropriate State Government in such manner and within such time as may be prescribed.

*Explanation*—For the purposes of this Chapter, “**appropriate State**” in relation to a taxable person, means the State or Union territory where he is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.

**19. Tax wrongfully collected and paid to Central Government or State Government**

- (1) A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

**CHAPTER-IX**  
**MISCELLANEOUS**

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**20. Application of provisions of Central Goods and Services Tax Act**

Subject to the provisions of this Act and the rules made thereunder, the provisions 35 of Central Goods and Services Tax Act relating to,—

- (i) scope of supply;
- (ii) composite supply and mixed supply;
- (iii) time and value of supply;
- (iv) input tax credit;
- (v) registration;
- (vi) tax invoice, credit and debit notes;
- (vii) accounts and records;
- (viii) returns, other than late fee;
- (ix) payment of tax;
- (x) tax deduction at source;
- (xi) collection of tax at source;
- (xii) assessment;
- (xiii) refunds;
- (xiv) audit;
- (xv) inspection, search, seizure and arrest;
- (xvi) demands and recovery;
- (xvii) liability to pay in certain cases;
- (xviii) advance ruling;
- (xix) appeals and revision;
- (xx) presumption as to documents;
- (xxi) offences and penalties;
- (xxii) job work;
- (xxiii) electronic commerce;
- (xxiv) transitional provisions; and
- (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

shall, *mutatis mutandis*, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:

Provided that in the case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent from the payment made or credited to the supplier:

Provided further that in the case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies:

Provided also that for the purposes of this Act, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:

Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties.

Provided also that where the appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be fifty crore rupees and one hundred crore rupees respectively.<sup>7</sup>

#### 21. Import of services made on or after the appointed day

Import of services made on or after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day:

Provided that if the tax on such import of services had been paid in full under the existing law, no tax shall be payable on such import under this Act:

Provided further that if the tax on such import of services had been paid in part under the existing law, the balance amount of tax shall be payable on such import under this Act.

*Explanation*—For the purposes of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

#### 22. Power to make rules

- (1) The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.
- (2) Without prejudice to the generality of the provisions of sub-section (1), the Government

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<sup>7</sup> Effective date yet to be notified

may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

- (3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.
- (4) Any rules made under sub-section (1) may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

**23. Power to make regulations**

The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

**24. Laying of rules, regulations and notifications**

Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

**25. Removal of difficulties**

- (1) If any difficulty arises in giving effect to any provision of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

## STATEMENT OF OBJECTS AND REASONS

Presently, article 269 of the Constitution empowers the Parliament to make law on the taxes to be levied on the sale or purchase taking place in the course of inter-State trade or commerce. Accordingly, Parliament had enacted the Central Sales Tax Act, 1956 for levy of central sales tax on the sale taking place in the course of inter-State trade or commerce. The central sales tax is being collected and retained by the exporting States.

2. The crucial aspect of central sales tax is that it is non-vatable, i.e. the credit of this tax is not available as set-off for the future tax liability to be discharged by the purchaser. It directly gets added to the cost of the goods purchased and becomes part of the cost of business and thereby has a direct impact on the increase in the cost of production of a particular product. Further, the fact that the rate of central sales tax is different from the value added tax being levied on the intra-State sale creates a tax arbitrage which is exploited by unscrupulous elements.
3. In view of the above, it has become necessary to have a Central legislation, namely, the Integrated Goods and Services Tax Bill, 2017. The proposed Legislation will confer power upon the Central Government for levying goods and services tax on the supply of goods or services or both which takes place in the course of inter-State trade or commerce. The proposed Legislation will remove both the lacunas of the present central sales tax. Besides being vatable, the rate of tax for the integrated goods and services tax is proposed to be more or less equal to the sum total of the central goods and services tax and state goods and services tax or Union territory goods and services tax to be levied on intra-State supplies. It is expected to reduce cost of production and inflation in the economy, thereby making the Indian trade and industry more competitive, domestically as well as internationally. It is also expected that introduction of the integrated goods and services tax will foster a common or seamless Indian market and contribute significantly to the growth of the economy.
4. The Integrated Goods and Services Tax Bill, 2017, inter alia, provides for the following, namely :—
  - (a) to levy tax on all inter-State supplies of goods or services or both except supply of alcoholic liquor for human consumption at a rate to be notified, not exceeding forty per cent. as recommended by the Goods and Services Tax Council (the Council);
  - (b) to provide for levy of tax on goods imported into India in accordance with the provisions of the Customs Tariff Act, 1975 read with the provisions contained in the Customs Act, 1962;
  - (c) to provide for levy of tax on import of services on reverse charge basis under the proposed Legislation;
  - (d) to empower the Central Government to grant exemptions, by notification or by special order, on the recommendations of the Council;

- (e) to provide for determination of the nature of supply as to whether it is an inter-State or an intra-State supply;
  - (f) to provide elaborate provisions for determining the place of supply in relation to goods or services or both;
  - (g) to provide for payment of tax by a supplier of online information and database access or retrieval services;
  - (h) to provide for refund of tax paid on supply of goods to tourist leaving India;
  - (i) to provide for apportionment of tax and settlement of funds and for transfer of input tax credit between the Central Government, State Government and Union territory;
  - (j) to provide for application of certain provisions of the Central Goods and Services Tax Act, 2017, inter alia, relating to definitions, time and value of supply, input tax credit, registration, returns other than late fee, payment of tax, assessment, refunds, audit, inspection, search, seizure and arrest, demands and recovery, appeals and revision, offences and penalties and transitional provisions, in the proposed Legislation; and
  - (k) to provide for transitional transactions in relation to import of services made on or after the appointed day.
5. The Notes on clauses explain in detail the various provisions contained in the Integrated Goods and Services Tax Bill, 2017.
6. The Bill seeks to achieve the above objectives.

NEW DELHI;

ARUN JAITLEY

*The 23<sup>rd</sup> March, 2017.*

## **NOTES ON CLAUSES**

*Clause 1* provides for short title, extent and commencement of the proposed Act.

*Clause 2* defines various terms and expressions used in the proposed Act.

*Clause 3* provides for appointment of Commissioners and other class of officers as may be required for carrying out the purposes of the proposed Act.

*Clause 4* provides for authorisation of State tax and Union territory tax officers, subject to certain exceptions and conditions as shall be notified by the Central Government on recommendations of the Council, to be proper officers for the purposes of the proposed Act.

*Clause 5* provides for levy and collection of integrated tax on all inter-State supplies of goods or services or both except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act at a rate not exceeding forty per cent. It further provides that integrated tax on goods imported into India shall be levied and collected under section 3 of the Customs Tariff Act, 1975, at the time and in the manner in which customs duty shall be collected under the provisions of the Customs Act, on a value as determined under the provisions of the Customs Tariff Act. This clause also provides that —

- (i) integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel to be levied with effect from a date notified by the Central Government on the recommendations of the Council;
- (ii) the Central Government to notify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both, on the recommendations of the Council;
- (iii) the integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis;
- (iv) the Central Government may notify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, on the recommendations of the Council.

*Clause 6* confers powers on Central Government to exempt either absolutely or conditionally goods or services or both of any specified description from the whole or part of the integrated tax, on the recommendations of the Council. This clause also confers powers on the Central Government to exempt from payment of tax any goods or services or both, by special order, on which tax is leviable on the recommendations of the Council.

*Clause 7* provides for instances where a supply of goods or services or both will be considered as inter- State supply.

## *Notes on Clauses*

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*Clause 8* provides for instances where a supply of goods or services or both will be considered as intra- State supply.

*Clause 9* provides for supplies made in territorial waters to be deemed to be made in the States or Union territories where the nearest point of the appropriate baseline is located.

*Clause 10* provides for the place of supply for all supplies of goods other than those goods which are imported into or exported out of India.

*Clause 11* provides for the place of supply for all supplies of goods which are imported into or exported out of India.

*Clause 12* provides for the place of supply for all supplies of services where location of supplier and recipient is in India.

*Clause 13* provides for the place of supply for all supplies of services where location of supplier or location of recipient is outside India.

*Clause 14* provides for deeming the supplier of services located in non-taxable territory to be liable to pay tax on the online information and database access or retrieval services by any person located in a non-taxable territory and received by a non- taxable online recipient.

*Clause 15* provides for refund of integrated tax paid on supply of goods to tourists leaving India.

*Clause 16* provides for zero rating of certain supplies namely exports and supplies made to Special Economic Zone Unit or Special Economic Zone developer and the manner of zero rating.

*Clause 17* provides for apportionment of integrated tax and settlement of funds between the Central and State Government.

*Clause 18* provides for utilisation of credit of integrated tax availed under the proposed Act for payment of central tax, Union territory tax or State tax.

*Clause 19* provides for refund of integrated tax in situations where inter-State supplies are subsequently held to be intra-State supplies.

*Clause 20* provides for application of specific provisions of the Central Goods and Services Tax Act to the proposed Act.

*Clause 21* provides that all import of services made on or after the appointed day will be liable to integrated tax regardless of whether the transactions for such import of services had been initiated before the appointed day.

*Clause 22* confers powers on the Central Government to make rules for carrying out the provisions of the proposed Act on recommendation of the Council.

*Clause 23* confers powers on the Board to make regulations for carrying out the provisions of the proposed Act.

### *Notes on Clauses*

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*Clause 24* provides for laying of rules, regulations and notifications made by the Central Government before each House of the Parliament.

*Clause 25* confers powers on the Central Government to make such provisions not inconsistent with the provisions of the proposed Act or the rules or regulations by a general or special order, on the recommendations of the Council within a period of three years from the date of commencement of the proposed Act.

## FINANCIAL MEMORANDUM

*Clauses 17 and 18* of the Bill provides for apportionment of tax and settlement of funds and for transfer of input tax credit between the Central Government, State Government and Union territory.

2. *Clause 20* of the Bill provides for application of provisions of the Central Goods and Services Tax Bill, 2017 relating to appeals, advance ruling and anti-profiteering. So authorities under the Central Goods and Services Tax Act will be utilised for the purposes of the proposed legislation. Thus there will be no extra financial expenditure under this Bill.
3. The total financial implications in terms of recurring and non-recurring expenditure involved in carrying out the various functions under the Bill would be borne by the Central Government. Most of the existing officers and staff of the Central Board of Excise and Customs would be used for carrying out the various functions under the Bill. However, it is not possible to estimate the exact recurring and non-recurring expenditure from the Consolidated Fund of India at this stage.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

*Clause 22* of the Integrated Goods and Services Tax Bill seeks to empower the Central Government to make rules, inter alia, in the following matters, namely:—

- (a) collection of taxes under section 5; (b) determination of place of supply under section 10; (c) apportionment of value of supply of services when the immovable property or boat or vessel is located in more than one State or Union or when the leased circuit is installed in more than one State or Union territory or when the event is held in more than one State or Union territory or for advertisement services under section 12; (d) the place of supply of services referred to in section 13 when they are supplied in more than one State or Union territory under that section; (e) conditions and safeguards for refund of integrated tax paid on supply of goods to tourist leaving India under section 15; (f) procedure and safeguards for supply of goods or services under bond or on payment of integrated tax and then taking refund under section 16; (g) manner in which apportionment of tax and settlement of funds will take place under section 17; (h) manner and time in which input tax credit will be transferred under section 18; (i) manner in which tax wrongfully collected and paid to Central Government or State Government is to be refunded under section 19; and (j) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.
2. *Clause 23* of the Bill empowers the Board to make regulations to provide for any matter which is required to be, or may be, specified by regulation or in respect of which provision is to be made by regulations.
  3. The matters in respect of which the said rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.



# The Central Goods and Services Tax (CGST) Rules, 2017

## CHAPTER I

### PRELIMINARY

**1. Short title and Commencement.**-(1) These rules may be called the Central Goods and Services Tax Rules, 2017.

(2) They shall come into force with effect from 22<sup>nd</sup> June, 2017.

**2. Definitions.**- In these rules, unless the context otherwise requires,-

- (a) “Act” means the Central Goods and Services Tax Act, 2017 (12 of 2017);
- (b) “FORM” means a Form appended to these rules;
- (c) “section” means a section of the Act;
- (d) “Special Economic Zone” shall have the same meaning as assigned to it in clause (za) of section 2 of the Special Economic Zones Act, 2005 (28 of 2005);
- (e) words and expressions used herein but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

**CHAPTER II**  
**COMPOSITION [LEVY]<sup>1</sup>**

**3. Intimation for composition levy.**-(1) Any person who has been granted registration on a provisional basis under clause (b) of sub-rule (1) of rule 24 and who opts to pay tax under section 10, shall electronically file an intimation in **FORM GST CMP-01**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the appointed day, but not later than thirty days after the said day, or such further period as may be extended by the Commissioner in this behalf:

Provided that where the intimation in **FORM GST CMP-01** is filed after the appointed day, the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.

(2) Any person who applies for registration under sub-rule (1) of rule 8 may give an option to pay tax under section 10 in Part B of **FORM GST REG-01**, which shall be considered as an intimation to pay tax under the said section.

(3) Any registered person who opts to pay tax under section 10 shall electronically file an intimation in **FORM GST CMP-02**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 within a period of sixty days from the commencement of the relevant financial year.

[(3A)Notwithstanding anything contained in sub-rules (1), (2) and (3), a person who has been granted registration on a provisional basis under rule 24 or who has been granted certificate of registration under sub-rule (1) of rule 10 may opt to pay tax under section 10 with effect from the first day of the month immediately succeeding the month in which he files an intimation in **FORM GST CMP-02**, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before the 31st day of March, 2018, and shall furnish the statement in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 within a period of [one hundred and eighty days]<sup>2</sup> from the day on which such person commences to pay tax under section 10:

Provided that the said persons shall not be allowed to furnish the declaration in **FORM GST TRAN-1** after the statement in **FORM GST ITC-03** has been furnished.]<sup>3</sup>

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<sup>1</sup> Substituted for the word [Rules] vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>2</sup> Substituted for the word [ninety days] vide Notf no. 03/2018- CT dt. 23.01.2018

<sup>3</sup> Substituted vide Notf no. 45/2017-CT dt. 13.10.2017. for "(3A) Notwithstanding anything contained in sub-rules (1), (2) and (3), a person who has been granted registration on a provisional basis under rule 24 or who

(4) Any person who files an intimation under sub-rule (1) to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in **FORM GST CMP-03**, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within a period of [ninety]<sup>4</sup> days from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

(5) Any intimation under sub-rule (1) or sub-rule (3) [or sub-rule (3A)]<sup>5</sup> in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

**4. Effective date for composition levy.**-(1) The option to pay tax under section 10 shall be effective from the beginning of the financial year, where the intimation is filed under sub-rule (3) of rule 3 and the appointed day where the intimation is filed under sub-rule (1) of the said rule.

(2) The intimation under sub-rule (2) of rule 3, shall be considered only after the grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule 10.

**5. Conditions and restrictions for composition levy.**-(1) The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely:-

- (a) he is neither a casual taxable person nor a non-resident taxable person;
- (b) the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under sub-rule (1) of rule 3;

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has applied for registration under sub-rule (1) of rule 8 may opt to pay tax under section 10 with effect from the first day of October, 2017 by electronically filing an intimation in FORM GST CMP-02, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, before the said date and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub - rule (4) of rule 44 within a period of ninety days from the said date:

Provided that the said persons shall not be allowed to furnish the declaration in FORM GST TRAN-1 after the statement in FORM GST ITC-03 has been furnished.” which was inserted vide Notf no. 34/2017-CT dt. 15.09.2017

<sup>4</sup> Substituted for the word [sixty] with effect from 17.08.2017 vide Notf no. 22/2017 – CT dt. 17.08.2017

<sup>5</sup> Inserted vide Notf no. 34/2017 – CT dt. 15.09.2017

- (c) the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9;
- (d) he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both;
- (e) he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year;
- (f) he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- (g) he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

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

**6. Validity of composition levy.-** (1) The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.

(2) The person referred to in sub-rule (1) shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 or the provisions of this Chapter and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.

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

(4) Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 or has contravened the provisions of the Act or provisions of this Chapter, he may issue a notice to such person in **FORM GST CMP-05** to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under section 10 shall not be denied.

(5) Upon receipt of the reply to the show cause notice issued under sub-rule (4) from the registered person in **FORM GST CMP-06**, the proper officer shall issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.

(6) Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in **FORM GST CMP-07** under sub-rule (5), may electronically furnish at the common portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in **FORM GST ITC-01** containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of thirty days from the date from which the option is withdrawn or from the date of the order passed in **FORM GST CMP-07**, as the case may be.

(7) Any intimation or application for withdrawal under sub-rule (2) or (3) or denial of the option to pay tax under section 10 in accordance with sub-rule (5) in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

**7. Rate of tax of the composition levy.**-The category of registered persons, eligible for composition levy under section 10 and the provisions of this Chapter, specified in column (2) of the Table below shall pay tax under section 10 at the rate specified in column (3) of the said Table:-

<b>Sl. No.</b>	<b>Category of registered persons</b>	<b>Rate of tax</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Manufacturers, other than manufacturers of such goods as may be notified by the Government	half per cent. of the turnover in the State or Union territory <sup>6</sup>
2.	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. of the turnover in the State or Union territory <sup>7</sup>
3.	Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter	half per cent. of the turnover of taxable supplies of [goods and services] <sup>8</sup> in

<sup>6</sup> Substituted for the word [one per cent.] with effect from 01.01.2018 vide Notf no. 03/2018- CT dt. 23.01.2018

<sup>7</sup> Substituted for the word [two and a half per cent.] with effect from 01.01.2018 vide Notf no. 03/2018- CT dt. 23.01.2018

<sup>8</sup> Substituted for the word "goods" vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

		the State or Union territory <sup>9</sup>
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<sup>9</sup> Substituted for the word [half per cent.] with effect from 01.01.2018 vide Notf no. 03/2018- CT dt. 23.01.2018

## CHAPTER III

### REGISTRATION

**8. Application for registration.**-(1) Every person, other than a non-resident taxable person, a person required to deduct tax at source under section 51, a person required to collect tax at source under section 52 and a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25 (hereafter in this Chapter referred to as “the applicant”) shall, before applying for registration, declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in **Part A of FORM GST REG-01** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

~~[Provided that a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone:]<sup>10</sup>~~

Provided [further]<sup>11</sup> that every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.

(2) (a) The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes.

(b) The mobile number declared under sub-rule (1) shall be verified through a one-time password sent to the said mobile number; and

(c) The e-mail address declared under sub-rule (1) shall be verified through a separate one-time password sent to the said e-mail address.

(3) On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.

(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in **Part B of FORM GST REG-01**, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(5) On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in **FORM GST REG-02**.

(6) A person applying for registration as a casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of

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<sup>10</sup> Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>11</sup> Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) shall be issued electronically only after the said deposit.

**9. Verification of the application and approval.**-(1)The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of three working days from the date of submission of the application.

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in **FORM GST REG-03** within a period of three working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in **FORM GST REG-04**, within a period of seven working days from the date of the receipt of such notice.

*Explanation.* - For the purposes of this sub-rule, the expression “clarification” includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in **Part A** of **FORM GST REG-01**.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.

(4) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in **FORM GST REG-05**.

(5) If the proper officer fails to take any action, -

(a) within a period of three working days from the date of submission of the application; or

(b) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2), the application for grant of registration shall be deemed to have been approved.

**10. Issue of registration certificate.**-(1)Subject to the provisions of sub-section (12) of section 25, where the application for grant of registration has been approved under rule 9, a certificate of registration in **FORM GST REG-06** showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal and a Goods and Services Tax Identification Number shall be assigned subject to the following characters, namely:-

- (a) two characters for the State code;
- (b) ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number;
- (c) two characters for the entity code; and
- (d) one checksum character.

(2) The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of thirty days from such date.

(3) Where an application for registration has been submitted by the applicant after the expiry of thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of the grant of registration under sub-rule (1) or sub-rule (3) or sub-rule (5) of rule 9.

(4) Every certificate of registration shall be [duly signed or verified through electronic verification code]<sup>12</sup> by the proper officer under the Act.

(5) Where the registration has been granted under sub-rule (5) of rule 9, the applicant shall be communicated the registration number, and the certificate of registration under sub-rule (1), duly signed or verified through electronic verification code, shall be made available to him on the common portal, within a period of three days after the expiry of the period specified in sub-rule (5) of rule 9.

**11. [Separate registration for multiple places of business within a State or a Union territory.**- (1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:-

- (a) such person has more than one place of business as defined in clause (85) of section 2;
- (b) such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;
- (c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

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<sup>12</sup> Substituted vide Notf no. 7/2017-CT dt.27.06.2017 for the words "digitally signed"

Explanation. - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

(2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in FORM GST REG-01 in respect of such place of business.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule”.]<sup>13</sup>

**12. Grant of registration to persons required to deduct tax at source or to collect tax at source.**-(1)Any person required to deduct tax in accordance with the provisions of section 51 or a person required to collect tax at source in accordance with the provisions of section 52 shall electronically submit an application, duly signed or verified through electronic verification code, in **FORM GST REG-07** for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

[(1A) A person applying for registration to collect tax in accordance with the provisions of section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in **PART A** of the application in **FORM GST REG-07** and mention the name of the State or Union territory in **PART B** thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in **PART A**.]<sup>14</sup>

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<sup>13</sup> Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019 for “Separate registration for multiple business verticals within a State or a Union territory.-(1)Any person having multiple business verticals within a State or a Union territory, requiring a separate registration for any of its business verticals under sub-section (2) of section 25 shall be granted separate registration in respect of each of the verticals subject to the following conditions, namely:-

- (a) such person has more than one business vertical as defined in clause (18) of section 2;
- (b) the business vertical of a taxable person shall not be granted registration to pay tax under section 10 if any one of the other business verticals of the same person is paying tax under section 9;
- (c) all separately registered business verticals of such person shall pay tax under the Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.

Explanation.- For the purposes of clause (b), it is hereby clarified that where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other business verticals of the said person shall become ineligible to pay tax under the said section.

(1) A registered person eligible to obtain separate registration for business verticals may submit a separate application in FORM GST REG-01 in respect of each such vertical.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.”

<sup>14</sup> Inserted vide Notification no. 74/2018-CT dt. 31.12.2018

(2) The proper officer may grant registration after due verification and issue a certificate of registration in **FORM GST REG-06** within a period of three working days from the date of submission of the application.

(3) Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in **FORM GST REG-06** has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person electronically in **FORM GST REG-08**:

Provided that the proper officer shall follow the procedure as provided in rule 22 for the cancellation of registration.

**13. Grant of registration to non-resident taxable person.**-(1)A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code, in **FORM GST REG-09**, at least five days prior to the commencement of business at the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that in the case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

(2) A person applying for registration as a non-resident taxable person shall be given a temporary reference number by the common portal for making an advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) of rule 8 shall be issued electronically only after the said deposit in his electronic cash ledger.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, *mutatis mutandis*, apply to an application submitted under this rule.

(4) The application for registration made by a non-resident taxable person shall be [duly signed or verified through electronic verification code]<sup>15</sup> by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.

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<sup>15</sup> Substituted vide Notf no. 7/2017-CT dt. 27.06.2017 for "signed"

- 14. Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient.**-(1) Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient shall electronically submit an application for registration, duly signed or verified through electronic verification code, in **FORM GST REG-10**, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.
- (2) The applicant referred to in sub-rule (1) shall be granted registration, in **FORM GST REG-06**, subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.
- 15. Extension in period of operation by casual taxable person and non-resident taxable person.**-(1) Where a registered casual taxable person or a non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in **FORM GST REG-11** shall be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him.
- (2) The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section 27.
- 16. Suo moto registration.**-(1) Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in **FORM GST REG- 12**.
- (2) The registration granted under sub-rule (1) shall be effective from the date of such order granting registration.
- (3) Every person to whom a temporary registration has been granted under sub-rule (1) shall, within a period of ninety days from the date of the grant of such registration, submit an application for registration in the form and manner provided in rule 8 or rule 12:
- Provided that where the said person has filed an appeal against the grant of temporary registration, in such case, the application for registration shall be submitted within a period of thirty days from the date of the issuance of the order upholding the liability to registration by the Appellate Authority.
- (4) The provisions of rule 9 and rule 10 relating to verification and the issue of the certificate of registration shall, *mutatis mutandis*, apply to an application submitted under sub-rule (3).

(5) The Goods and Services Tax Identification Number assigned, pursuant to the verification under sub-rule (4), shall be effective from the date of the order granting registration under sub-rule (1).

**17. Assignment of Unique Identity Number to certain special entities.**-(1) Every person required to be granted a Unique Identity Number in accordance with the provisions of sub-section (9) of section 25 may submit an application electronically in **FORM GST REG-13**, duly signed or verified through electronic verification code, in the manner specified in rule 8 at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

[1A) The Unique Identity Number granted under sub-rule (1) to a person under clause (a) of sub-section (9) of section 25 shall be applicable to the territory of India.]<sup>16</sup>

(2) The proper officer may, upon submission of an application in **FORM GST REG-13** or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India<sup>17</sup>, assign a Unique Identity Number to the said person and issue a certificate in **FORM GST REG-06** within a period of three working days from the date of the submission of the application.

**18. Display of registration certificate and Goods and Services Tax Identification Number on the name board.**-(1) Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or places of business.

(2) Every registered person shall display his Goods and Services Tax Identification Number on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

**19. Amendment of registration.**-(1) Where there is any change in any of the particulars furnished in the application for registration in **FORM GST REG-01** or **FORM GST REG-07** or **FORM GST REG-09** or **FORM GST REG-10** or for Unique Identity Number in **FORM GST-REG-13**, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in **FORM GST REG-14**, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that –(a) where the change relates to,-

- (i) legal name of business;
- (ii) address of the principal place of business or any additional place(s) of business; or

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<sup>16</sup>Inserted vide Notf no. 75/2017 – CT dt. 29.12.2017

<sup>17</sup>Inserted vide Notf no. 22/2017 – CT dt. 17.08.2017

(iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within a period of fifteen working days from the date of the receipt of the application in **FORM GST REG-14** and issue an order in **FORM GST REG-15** electronically and such amendment shall take effect from the date of the occurrence of the event warranting such amendment;

(b) the change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same Permanent Account Number;

(c) where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in **FORM GST REG- 14** on the common portal;

(d) where a change in the constitution of any business results in the change of the Permanent Account Number of a registered person, the said person shall apply for fresh registration in **FORM GST REG-01**:

Provided further that any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under [sub-rule (2) of rule 8]<sup>18</sup>.

[(1A) Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in **FORM GST REG-14** on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.]<sup>19</sup>

(2) Where the proper officer is of the opinion that the amendment sought under sub-rule (1) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within a period of fifteen working days from the date of the receipt of the application in **FORM GST REG-14**, serve a notice in **FORM GST REG-03**, requiring the registered person to show cause, within a period of seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.

(3) The registered person shall furnish a reply to the notice to show cause, issued under sub-rule (2), in **FORM GST REG-04**, within a period of seven working days from the date of the service of the said notice.

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<sup>18</sup> Substituted vide Notf no. 7/2017-CT dt. 27.06.2017 for "the said rule"

<sup>19</sup> Inserted vide Notf no. 75/2017-CT dt. 29.12.2017

(4) Where the reply furnished under sub-rule (3) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (2) within the period prescribed in sub-rule (3), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in **FORM GST REG -05**.

(5) If the proper officer fails to take any action,-

(a) within a period of fifteen working days from the date of submission of the application, or

(b) within a period of seven working days from the date of the receipt of the reply to the notice to show cause under sub-rule (3),

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

**20. Application for cancellation of registration.-**A registered person, other than a person to whom a registration has been granted under rule 12 or a person to whom a Unique Identity Number has been granted under rule 17, seeking cancellation of his registration under sub-section (1) of section 29 shall electronically submit an application in **FORM GST REG-16**, including therein the details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock on the date from which the cancellation of registration is sought, liability thereon, the details of the payment, if any, made against such liability and may furnish, along with the application, relevant documents in support thereof, at the common portal within a period of thirty days of the occurrence of the event warranting the cancellation, either directly or through a Facilitation Centre notified by the Commissioner:

~~[Provided that no application for the cancellation of registration shall be considered in case of a taxable person, who has registered voluntarily, before the expiry of a period of one year from the effective date of registration.]<sup>20</sup>~~

**21. Registration to be cancelled in certain cases.-**The registration granted to a person is liable to be cancelled, if the said person,-

(a) does not conduct any business from the declared place of business; or

(b) issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or

[(c) violates the provisions of section 171 of the Act or the rules made thereunder]<sup>21</sup>.

**[Rule 21A Suspension of registration.-** (1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the

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<sup>20</sup> Omitted vide Notf no. 03/2018-CT dt. 23.01.2018

<sup>21</sup> Inserted vide Notf no. 07/2017-CT dt. 27.06.2017

cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

(4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.]<sup>22</sup>

**22. Cancellation of registration.**-(1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he shall issue a notice to such person in **FORM GST REG-17**, requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled.

(2) The reply to the show cause notice issued under sub-rule (1) shall be furnished in **FORM REG-18** within the period specified in the said sub-rule.

(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in **FORM GST REG-19**, within a period of thirty days from the date of application submitted under [~~sub-rule (1) of~~]<sup>23</sup> rule 20 or, as the case may be, the date of the 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.

(4) Where the reply furnished under sub-rule (2) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in **FORM GST REG – 20**:

[Provided that where the person instead of replying to the notice served under sub-rule (1) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in **FORM GST-REG 20**]<sup>24</sup>

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<sup>22</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>23</sup> Omitted vide Notf no. 7/2017-CT dt. 27.06.2017

<sup>24</sup> Inserted vide Notification No. 39/2018-CT dt. 04.09.2018

(5) The provisions of sub-rule (3) shall, *mutatis mutandis*, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

**23. Revocation of cancellation of registration.**-(1)A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in **FORM GST REG-21**, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

(2) (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-22** within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05**, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(3) The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in **FORM GST REG-23** requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in **FORM GST REG-24**.

(4) Upon receipt of the information or clarification in **FORM GST REG-24**, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.

**24. Migration of persons registered under the existing law.**-(1) (a) Every person, other than a person deducting tax at source or an Input Service Distributor, registered under an existing law and having a Permanent Account Number issued under the provisions of the Income-tax Act, 1961 (Act 43 of 1961) shall enrol on the common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Centre notified by the Commissioner.

(b) Upon enrolment under clause (a), the said person shall be granted registration on a provisional basis and a certificate of registration in **FORM GST**

**REG-25**, incorporating the Goods and Services Tax Identification Number therein, shall be made available to him on the common portal:

Provided that a taxable person who has been granted multiple registrations under the existing law on the basis of a single Permanent Account Number shall be granted only one provisional registration under the Act:

(2)(a) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in **FORM GST REG-26**, duly signed or verified through electronic verification code, along with the information and documents specified in the said application, on the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(b) The information asked for in clause (a) shall be furnished within a period of three months or within such further period as may be extended by the Commissioner in this behalf.

(c) If the information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration in **FORM GST REG-06** shall be made available to the registered person electronically on the common portal.

(3) Where the particulars or information specified in sub-rule (2) have either not been furnished or not found to be correct or complete, the proper officer shall, after serving a notice to show cause in **FORM GST REG-27** and after affording the person concerned a reasonable opportunity of being heard, cancel the provisional registration granted under sub-rule (1) and issue an order in **FORM GST REG-28**:

[(3A) Where a certificate of registration has not been made available to the applicant on the common portal within a period of fifteen days from the date of the furnishing of information and particulars referred to in clause (c) of sub-rule (2) and no notice has been issued under sub-rule (3) within the said period, the registration shall be deemed to have been granted and the said certificate of registration, duly signed or verified through electronic verification code, shall be made available to the registered person on the common portal.

Provided that the show cause notice issued in **FORM GST REG- 27** can be withdrawn by issuing an order in **FORM GST REG- 20**, if it is found, after affording the person an opportunity of being heard, that no such cause exists for which the notice was issued.]<sup>25</sup>

(4) Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before [31<sup>st</sup> March, 2018]<sup>26,27</sup>, at his option, submit an application electronically in **FORM GST REG-29** at the common portal for the cancellation of registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.

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<sup>25</sup> Inserted vide Notf no. 7/2017-CT dt. 27.06.2017

<sup>26</sup> Substituted for [30<sup>th</sup> October, 2017] vide Notf no. 51/2017-CT dt. 28.10.2017

<sup>27</sup> Substituted for [31<sup>st</sup> December, 2017] vide Notf no. 03/2018 – CT dt. 23.01.2018

**25. 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 the grant of registration, he may get such verification done and the verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal within a period of fifteen working days following the date of such verification.

**26.Method of authentication.-** (1)All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically with digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf:

Provided that a registered person registered under the provisions of the Companies Act, 2013 (18 of 2013) shall furnish the documents or application verified through digital signature certificate.

(2) Each document including the return furnished online shall be signed or verified through electronic verification code-

(a) in the case of an individual, by the individual himself or where he is absent from India, 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 thereof;

(f) in the case of any other association, by any member of the association or persons or authorised signatory thereof;

(g) in the case of a trust, by the trustee or any trustee or authorised signatory thereof; 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 the provisions of this Chapter shall be issued electronically by the proper officer or any other officer authorised to issue such

notices or certificates or orders, through digital signature certificate [or through E-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf.]<sup>28</sup>

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<sup>28</sup> Substituted vide Notf no. 7/2017-CT dt. 27.06.2017 for “specified under the provisions of the Information Technology Act, 2000 (21 of 2000)”

## CHAPTER IV

### DETERMINATION OF VALUE OF SUPPLY

**27. Value of supply of goods or services where the consideration is not wholly in money.**-Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,-

- (a) be the open market value of such supply;
- (b) if the open market value is not available under clause (a), be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) if the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

*Illustration:*

*(1) Where a new phone is supplied for twenty thousand rupees along with the exchange of an old phone and if the price of the new phone without exchange is twenty four thousand rupees, the open market value of the new phone is twenty four thousand rupees.*

*(2) Where a laptop is supplied for forty thousand rupees along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is four thousand rupees but the open market value of the laptop is not known, the value of the supply of the laptop is forty four thousand rupees.*

**28. Value of supply of goods or services or both between distinct or related persons, other than through an agent.**-The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

- (a) be the open market value of such supply;
- (b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

**29. Value of supply of goods made or received through an agent.**-The value of supply of goods between the principal and his agent shall-

(a) be the open market value of the goods being supplied, or at the option of the supplier, be ninety percent. of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.

*Illustration: A principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of five thousand rupees per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of four thousand five hundred and fifty rupees per quintal. The value of the supply made by the principal shall be four thousand five hundred and fifty rupees per quintal or where he exercises the option, the value shall be 90 per cent. of five thousand rupees i.e., four thousand five hundred rupees per quintal.*

(b) where the value of a supply is not determinable under clause (a), the same shall be determined by the application of rule 30 or rule 31 in that order.

**30. Value of supply of goods or services or both based on cost.**-Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

**31. Residual method for determination of value of supply of goods or services or both.**-Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter:

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

**[31A. Value of supply in case of lottery, betting, gambling and horse racing. -**

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

(2) (a) The value of supply of lottery run by State Governments shall be deemed to be 100/112 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.

(b) The value of supply of lottery authorised by State Governments shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.

*Explanation:*– For the purposes of this sub-rule, the expressions-

(a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State;

(b) “lottery authorised by State Governments” means a lottery which is authorised to be sold in State(s) other than the organising State also; and

(c) “Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

(3) The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.]<sup>29</sup>

**32. Determination of value in respect of certain supplies.**-(1)Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

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

(a) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent. of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to one per cent. of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the Reserve Bank of India.

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

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<sup>29</sup> Inserted vide Notf no. 03/2018 – CT dt. 23.01.2018

(b) at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be-

- (i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;
- (ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and
- (iii) five thousand and five hundred rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to a maximum amount of sixty thousand rupees.

(3) The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of five percent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.

*Explanation.-* For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

(4) The value of supply of services in relation to life insurance business shall be,-

- (a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;
- (b) in case of single premium annuity policies other than (a), ten per cent. of single premium charged from the policy holder; or
- (c) in all other cases, twenty five per cent. of the premium charged from the policy holder in the first year and twelve and a half per cent. of the premium charged from the policy holder in subsequent years:

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

(5) Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

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

(7) The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

**33. Value of supply of services in case of pure agent.**-Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

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

*Explanation.*- For the purposes of this rule, the expression “pure agent” means a person who-

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

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

**[34. Rate of exchange of currency, other than Indian rupees, for determination of value.**- (1) The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.  
(2) The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting

principles for the date of time of supply of such services in terms of section 13 of the Act.]<sup>30</sup>

**35. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax.**-Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely,-

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

**Explanation.**-For the purposes of the provisions of this Chapter, the expressions-

- (a) “open market value” of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made;
- (b) “supply of goods or services or both of like kind and quality” means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

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<sup>30</sup>Amended vide Notf no. 17/2017-CT dt. 27.07.2017. Till then, the rule read as follows—“**34. Rate of exchange of currency, other than Indian rupees, for determination of value.**-The rate of exchange for the determination of the value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date of time of supply in respect of such supply in terms of section 12 or, as the case may be, section 13 of the Act.”

**CHAPTER V**  
**INPUT TAX CREDIT**

**36. Documentary requirements and conditions for claiming input tax credit.-**

(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- (b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- (e) an Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORMGSTR-2** by such person:

[Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.]<sup>31</sup>

(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.

**37. Reversal of input tax credit in the case of non-payment of consideration.-**(1)A

registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to sub-section(2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in **FORM GSTR-2** for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice:

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<sup>31</sup> Inserted vide Notf no. 39/2018-CT dt. 04.09.2018

Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16:

[Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.]<sup>32</sup>

(2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.

(3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.

(4) The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.

**38. Claim of credit by a banking company or a financial institution.-**A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the following procedure, namely,-

- (a) the said company or institution shall not avail the credit of,-
  - (i) the tax paid on inputs and input services that are used for non-business purposes; and
  - (ii) the credit attributable to the supplies specified in sub-section (5) of section 17, in **FORM GSTR-2**;
- (b) the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a);
- (c) fifty per cent. of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR-2**;

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<sup>32</sup> Inserted vide Notf no. 26/2018-CT dt. 13.06.2018

- (d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

**39. Procedure for distribution of input tax credit by Input Service Distributor.-**

(1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the following conditions, namely,-

- (a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** in accordance with the provisions of Chapter VIII of these rules;
- (b) the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;
- (c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);
- (d) the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients 'R1', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, "C1", to be calculated by applying the following formula -

$$C_1 = (t_1 \div T) \times C$$

where,

"C" is the amount of credit to be distributed,

"t<sub>1</sub>" is the turnover, as referred to in section 20, of person R<sub>1</sub> during the relevant period, and

"T" is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20;

- (e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
- (f) the input tax credit on account of central tax and State tax or Union territory tax shall-

(i) in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;

(ii) in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);

(g) the Input Service Distributor shall issue an Input Service Distributor invoice, as prescribed in sub-rule (1) of rule 54, clearly indicating in such invoice that it is issued only for distribution of input tax credit;

(h) the Input Service Distributor shall issue an Input Service Distributor credit note, as prescribed in sub-rule (1) of rule 54, for reduction of credit in case the input tax credit already distributed gets reduced for any reason;

(i) any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) and such credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**;

(j) any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed in terms of clause (d), and the amount so apportioned shall be-

(i) reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; or

(ii) added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

(2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process specified in clause (j) of sub-rule (1) shall apply, *mutatis mutandis*, for reduction of credit.

(3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the Input Service Distributor credit note specified in clause (h) of sub-rule (1), issue an Input

Service Distributor invoice to the recipient entitled to such credit and include the Input Service Distributor credit note and the Input Service Distributor invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

**40. Manner of claiming credit in special circumstances.**-(1) The input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions, namely,-

(a) the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.

[(b) the registered person shall within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in **FORM GST ITC-01** to the effect that he is eligible to avail the input tax credit as aforesaid:

Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]<sup>33</sup>

(c) the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods—

- (i) on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under clause (a) of sub-section (1) of section 18;
- (ii) on the day immediately preceding the date of the grant of registration, in the case of a claim under clause (b) of sub-section (1) of section 18;
- (iii) on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of section 18;
- (iv) on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of section 18;

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<sup>33</sup>Substituted vide Notf no. 22/2017 – CT dt. 01.07.2017

(d) the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;

(e) the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in **FORM GSTR-1** or as the case may be, in **FORM GSTR- 4**, on the common portal.

(2) The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.

**41. Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.**-(1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

(2) The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.

(3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

**[Rule 41A. Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory.**-(1) A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such

separate registrations, the details in FORM GST ITC-02A electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

*Explanation.-* For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

(2) The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in FORM GST ITC-02A shall be credited to his electronic credit ledger.]<sup>34</sup>

**42. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof.**-(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the total input tax involved on inputs and input services in a tax period, be denoted as 'T';

(b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T<sub>1</sub>';

(c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T<sub>2</sub>';

(d) the amount of input tax, out of 'T', in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T<sub>3</sub>';

(e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C<sub>1</sub>' and calculated as-

$$C_1 = T - (T_1 + T_2 + T_3);$$

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<sup>34</sup> Inserted vide Notf No. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

(f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T<sub>4</sub>';

(g) 'T<sub>1</sub>', 'T<sub>2</sub>', 'T<sub>3</sub>' and 'T<sub>4</sub>' shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2**;

(h) input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C<sub>2</sub>' and calculated as-

$$C_2 = C_1 - T_4;$$

(i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D<sub>1</sub>' and calculated as-

$$D_1 = (E \div F) \times C_2$$

where,

'E' is the aggregate value of exempt supplies during the tax period, and

'F' is the total turnover in the State of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

*Explanation:* For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A]<sup>35</sup> of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D<sub>2</sub>', and shall be equal to five per cent. of C<sub>2</sub>; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C<sub>3</sub>', where,-

$$C_3 = C_2 - (D_1 + D_2);$$

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<sup>35</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

(l) the amount 'C<sub>3</sub>' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;

(m) the amount equal to aggregate of 'D<sub>1</sub>' and 'D<sub>2</sub>' shall be added to the output tax liability of the registered person:

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T<sub>1</sub>' and 'T<sub>2</sub>' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T<sub>4</sub>'.

(2) The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule and-

(a) where the aggregate of the amounts calculated finally in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>', such excess shall be added to the output tax liability of the registered person in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>' exceeds the aggregate of the amounts calculated finally in respect of 'D<sub>1</sub>' and 'D<sub>2</sub>', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

**43. Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases.**-(1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in **FORM GSTR-2** and shall not be credited to his electronic credit ledger;

(b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in **FORM GSTR-2** and shall be credited to the electronic credit ledger;

(c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

*Explanation.- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.*

(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'T<sub>c</sub>', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'T<sub>c</sub>';

(e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as 'T<sub>m</sub>' and calculated as-

$$T_m = T_c \div 60$$

(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as 'T<sub>r</sub>' and shall be the aggregate of 'T<sub>m</sub>' for all such capital goods;

(g) the amount of common credit attributable towards exempted supplies, be denoted as 'T<sub>e</sub>', and calculated as-

$$T_e = (E \div F) \times T_r$$

where,

'E' is the aggregate value of exempt supplies, made, during the tax period, and

'F' is the total turnover of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period

for which the details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

*Explanation.*- For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A]<sup>36</sup> of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) the amount  $T_e$  along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

(2) The amount  $T_e$  shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

[*Explanation:* -For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude: -

- (a) [~~the value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 42/2017 Integrated Tax (Rate), dated the 27<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1338(E) dated the 27<sup>th</sup> October, 2017;~~]<sup>37</sup>
- (b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and
- (c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.]<sup>3839</sup>

**44. Manner of reversal of credit under special circumstances.**-(1) The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-

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<sup>36</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>37</sup> Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>38</sup> Inserted vide Notf no. 55/2017-CT dt. 15.11.2017

<sup>39</sup> Explanation substituted vide Notf no. 03/2018 – CT dt. 23.01.2018. Till then it read as follows: -

*Explanation* - For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude the value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 42/2017-Integrated Tax (Rate), dated the 27<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1338(E) dated the 27<sup>th</sup> October, 2017.

- (a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
- (b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.

*Illustration:*

*Capital goods have been in use for 4 years, 6 month and 15 days.*

*The useful remaining life in months= 5 months ignoring a part of the month*

*Input tax credit taken on such capital goods= C*

*Input tax credit attributable to remaining useful life= C multiplied by 5/60*

(2) The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(3) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sub-section (4) of section 18 or, as the case may be, sub-section (5) of section 29.

(4) The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03**, where such amount relates to any event specified in sub-section (4) of section 18 and in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

(5) The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.

(6) The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax:

Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in **FORM GSTR-1**.

**[44A. Manner of reversal of credit of Additional duty of Customs in respect of Gold dore bar.-** The credit of Central tax in the electronic credit ledger taken in terms of the provisions of section 140 relating to the CENVAT Credit carried forward which had accrued on account of payment of the additional duty of customs levied under sub-

section (1) of section 3 of the Customs Tariff Act, 1975 (51 of 1975), paid at the time of importation of gold dore bar, on the stock of gold dore bar held on the 1<sup>st</sup> day of July, 2017 or contained in gold or gold jewellery held in stock on the 1<sup>st</sup> day of July, 2017 made out of such imported gold dore bar, shall be restricted to one-sixth of such credit and five-sixth of such credit shall be debited from the electronic credit ledger at the time of supply of such gold dore bar or the gold or the gold jewellery made therefrom and where such supply has already been made, such debit shall be within one week from the date of commencement of these Rules.]<sup>40</sup>

**45. Conditions and restrictions in respect of inputs and capital goods sent to the job**

**worker.**-(1)The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, [and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:

Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:

Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.]<sup>41</sup>

(2) The challan issued by the principal to the job worker shall contain the details specified in rule 55.

(3) The details of challans in respect of goods dispatched to a job worker or received from a job worker [~~or sent from one job worker to another~~]<sup>42</sup> during a quarter shall be included in **FORM GST ITC-04** furnished for that period on or before the twenty-fifth day of the month succeeding the said quarter[or within such further period as may be extended by the Commissioner by a notification in this behalf:

Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.]<sup>43</sup>

(4) Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in **FORM GSTR-1** and the principal shall be liable to pay the tax along with applicable interest.

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<sup>40</sup>Inserted vide Notf no. 22/2017-CT dt. 17.08.2017

<sup>41</sup> Inserted vide Notf no. 14/2018-CT dt. 23.03.2018

<sup>42</sup>Omitted vide Notf no. 74/2018-CT dt. 31.12.2108

<sup>43</sup>Inserted vide Notf no. 54/2017-CT dt. 28.10.2017

*Explanation.*- For the purposes of this Chapter,-

- (1) the expressions “capital goods” shall include “plant and machinery” as defined in the Explanation to section 17;
- (2) for determining the value of an exempt supply as referred to in sub-section (3) of section 17-
  - (a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
  - (b) the value of security shall be taken as one per cent. of the sale value of such security.

**CHAPTER VI**  
**TAX INVOICE, CREDIT AND DEBIT NOTES**

**46. Tax invoice.-** Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more;
- (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;
- (g) Harmonised System of Nomenclature code for goods or services;
- (h) description of goods or services;
- (i) quantity in case of goods and unit or Unique Quantity Code thereof;
- (j) total value of supply of goods or services or both;
- (k) taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
- (l) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (n) place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;
- (o) address of delivery where the same is different from the place of supply;
- (p) whether the tax is payable on reverse charge basis; and
- (q) signature or digital signature of the supplier or his authorised representative:

Provided that the Board may, on the recommendations of the Council, by notification, specify-

(i) the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention, for such period as may be specified in the said notification; and

(ii) the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services, for such period as may be specified in the said notification:

Provided further that where an invoice is required to be issued under clause (f) of sub-section (3) of section 31, a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9, the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers:

[Provided also that in the case of the export of goods or services, the invoice shall carry an endorsement “SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX” or “SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX”, as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details, namely,- (i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination:]<sup>44</sup>

Provided also that a registered person may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely,-

(a) the recipient is not a registered person; and

(b) the recipient does not require such invoice, and

shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

[Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an

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<sup>44</sup>Amended vide Notf no. 17/2017-CT dt. 27.07.2017. Till then it read as follows –

Provided also that in the case of the export of goods or services, the invoice shall carry an endorsement “SUPPLY MEANT FOR EXPORT ON PAYMENT OF INTEGRATED TAX” or “SUPPLY MEANT FOR EXPORT UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX”, as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details, namely,-

(i) name and address of the recipient;

(ii) address of delivery; and

(iii) name of the country of destination.

electronic invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]<sup>45</sup>

**[46A. Invoice-cum-bill of supply.-** Notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.]<sup>46</sup>

**47. Time limit for issuing tax invoice.-** The invoice referred to in rule 46, in the case of the taxable supply of services, shall be issued within a period of thirty days from the date of the supply of service:

Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty five days from the date of the supply of service:

Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

**48. Manner of issuing invoice.-**(1)The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely,-

- (a) the original copy being marked as ORIGINAL FOR RECIPIENT;
  - (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
  - (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.
- (2) The invoice shall be prepared in duplicate, in the case of the supply of services, in the following manner, namely,-
- (a) the original copy being marked as ORIGINAL FOR RECIPIENT; and
  - (b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER.
- (3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in **FORM GSTR-1**.

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<sup>45</sup>Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

<sup>46</sup>Inserted vide Notf no. 45/2017-CT dt. 13.10.2017

**49. Bill of supply.-** A bill of supply referred to in clause (c) of sub-section (3) of section 31 shall be issued by the supplier containing the following details, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) Harmonised System of Nomenclature Code for goods or services;
- (f) description of goods or services or both;
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorised representative:

Provided that the provisos to rule 46 shall, *mutatis mutandis*, apply to the bill of supply issued under this rule:

Provided further that any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of the Act.

[Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]<sup>47</sup>

**50. Receipt voucher.-** A receipt voucher referred to in clause (d) of sub-section (3) of section 31 shall contain the following particulars, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;

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<sup>47</sup>Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) description of goods or services;
- (f) amount of advance taken;
- (g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
- (j) whether the tax is payable on reverse charge basis; and
- (k) signature or digital signature of the supplier or his authorised representative:

Provided that where at the time of receipt of advance,-

- (i) the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent.;
- (ii) the nature of supply is not determinable, the same shall be treated as inter-State supply.

**51. Refund voucher.**-A refund voucher referred to in clause (e) of sub-section (3) of section 31 shall contain the following particulars, namely:-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) number and date of receipt voucher issued in accordance with the provisions of rule 50;
- (f) description of goods or services in respect of which refund is made;
- (g) amount of refund made;
- (h) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

- (i) amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (j) whether the tax is payable on reverse charge basis; and
- (k) signature or digital signature of the supplier or his authorised representative.

**52. Payment voucher.**-A payment voucher referred to in clause (g) of sub-section (3) of section 31 shall contain the following particulars, namely:-

- (a) name, address and Goods and Services Tax Identification Number of the supplier if registered;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient;
- (e) description of goods or services;
- (f) amount paid;
- (g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
- (j) signature or digital signature of the supplier or his authorised representative.

**53. Revised tax invoice and credit or debit notes.**-(1)A revised tax invoice referred to in section 31 [~~and credit or debit notes referred to in section 34~~]<sup>48</sup> shall contain the following particulars, namely:-

- (a) the word “Revised Invoice”, wherever applicable, indicated prominently;
- (b) name, address and Goods and Services Tax Identification Number of the supplier;
- (c) [~~nature of the document;~~ ]<sup>49</sup>

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<sup>48</sup> Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>49</sup> Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

- (d) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (e) date of issue of the document;
- (f) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (g) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (h) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply; and
- (i) ~~[value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient;]~~<sup>50</sup>
- (j) signature or digital signature of the supplier or his authorised representative.

[(1A) A credit or debit note referred to in section 34 shall contain the following particulars, namely:–

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) nature of the document;
- (c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (d) date of issue of the document;
- (e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;
- (h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
- (i) signature or digital signature of the supplier or his authorised representative.]<sup>51</sup>

(2) Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration:

Provided that the registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period:

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<sup>50</sup> Omitted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>51</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

Provided further that in the case of inter-State supplies, where the value of a supply does not exceed two lakh and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act.

(3) Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of section 74 or section 129 or section 130 shall prominently contain the words “INPUT TAX CREDIT NOT ADMISSIBLE”.

**54. Tax invoice in special cases.-** (1) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:-

- (a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as- “-”, “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
- (e) amount of the credit distributed; and
- (f) signature or digital signature of the Input Service Distributor or his authorised representative:

Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.

[(1A) (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:-

- i. name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;
- ii. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- iii. date of its issue;

- iv. Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;
- v. name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- vi. taxable value, rate and amount of the credit to be transferred; and
- vii. signature or digital signature of the registered person or his authorised representative.

(b) The taxable value in the invoice issued under clause (a) shall be the same as the value of the common services.]<sup>52</sup>

(2) Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier [may]<sup>53</sup> issue a [consolidated]<sup>54</sup> tax invoice or any other document in lieu thereof, by whatever name called [for the supply of services made during a month at the end of the month]<sup>55</sup>, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.

[Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]<sup>56</sup>

(3) Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as mentioned under rule 46.

(4) Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as mentioned under rule 46.

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<sup>52</sup> Inserted vide Notf no. 03/2018- CT dt. 23.01.2018

<sup>53</sup> Substituted for "shall" vide Notf no. 55/2017-CT dt. 15.11.2017

<sup>54</sup> Inserted vide Notf no. 45/2017-CT dt. 13.10.2017

<sup>55</sup> Inserted vide Notf no. 45/2017-CT dt. 13.10.2017

<sup>56</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

[Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]<sup>57</sup>

(5) The provisions of sub-rule (2) or sub-rule (4) shall apply, *mutatis mutandis*, to the documents issued under rule 49 or rule 50 or rule 51 or rule 52 or rule 53.

**55. Transportation of goods without issue of invoice.**-(1)For the purposes of-

- (a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
- (b) transportation of goods for job work,
- (c) transportation of goods for reasons other than by way of supply, or
- (d) such other supplies as may be notified by the Board,

the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-

- (i) date and number of the delivery challan;
  - (ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;
  - (iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;
  - (iv) Harmonised System of Nomenclature code and description of goods;
  - (v) quantity (provisional, where the exact quantity being supplied is not known);
  - (vi) taxable value;
  - (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
  - (viii) place of supply, in case of inter-State movement; and
  - (ix) signature.
- (2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:-
- (a) the original copy being marked as ORIGINAL FOR CONSIGNEE;
  - (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
  - (c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.
- (3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.

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<sup>57</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

- (4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
- (5) Where the goods are being transported in a semi knocked down or completely knocked down condition [or in batches or lots]<sup>58</sup> -
- (a) the supplier shall issue the complete invoice before dispatch of the first consignment;
  - (b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
  - (c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
  - (d) the original copy of the invoice shall be sent along with the last consignment.

**[55A. Tax Invoice or bill of supply to accompany transport of goods.-** The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.]<sup>59</sup>

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<sup>58</sup> Inserted vide Notf no. 39/2018-CT dt. 04.09.2018

<sup>59</sup> Inserted vide Notf no. 03/2018-CT dt. 23.01.2018

## CHAPTER VII

### ACCOUNTS AND RECORDS

**56. Maintenance of accounts by registered persons.**-(1)Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

(2) Every registered person, other than a person paying tax under section 10, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

(3) Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.

(4) Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

(5) Every registered person shall keep the particulars of -

- (a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
- (b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter;
- (c) the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

(6) If any taxable goods are found to be stored at any place(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

(7) Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

(8) Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be

scored out under attestation and thereafter the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.

(9) Each volume of books of account maintained manually by the registered person shall be serially numbered.

(10) Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

(11) Every agent referred to in clause (5) of section 2 shall maintain accounts depicting the,-

- (a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

(12) Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

(13) Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

(14) Every registered person executing works contract shall keep separate accounts for works contract showing -

- (a) the names and addresses of the persons on whose behalf the works contract is executed;
- (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- (d) the details of payment received in respect of each works contract; and
- (e) the names and addresses of suppliers from whom he received goods or services.

(15) The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.

(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 the period as provided in section 36 and shall, where such accounts and documents are maintained manually, 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.

(17) Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

(18) Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

**57. Generation and maintenance of electronic records.**-(1) Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.

(2) The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

(3) Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

**58. Records to be maintained by owner or operator of godown or warehouse and transporters.**-(1) Every person required to maintain records and accounts in accordance with the provisions of sub-section (2) of section 35, if not already registered under the Act, shall submit the details regarding his business electronically on the common portal in **FORM GST ENR-01**, either directly or through a Facilitation Centre notified by the Commissioner and, upon validation of the details furnished, a unique enrolment number shall be generated and communicated to the said person.

[(1A) For the purposes of Chapter XVI of these rules, a transporter who is registered in more than one State or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in

**FORM GST ENR-02** using any one of his Goods and Services Tax Identification Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter:

Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapter XVI.]<sup>60</sup>

(2) The person enrolled under sub-rule (1) as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

(3) Every person who is enrolled under sub-rule (1) shall, where required, amend the details furnished in **FORM GST ENR-01** electronically on the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(4) Subject to the provisions of rule 56,-

(a) any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.

(b) every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods.

(5) The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

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<sup>60</sup> Inserted vide Notf no. 28/2018-CT dt. 19.06.2018

## CHAPTER VIII RETURNS

**59. Form and manner of furnishing details of outward supplies.-** (1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in FORM GSTR-1 electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(2) The details of outward supplies of goods or services or both furnished in **FORM GSTR-1** shall include the—

(a) invoice wise details of all -

- (i) inter-State and intra-State supplies made to the registered persons; and
- (ii) inter-State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons;

(b) consolidated details of all -

- (i) intra-State supplies made to unregistered persons for each rate of tax; and
- (ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;

(c) debit and credit notes, if any, issued during the month for invoices issued previously.

(3) The details of outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons (recipients) in **Part A** of **FORM GSTR-2A**, in **FORM GSTR-4A** and in **FORM GSTR-6A** through the common portal after the due date of filing of **FORM GSTR-1**.

(4) The details of inward supplies added, corrected or deleted by the recipient in his **FORM GSTR-2** under section 38 or **FORM GSTR-4** or **FORM GSTR-6** under section 39 shall be made available to the supplier electronically in **FORM GSTR-1A** through the common portal and such supplier may either accept or reject the modifications made by the recipient and **FORM GSTR-1** furnished earlier by the supplier shall stand amended to the extent of modifications accepted by him.

**60. Form and manner of furnishing details of inward supplies.-**(1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, required to furnish the details of inward supplies of goods or services or both received during a tax period under sub-section (2) of section 38 shall, on the basis of details contained in Part A, Part B and Part C of FORM GSTR-2A, prepare such details as specified in sub-section (1) of the said section and furnish the same in FORM GSTR-2 electronically through the common portal, either directly or from a Facilitation Centre notified by the Commissioner, after including therein details of such other inward supplies, if any, required to be furnished under sub-section (2) of section 38.

(2) Every registered person shall furnish the details, if any, required under sub-section (5) of section 38 electronically in **FORM GSTR-2**.

(3) The registered person shall specify the inward supplies in respect of which he is not eligible, either fully or partially, for input tax credit in **FORM GSTR-2** where such eligibility can be determined at the invoice level.

(4) The registered person shall declare the quantum of ineligible input tax credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and cannot be determined at the invoice level in **FORM GSTR-2**.

(4A) The details of invoices furnished by a non-resident taxable person in his return in **FORM GSTR-5** under rule 63 shall be made available to the recipient of credit in **Part A** of **FORM GSTR 2A** electronically through the common portal and the said recipient may include the same in **FORM GSTR-2**.

(5) The details of invoices furnished by an Input Service Distributor in his return in **FORM GSTR-6** under rule 65 shall be made available to the recipient of credit in **Part B** of **FORM GSTR 2A** electronically through the common portal and the said recipient may include the same in **FORM GSTR-2**.

(6) The details of tax deducted at source furnished by the deductor under sub-section (3) of section 39 in **FORM GSTR-7** shall be made available to the deductee in **Part C** of **FORM GSTR-2A** electronically through the common portal and the said deductee may include the same in **FORM GSTR-2**.

(7) The details of tax collected at source furnished by an e-commerce operator under section 52 in **FORM GSTR-8** shall be made available to the concerned person in **Part C** of **FORM GSTR 2A** electronically through the common portal and such person may include the same in **FORM GSTR-2**.

(8) The details of inward supplies of goods or services or both furnished in **FORM GSTR-2** shall include the-

- (a) invoice wise details of all inter-State and intra-State supplies received from registered persons or unregistered persons;
- (b) import of goods and services made; and
- (c) debit and credit notes, if any, received from supplier.

**61. Form and manner of submission of monthly return.**-(1) Every registered person other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or an Input Service Distributor or a non-resident taxable person or a person paying tax under section 10 or section 51 or, as the case may be, under section 52 shall furnish a return specified under sub-section (1) of section 39 in **FORM GSTR-3** electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(2) **Part A** of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through **FORM GSTR-1**, **FORM GSTR-2** and based on other liabilities of preceding tax periods.

(3) Every registered person furnishing the return under sub-rule (1) shall, subject to the provisions of section 49, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger or electronic credit ledger and include the details in **Part B** of the return in **FORM GSTR-3**.

(4) A registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in **Part B** of the return in **FORM GSTR-3** and such return shall be deemed to be an application filed under section 54.

[(5) Where the time limit for furnishing of details in **FORM GSTR-1** under section 37 and in **FORM GSTR-2** under section 38 has been extended and the circumstances so warrant, the Commissioner may, by notification, [specify the manner and conditions subject to which the]<sup>61</sup> return shall be furnished in **FORM GSTR-3B** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(6) Where a return in **FORM GSTR-3B** has been furnished, after the due date for furnishing of details in **FORM GSTR-2**—

(a) Part A of the return in **FORM GSTR-3** shall be electronically generated on the basis of information furnished through **FORM GSTR-1**, **FORM GSTR-2** and based on other liabilities of preceding tax periods and PART B of the said return shall be electronically generated on the basis of the return in **FORM GSTR-3B** furnished in respect of the tax period;

(b) the registered person shall modify Part B of the return in **FORM GSTR-3** based on the discrepancies, if any, between the return in **FORM GSTR-3B** and the return in **FORM GSTR-3** and discharge his tax and other liabilities, if any;

(c) where the amount of input tax credit in **FORM GSTR-3** exceeds the amount of input tax credit in terms of **FORM GSTR-3B**, the additional amount shall be credited to the electronic credit ledger of the registered person.]<sup>62</sup>

**62. Form and manner of submission of quarterly return by the composition supplier.**-(1) Every registered person paying tax under section 10 shall, on the basis of details contained in FORM GSTR-4A, and where required, after adding, correcting or deleting the details, furnish the quarterly return in FORM GSTR-4 electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

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<sup>61</sup>Substituted wef 01.07.2017 for “specify that” vide Notf no. 22/2017 – CT dt 17.08.2017

<sup>62</sup>Inserted wef 01.07.2017 vide Notf no. 17/2017 – CT dt 27.07.2017

[Provided that the registered person who opts to pay tax under section 10 with effect from the first day of a month which is not the first month of a quarter shall furnish the return in **FORM GSTR-4** for that period of the quarter for which he has paid tax under section 10 and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under section 10.]<sup>63</sup>

(2) Every registered person furnishing the return under sub-rule (1) shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter by debiting the electronic cash ledger.

(3) The return furnished under sub-rule (1) shall include the-

- (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and
- (b) consolidated details of outward supplies made.

(4) A registered person who has opted to pay tax under section 10 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

*Explanation.*— For the purposes of this sub-rule, it is hereby declared that the person shall not be eligible to avail of input tax credit on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme.

(5) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish the details relating to the period prior to his opting for payment of tax under section 9 in **FORM GSTR- 4** till the due date of furnishing the return for the quarter ending September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

**63. Form and manner of submission of return by non-resident taxable person.-**

Every registered non-resident taxable person shall furnish a return in **FORM GSTR-5** electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, including therein the details of outward supplies and inward supplies and shall pay the tax, interest, penalty, fees or any other amount payable under the Act or the provisions of this Chapter within twenty days after the end of a tax period or within seven days after the last day of the validity period of registration, whichever is earlier.

**64. Form and manner of submission of return by persons providing online information and database access or retrieval services.-**Every registered person

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<sup>63</sup>Inserted vide Notf no. 45/2017 - CT dt 13.10.2017

providing online information and data base access or retrieval services from a place outside India to a person in India other than a registered person shall file return in **FORM GSTR-5A** on or before the twentieth day of the month succeeding the calendar month or part thereof.

**65. Form and manner of submission of return by an Input Service Distributor.-** Every Input Service Distributor shall, on the basis of details contained in FORM GSTR-6A, and where required, after adding, correcting or deleting the details, furnish electronically the return in FORM GSTR-6, containing the details of tax invoices on which credit has been received and those issued under section 20, through the common portal either directly or from a Facilitation Centre notified by the Commissioner.

**66. Form and manner of submission of return by a person required to deduct tax at source.**-(1) Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in FORM GSTR-7 electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.

(2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the suppliers in **Part C** of **FORM GSTR-2A** and **FORM-GSTR-4A** on the common portal after the due date of filing of **FORM GSTR-7**.

(3) The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the common portal in **FORM GSTR-7A** on the basis of the return furnished under sub-rule (1).

**67. Form and manner of submission of statement of supplies through an e-commerce operator.**-(1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.

(2) The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers in **Part C** of **FORM GSTR-2A** on the common portal after the due date of filing of **FORM GSTR-8**.

**68. Notice to non-filers of returns.**-A notice in FORM GSTR-3A shall be issued, electronically, to a registered person who fails to furnish return under section 39 or section 44 or section 45 or section 52.

**69. Matching of claim of input tax credit .**-The following details relating to the claim of input tax credit on inward supplies including imports, provisionally allowed under section 41, shall be matched under section 42 after the due date for furnishing the return in FORM GSTR-3-

- (a) Goods and Services Tax Identification Number of the supplier;
- (b) Goods and Services Tax Identification Number of the recipient;
- (c) invoice or debit note number;
- (d) invoice or debit note date; and

(e) tax amount:

Provided that where the time limit for furnishing **FORM GSTR-1** specified under section 37 and **FORM GSTR-2** specified under section 38 has been extended, the date of matching relating to claim of input tax credit shall also be extended accordingly:

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching relating to claim of input tax credit to such date as may be specified therein.

*Explanation.-* For the purposes of this rule, it is hereby declared that –

(i) The claim of input tax credit in respect of invoices and debit notes in **FORM GSTR-2** that were accepted by the recipient on the basis of **FORM GSTR-2A** without amendment shall be treated as matched if the corresponding supplier has furnished a valid return;

(ii) The claim of input tax credit shall be considered as matched where the amount of input tax credit claimed is equal to or less than the output tax paid on such tax invoice or debit note by the corresponding supplier.

**70. Final acceptance of input tax credit and communication thereof.**-(1) The final acceptance of claim of input tax credit in respect of any tax period, specified in sub-section (2) of section 42, shall be made available electronically to the registered person making such claim in FORM GST MIS-1 through the common portal.

(2) The claim of input tax credit in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in **FORM GST MIS-1** through the common portal.

**71. Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit.**-(1) Any discrepancy in the claim of input tax credit in respect of any tax period, specified in sub-section (3) of section 42 and the details of output tax liable to be added under sub-section (5) of the said section on account of continuation of such discrepancy, shall be made available to the recipient making such claim electronically in FORM GST MIS-1 and to the supplier electronically in FORM GST MIS-2 through the common portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return to be furnished in **FORM GSTR-3** for the month succeeding the month in which the discrepancy is made available.

*Explanation.*- For the purposes of this rule, it is hereby declared that -

- (i) Rectification by a supplier means adding or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient;
- (ii) Rectification by the recipient means deleting or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

**72. Claim of input tax credit on the same invoice more than once.**-Duplication of claims of input tax credit in the details of inward supplies shall be communicated to the registered person in FORM GST MIS-1electronically through the common portal.

**73. Matching of claim of reduction in the output tax liability .**-The following details relating to the claim of reduction in output tax liability shall be matched under section 43 after the due date for furnishing the return in FORM GSTR-3, namely:-

- (a) Goods and Services Tax Identification Number of the supplier;
- (b) Goods and Services Tax Identification Number of the recipient;
- (c) credit note number;
- (d) credit note date; and
- (e) tax amount:

Provided that where the time limit for furnishing **FORM GSTR-1** under section 37and **FORM GSTR-2** under section 38 has been extended, the date of matching of claim of reduction in the output tax liability shall be extended accordingly:

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching relating to claim of reduction in output tax liability to such date as may be specified therein.

*Explanation.*- For the purposes of this rule, it is hereby declared that –

- (i) the claim of reduction in output tax liability due to issuance of credit notes in **FORM GSTR-1** that were accepted by the corresponding recipient in **FORM GSTR-2** without amendment shall be treated as matched if the said recipient has furnished a valid return.
- (ii) the claim of reduction in the output tax liability shall be considered as matched where the amount of output tax liability after taking into account the reduction claimed is equal to or more than the claim of input tax credit after taking into account the reduction admitted and discharged on such credit note by the corresponding recipient in his valid return.

**74. Final acceptance of reduction in output tax liability and communication thereof.**-

- (1) The final acceptance of claim of reduction in output tax liability in respect of any tax period, specified in sub-section (2) of section 43, shall be made available

electronically to the person making such claim in **FORM GST MIS-1** through the common portal.

(2) The claim of reduction in output tax liability in respect of any tax period which had been communicated as mis-matched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in **FORM GST MIS-1** through the common portal.

**75. Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction.**-(1) Any discrepancy in claim of reduction in output tax liability, specified in sub-section (3) of section 43, and the details of output tax liability to be added under sub-section (5) of the said section on account of continuation of such discrepancy, shall be made available to the registered person making such claim electronically in FORM GST MIS- 1 and the recipient electronically in FORM GST MIS-2 through the common portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier and debited to the electronic liability register and also shown in his return in **FORM GSTR-3** for the month succeeding the month in which the discrepancy is made available.

*Explanation.*- For the purposes of this rule, it is hereby declared that –

(i) rectification by a supplier means deleting or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient;

(ii)rectification by the recipient means adding or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

**76. Claim of reduction in output tax liability more than once.**-The duplication of claims for reduction in output tax liability in the details of outward supplies shall be communicated to the registered person in FORM GST MIS-1 electronically through the common portal.

**77. Refund of interest paid on reclaim of reversals.**-The interest to be refunded under sub-section (9) of section 42 or sub-section (9) of section 43 shall be claimed by the registered person in his return in FORM GSTR-3 and shall be credited to his electronic cash ledger in FORM GST PMT-05 and the amount credited shall be available for payment of any future liability towards interest or the taxable person may claim refund of the amount under section 54.

**78. Matching of details furnished by the e-Commerce operator with the details furnished by the supplier.**-The following details relating to the supplies made through an e-Commerce operator, as declared in FORM GSTR-8, shall be matched with the corresponding details declared by the supplier in FORM GSTR-1,

- (a) State of place of supply; and
- (b) net taxable value:

Provided that where the time limit for furnishing **FORM GSTR-1** under section 37 has been extended, the date of matching of the above mentioned details shall be extended accordingly.

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching to such date as may be specified therein.

**79. Communication and rectification of discrepancy in details furnished by the e-commerce operator and the supplier.**-(1) Any discrepancy in the details furnished by the operator and those declared by the supplier shall be made available to the supplier electronically in FORM GST MIS-3 and to the e-commerce operator electronically in FORM GST MIS-4 on the common portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) An operator to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier in his return in **FORM GSTR-3** for the month succeeding the month in which the details of discrepancy are made available and such addition to the output tax liability and interest payable thereon shall be made available to the supplier electronically on the common portal in **FORM GST MIS-3**.

**80. Annual return.**-(1) Every registered person [other than those referred to in the proviso to sub-section (5) of section 35]<sup>64</sup>, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9 through the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that a person paying tax under section 10 shall furnish the annual return in **FORM GSTR-9A**.

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<sup>64</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

(2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in **FORM GSTR -9B**.

(3) Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C**, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

**81. Final return.**-Every registered person required to furnish a final return under section 45, shall furnish such return electronically in FORM GSTR-10 through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

**82. Details of inward supplies of persons having Unique Identity Number.**-(1) Every person who has been issued a Unique Identity Number and claims refund of the taxes paid on his inward supplies, shall furnish the details of such supplies of taxable goods or services or both electronically in FORM GSTR-11, along with application for such refund claim, through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(2) Every person who has been issued a Unique Identity Number for purposes other than refund of the taxes paid shall furnish the details of inward supplies of taxable goods or services or both as may be required by the proper officer in **FORM GSTR-11**.

**83. Provisions relating to a goods and services tax practitioner.**-(1) An application in FORM GST PCT-01 may be made electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner for enrolment as goods and services tax practitioner by any person who,

- (i) is a citizen of India;
- (ii) is a person of sound mind;
- (iii) is not adjudicated as insolvent;
- (iv) has not been convicted by a competent court;

and satisfies any of the following conditions, namely:-

- (a) that he is a retired officer of the Commercial Tax Department of any State Government or of the [Central Board of Indirect Taxes]<sup>65</sup> and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower than the rank of a Group-B gazetted officer for a period of not less than two years; or
- (b) that he has enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years;

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<sup>65</sup> Substituted for "Central Board of Excise" vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

(c) he has passed,

(i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or

(ii) a degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in sub-clause (i); or

(iii) any other examination notified by the Government, on the recommendation of the Council, for this purpose; or

(iv) has passed any of the following examinations, namely:-

(a) final examination of the Institute of Chartered Accountants of India; or

(b) final examination of the Institute of Cost Accountants of India; or

(c) final examination of the Institute of Company Secretaries of India.

(2) On receipt of the application referred to in sub-rule (1), the officer authorised in this behalf shall, after making such enquiry as he considers necessary, either enrol the applicant as a goods and services tax practitioner and issue a certificate to that effect in **FORM GST PCT-02** or reject his application where it is found that the applicant is not qualified to be enrolled as a goods and services tax practitioner.

(3) The enrolment made under sub-rule (2) shall be valid until it is cancelled:

Provided that no person enrolled as a goods and services tax practitioner shall be eligible to remain enrolled unless he passes such examination conducted at such periods and by such authority as may be notified by the Commissioner on the recommendations of the Council:

Provided further that no person to whom the provisions of clause (b) of sub-rule (1) apply shall be eligible to remain enrolled unless he passes the said examination within a period of [thirty months]<sup>66</sup> from the appointed date.

(4) If any goods and services tax practitioner is found guilty of misconduct in connection with any proceedings under the Act, the authorised officer may, after giving him a notice to show cause in **FORM GST PCT-03** for such misconduct and after giving him a reasonable opportunity of being heard, by order in **FORM GST PCT -04** direct that he shall henceforth be disqualified under section 48 to function as a goods and services tax practitioner.

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<sup>66</sup> Substituted for the word "eighteen months" vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

(5) Any person against whom an order under sub-rule (4) is made may, within thirty days from the date of issue of such order, appeal to the Commissioner against such order.

(6) Any registered person may, at his option, authorise a goods and services tax practitioner on the common portal in **FORM GST PCT-05** or, at any time, withdraw such authorisation in **FORM GST PCT-05** and the goods and services tax practitioners authorised shall be allowed to undertake such tasks as indicated in the said authorisation during the period of authorisation.

(7) Where a statement required to be furnished by a registered person has been furnished by the goods and services tax practitioner authorised by him, a confirmation shall be sought from the registered person over email or SMS and the statement furnished by the goods and services tax practitioner shall be made available to the registered person on the common portal:

Provided that where the registered person fails to respond to the request for confirmation till the last date of furnishing of such statement, it shall be deemed that he has confirmed the statement furnished by the goods and services tax practitioner.

[(8) A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to-

- (a) furnish the details of outward and inward supplies;
- (b) furnish monthly, quarterly, annual or final return;
- (c) make deposit for credit into the electronic cash ledger;
- (d) file a claim for refund;
- (e) file an application for amendment or cancellation of registration;
- (f) furnish information for generation of e-way bill;
- (g) furnish details of challan in **FORM GST ITC-04**;
- (h) file an application for amendment or cancellation of enrolment under rule 58; and
- (i) file an intimation to pay tax under the composition scheme or withdraw from the said scheme:

Provided that where any application relating to a claim for refund or an application for amendment or cancellation of registration or where an intimation to pay tax under composition scheme or to withdraw from such scheme has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and such application shall not be further proceeded with until the registered person gives his consent to the same.]<sup>67</sup>

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<sup>67</sup> Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019 for "A goods and services tax practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorised by him to-

- (a) furnish the details of outward and inward supplies;
- (b) furnish monthly, quarterly, annual or final return;

(9) Any registered person opting to furnish his return through a goods and services tax practitioner shall-

- (a) give his consent in **FORM GST PCT-05** to any goods and services tax practitioner to prepare and furnish his return; and
- (b) before confirming submission of any statement prepared by the goods and services tax practitioner, ensure that the facts mentioned in the return are true and correct.

(10) The goods and services tax practitioner shall-

- (a) prepare the statements with due diligence; and
- (b) affix his digital signature on the statements prepared by him or electronically verify using his credentials.

(11) A goods and services tax practitioner enrolled in any other State or Union territory shall be treated as enrolled in the State or Union territory for the purposes specified in sub-rule (8).

**[83A. Examination of Goods and Services Tax Practitioners.-** (1) Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule, shall pass an examination as per sub-rule (3) of the said rule.

(2) The National Academy of Customs, Indirect Taxes and Narcotics (hereinafter referred to as “NACIN”) shall conduct the examination.

(3) **Frequency of examination.-** The examination shall be conducted twice in a year as per the schedule of the examination published by NACIN every year on the official websites of the Board, NACIN, common portal, GST Council Secretariat and in the leading English and regional newspapers .

(4) **Registration for the examination and payment of fee.-** (i) A person who is required to pass the examination shall register online on a website specified by NACIN.

(ii) A person who registers for the examination shall pay examination fee as specified by NACIN, and the amount for the same and the manner of its payment shall be specified by NACIN on the official websites of the Board, NACIN and common portal.

(5) **Examination centers.-** The examination shall be held across India at the designated centers. The candidate shall be given an option to choose from the list of centers as provided by NACIN at the time of registration.

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- (c) make deposit for credit into the electronic cash ledger;
  - (d) file a claim for refund; and
  - (e) file an application for amendment or cancellation of registration:

Provided that where any application relating to a claim for refund or an application for amendment or cancellation of registration has been submitted by the goods and services tax practitioner authorised by the registered person, a confirmation shall be sought from the registered person and the application submitted by the said practitioner shall be made available to the registered person on the common portal and such application shall not be proceeded with further until the registered person gives his consent to the same.”

**(6) Period for passing the examination and number of attempts allowed.**- (i) A person enrolled as a goods and services tax practitioner in terms of sub-rule (2) of rule 83 is required to pass the examination within two years of enrolment:

Provided that if a person is enrolled as a goods and services tax practitioner before 1<sup>st</sup> of July 2018, he shall get one more year to pass the examination:

Provided further that for a goods and services tax practitioner to whom the provisions of clause (b) of sub-rule (1) of rule 83 apply, the period to pass the examination will be as specified in the second proviso of sub-rule (3) of said rule.

(ii) A person required to pass the examination may avail of any number of attempts but these attempts shall be within the period as specified in clause (i).

(iii) A person shall register and pay the requisite fee every time he intends to appear at the examination.

(iv) In case the goods and services tax practitioner having applied for appearing in the examination is prevented from availing one or more attempts due to unforeseen circumstances such as critical illness, accident or natural calamity, he may make a request in writing to the jurisdictional Commissioner for granting him one additional attempt to pass the examination, within thirty days of conduct of the said examination. NACIN may consider such requests on merits based on recommendations of the jurisdictional Commissioner.

**(7) Nature of examination.**-The examination shall be a Computer Based Test. It shall have one question paper consisting of Multiple Choice Questions. The pattern and syllabus are specified in Annexure-A.

**(8) Qualifying marks.**- A person shall be required to secure fifty per cent. of the total marks.

**(9) Guidelines for the candidates.**- (i) NACIN shall issue examination guidelines covering issues such as procedure of registration, payment of fee, nature of identity documents, provision of admit card, manner of reporting at the examination center, prohibition on possession of certain items in the examination center, procedure of making representation and the manner of its disposal.

(ii) Any person who is or has been found to be indulging in unfair means or practices shall be dealt in accordance with the provisions of sub-rule (10). An illustrative list of use of unfair means or practices by a person is as under: -

- (a) obtaining support for his candidature by any means;
- (b) impersonating;
- (c) submitting fabricated documents;
- (d) resorting to any unfair means or practices in connection with the examination or in connection with the result of the examination;

- (e) found in possession of any paper, book, note or any other material, the use of which is not permitted in the examination center;
- (f) communicating with others or exchanging calculators, chits, papers etc. (on which something is written);
- (g) misbehaving in the examination center in any manner;
- (h) tampering with the hardware and/or software deployed; and
- (i) attempting to commit or, as the case may be, to abet in the commission of all or any of the acts specified in the foregoing clauses.

(10) **Disqualification of person using unfair means or practice.**- If any person is or has been found to be indulging in use of unfair means or practices, NACIN may, after considering his representation, if any, declare him disqualified for the examination.

(11) **Declaration of result.**- NACIN shall declare the results within one month of the conduct of examination on the official websites of the Board, NACIN, GST Council Secretariat, common portal and State Tax Department of the respective States or Union territories, if any. The results shall also be communicated to the applicants by e-mail and/or by post.

(12) **Handling representations.**- A person not satisfied with his result may represent in writing, clearly specifying the reasons therein to NACIN or the jurisdictional Commissioner as per the procedure established by NACIN on the official websites of the Board, NACIN and common portal.

(13) **Power to relax.**- Where the Board or State Tax Commissioner is of the opinion that it is necessary or expedient to do so, it may, on the recommendations of the Council, relax any of the provisions of this rule with respect to any class or category of persons.

**Explanation :-** For the purposes of this sub-rule, the expressions –

- (a) “jurisdictional Commissioner” means the Commissioner having jurisdiction over the place declared as address in the application for enrolment as the GST Practitioner in **FORM GST PCT-1**. It shall refer to the Commissioner of Central Tax if the enrolling authority in **FORM GST PCT-1** has been selected as Centre, or the Commissioner of State Tax if the enrolling authority in **FORM GST PCT-1** has been selected as State;
- (b) NACIN means as notified by notification No. 24/2018-Central Tax, dated 28.05.2018.

**Annexure-A**  
**[See sub-rule 7]**  
**Pattern and Syllabus of the Examination**

<b>PAPER: GST Law &amp; Procedures:</b>
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Time allowed:	2 hours and 30 minutes
Number of Multiple Choice Questions:	100
Language of Questions:	English and Hindi
Maximum marks:	200
Qualifying marks:	100
No negative marking	

<b>Syllabus:</b>	
1	The Central Goods and Services Tax Act, 2017
2	The Integrated Goods and Services Tax Act, 2017
3	All The State Goods and Services Tax Acts, 2017
4	The Union territory Goods and Services Tax Act, 2017
5	The Goods and Services Tax (Compensation to States) Act, 2017
6	The Central Goods and Services Tax Rules, 2017
7	The Integrated Goods and Services Tax Rules, 2017
8	All The State Goods and Services Tax Rules, 2017
9	Notifications, Circulars and orders issued from time to time under the said Acts and Rules.

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**84. Conditions for purposes of appearance.**-(1)No person shall be eligible to attend before any authority as a goods and services tax practitioner in connection with any proceedings under the Act on behalf of any registered or un-registered person unless he has been enrolled under rule 83.

(2) A goods and services tax practitioner attending on behalf of a registered or an un-registered person in any proceedings under the Act before any authority shall produce before such authority, if required, a copy of the authorisation given by such person in **FORM GST PCT-05**.

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<sup>68</sup> Inserted *vide* Notf no. 60/2018 – CT dt. 30.10.2018

## CHAPTER IX

### PAYMENT OF TAX

**85. Electronic Liability Register.**-(1) The electronic liability register specified under sub-section (7) of section 49 shall be maintained in **FORM GST PMT-01** for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.

(2) The electronic liability register of the person shall be debited by-

(a) the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;

(b) the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;

(c) the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or

(d) any amount of interest that may accrue from time to time.

(3) Subject to the provisions of section 49, [section 49A and section 49B]<sup>69</sup>, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 86 or the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.

(4) The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.

(5) Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.

(6) The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.

(7) A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

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<sup>69</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

**86. Electronic Credit Ledger.**-(1) The electronic credit ledger shall be maintained in **FORM GST PMT-02** for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.

(2) The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with the provisions of section 49 [or section 49A or section 49B]<sup>70</sup>.

(3) Where a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be debited in the said ledger.

(4) If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.

(5) Save as provided in the provisions of this Chapter, no entry shall be made directly in the electronic credit ledger under any circumstance.

(6) A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

*Explanation.*– For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

**87. Electronic Cash Ledger.**-(1) The electronic cash ledger under sub-section (1) of section 49 shall be maintained in **FORM GST PMT-05** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

(2) Any person, or a person on his behalf, shall generate a challan in **FORM GST PMT-06** on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount:

[Provided that the challan in **FORM GST PMT-06** generated at the common portal shall be valid for a period of fifteen days.

Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also

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<sup>70</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

do so through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax from the date to be notified by the Board.]<sup>71</sup>

(3) The deposit under sub-rule (2) shall be made through any of the following modes, namely:-

- (i) Internet Banking through authorised banks;
- (ii) Credit card or Debit card through the authorised bank;
- (iii) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or
- (iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment shall not apply to deposit to be made by –

- (a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
- (b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any *ad hoc* deposit:

[Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also make the deposit under sub-rule (2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network, from the date to be notified by the Board.]<sup>72</sup>

*Explanation.*– For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.

(4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.

(5) Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, the mandate form shall be generated

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<sup>71</sup>Inserted vide Notf no. 22/2017 – CT dt 17.08.2017

<sup>72</sup>Inserted vide Notf no. 22/2017-CT dt 17.08.2017

along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made:

Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.

(6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.

(7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.

(8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in **FORM GST PMT-07** through the common portal to the bank or electronic gateway through which the deposit was initiated.

(9) Any amount deducted under section 51 or collected under section 52 and claimed in **FORM GSTR-02** by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger in accordance with the provisions of rule 87.

(10) Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.

(11) If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in **FORM GST PMT-03**.

(12) A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in **FORM GST PMT-04**.

*Explanation 1.-* The refund shall be deemed to be rejected if the appeal is finally rejected.

*Explanation 2.-* For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

**88. Identification number for each transaction.-**(1) A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.

(2) The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.

(3) A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).

## CHAPTER X

### REFUND

**89. Application for refund of tax, interest, penalty, fees or any other amount.-(1)** Any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application electronically in **FORM GST RFD-01** through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 may be made through the return furnished for the relevant tax period in **FORM GSTR-3** or **FORM GSTR-4** or **FORM GSTR-7**, as the case may be:

Provided further that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the –

- (a) supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;
- (b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:

[Provided also that in respect of supplies regarded as deemed exports, the application may be filed by, -

- (a) the recipient of deemed export supplies; or
- (b) the supplier of deemed export supplies in cases where the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund]<sup>73</sup>

Provided also that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed in the last return required to be furnished by him.

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in **Form GST RFD-01**, as applicable, to establish that a refund is due to the applicant, namely:-

- (a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in sub-section (6) of section 107 and sub-section (8) of section 112 claimed as refund;

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<sup>73</sup> Substituted vide Notf no. 47/2017-CT dt. 18.10.2017 for “Provided also that in respect of supplies regarded as deemed exports, the application shall be filed by the recipient of deemed export supplies”

- (b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods;
- (c) a statement containing the number and date of invoices and the relevant Bank Realisation Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of the export of services;
- (d) a statement containing the number and date of invoices as provided in rule 46 along with the evidence regarding the endorsement specified in the second proviso to sub-rule (1) in the case of the supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;
- (e) a statement containing the number and date of invoices, the evidence regarding the endorsement specified in the second proviso to sub-rule (1) and the details of payment, along with the proof thereof, made by the recipient to the supplier for authorised operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;
- [(f) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer;]<sup>74</sup>
- (g) a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports;
- (h) a statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;
- (i) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of the finalisation of provisional assessment;
- (j) a statement showing the details of transactions considered as intra-State supply but which is subsequently held to be inter-State supply;
- (k) a statement showing the details of the amount of claim on account of excess payment of tax;

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<sup>74</sup> Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019 for “a declaration to the effect that the Special Economic Zone unit or the Special Economic Zone developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a Special Economic Zone unit or a Special Economic Zone developer”

(l) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:

Provided that a declaration is not required to be furnished in respect of the cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;

(m) a Certificate in Annexure 2 of **FORM GST RFD-01** issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:

Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) or clause (f) of sub-section (8) of section 54;

*Explanation.*– For the purposes of this rule-

(i) in case of refunds referred to in clause (c) of sub-section (8) of section 54, the expression “invoice” means invoice conforming to the provisions contained in section 31;

(ii) where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

(3) Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed.

[(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula –

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

(A) "Refund amount" means the maximum refund that is admissible;

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

[(E) “Adjusted Total Turnover” means the sum total of the value of-

- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
  - (i) the value of exempt supplies other than zero-rated supplies; and
  - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,during the relevant period.]<sup>75</sup>

(F) “Relevant period” means the period for which the claim has been filed.

[(4A) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1305 (E) dated the 18<sup>th</sup> October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

[(4B) Where the person claiming refund of unutilised input tax credit on account of zero rated supplies without payment of tax has –

- (a) received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1321(E), dated the 23<sup>rd</sup> October, 2017; or
- (b) availed the benefit of notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of

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<sup>75</sup> Substituted *vide* Notf no. 39/2018-CT dt. 04.09.2018 for:

“(E) “Adjusted Total turnover” means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding –

(a) the value of exempt supplies other than zero-rated supplies and

(b) the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period; “

India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E), dated the 13<sup>th</sup> October, 2017, the refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.]<sup>76]</sup><sup>77]</sup><sup>78]</sup>

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<sup>76</sup> Substituted vide Notf no. 54/2018-CT dt. 09.10.2018 for "(4B) In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate) dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E) dated the 23<sup>rd</sup> October, 2017 or notification No. 78/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299(E) dated the 13<sup>th</sup> October, 2017, or all of them, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted."

<sup>77</sup> Substituted vide Notf no. 03/2018- CT dt. 23.01.2018 w.e.f 23.10.201. Till then it read as: "(4A) In the case of supplies received on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18<sup>th</sup> October, 2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted."

(4B) In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017-Central Tax (Rate) dated 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23<sup>rd</sup> October, 2017, or both, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted."

<sup>78</sup> Substituted wef 23.10.2017 vide Notf no. 75/2017-CT dt 29.12.2017 for – "(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula -

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where,-

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the

[(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services.

*Explanation:-* For the purposes of this sub-rule, the expressions –

(a) “Net ITC” shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

[“Adjusted Total turnover” and “relevant period” shall have the same meaning as assigned to them in sub-rule (4).]<sup>79]</sup><sup>80</sup>

**90. Acknowledgement.-** (1) Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in **FORM GST RFD-02** shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(2) The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 89, an acknowledgement in **FORM GST RFD-02** shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing

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relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;

(F) “Relevant period” means the period for which the claim has been filed.”

<sup>79</sup> Substituted vide Notf no. 74/2018-CT dt.31.12.2018 for “(b) “Adjusted Total turnover” shall have the same meaning as assigned to it in sub-rule (4).”

<sup>80</sup> Amendment made effective with effect from 01.07.2017 vide Notf no. 26/2018-CT dt. 13.06.2017 Substituted vide Notf no. 21/2018-CT dt. 18.04.2018 for “(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula -  
Maximum Refund Amount = {(Turnover of inverted rated supply of goods) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods

*Explanation.-* For the purposes of this sub rule, the expressions “Net ITC” and “Adjusted Total turnover” shall have the same meanings as assigned to them in sub-rule (4).”

of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(3) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in **FORM GST RFD-03** through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.

(4) Where deficiencies have been communicated in **FORM GST RFD-03** under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3).

**91. Grant of provisional refund.**-(1) The provisional refund in accordance with the provisions of sub-section (6) of section 54 shall be granted subject to the condition that the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being *prima facie* satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in **FORM GST RFD-04**, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90:

[Provided that the order issued in **FORM GST RFD-04** shall not be required to be revalidated by the proper officer.]<sup>81</sup>

(3) The proper officer shall issue a payment advice in **FORM GST RFD-05** for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund:

[Provided that the payment advice in **FORM GST RFD-05** shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.]<sup>82</sup>

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<sup>81</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>82</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

**92. Order sanctioning refund.**-(1)Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in **FORM GST RFD-06** sanctioning the amount of refund to which the applicant is entitled, mentioning therein the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54, amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable:

Provided that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any existing law, an order giving details of the adjustment shall be issued in Part A of **FORM GST RFD-07**.

(2) Where the proper officer or the Commissioner is of the opinion that the amount of refund is liable to be withheld under the provisions of sub-section (10) or, as the case may be, sub-section (11) of section 54, he shall pass an order in Part B of **FORM GST RFD-07** informing him the reasons for withholding of such refund.

(3) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in **FORM GST RFD-08** to the applicant, requiring him to furnish a reply in **FORM GST RFD-09** within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in **FORM GST RFD-06** sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, *mutatis mutandis*, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.

(4) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) is payable to the applicant under sub-section (8) of section 54, he shall make an order in **FORM GST RFD-06** and issue a payment advice in **FORM GST RFD-05** for the amount of refund and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund:

[Provided that the order issued in **FORM GST RFD-06** shall not be required to be revalidated by the proper officer:

Provided further that the payment advice in **FORM GST RFD-05** shall be required to be revalidated where the refund has not been disbursed within the same financial year in which the said payment advice was issued.]<sup>83</sup>

(5) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or sub-rule (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in **FORM GST RFD-06** and issue an advice in **FORM GST RFD-05**, for the amount of refund to be credited to the Consumer Welfare Fund.

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<sup>83</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

**93. Credit of the amount of rejected refund claim.**-(1)Where any deficiencies have been communicated under sub-rule (3) of rule 90, the amount debited under sub-rule (3) of rule 89 shall be re-credited to the electronic credit ledger.

(2) Where any amount claimed as refund is rejected under rule 92, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**.

*Explanation.*– For the purposes of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

**94. Order sanctioning interest on delayed refunds.**-Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment advice in **FORM GST RFD-05**, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

**95. Refund of tax to certain persons.**-(1) Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued section 55 shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the common portal [or otherwise]<sup>84</sup>, either directly or through a Facilitation Centre notified by the Commissioner, along with a statement of the inward supplies of goods or services or both in **FORM GSTR-11**. [~~prepared on the basis of the statement of the outward supplies furnished by the corresponding suppliers in **FORM GSTR-1**.]~~<sup>85</sup>

(2) An acknowledgement for the receipt of the application for refund shall be issued in **FORM GST RFD-02**.

(3) The refund of tax paid by the applicant shall be available if-

(a) the inward supplies of goods or services or both were received from a registered person against a tax invoice [~~and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any]~~<sup>86</sup>;

(b) name and Goods and Services Tax Identification Number or Unique Identity Number of the applicant is mentioned in the tax invoice; and

(c) such other restrictions or conditions as may be specified in the notification are satisfied.

(4) The provisions of rule 92 shall, *mutatis mutandis*, apply for the sanction and payment of refund under this rule.

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<sup>84</sup> Inserted vide Notf no. 75/2017-CT dt 29.12.2017

<sup>85</sup> Omitted vide Notf no. 75/2017-CT dt 29.12.2017

<sup>86</sup> Omitted vide Notf no. 75/2017-CT dt 29.12.2017. Amendment made effective with effect from 01.07.2017 vide Notf no. 26/2018-CT dt. 13.06.2017

(5) Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of this Chapter, such treaty or international agreement shall prevail.

**96. Refund of integrated tax paid on goods [or services]<sup>87</sup> exported out of India.-**

(1) The shipping bill filed by [an exporter of goods]<sup>88</sup> shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:-

(a) the person in charge of the conveyance carrying the export goods duly files [a departure manifest or]<sup>89</sup> an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) the applicant has furnished a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be;

(2) The details of the [relevant export invoices in respect of export of goods]<sup>90</sup> contained in **FORM GSTR-1** shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

[Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period.]<sup>91</sup>

(3) Upon the receipt of the information regarding the furnishing of a valid return in **FORM GSTR-3** or **FORM GSTR-3B**, as the case may be from the common portal, [the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods]<sup>92</sup> and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

(4) The claim for refund shall be withheld where,-

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<sup>87</sup> Inserted wef 23.10.2017 vide Notf no. 75/2017-CT dt. 29.12.2017

<sup>88</sup> Substituted for the words "an exporter" w.e.f 23.10.2017 vide Notf no. 03/2018-CT dt. 23.01.2018

<sup>89</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

<sup>90</sup> Substituted for the words " relevant export invoices" w.e.f.23.10.2017 vide Notf no. 03/2018-CT dt. 23.01.2018

<sup>91</sup> Inserted vide Notf no. 51/2017 – CT dt. 28.10.2017

<sup>92</sup> Substituted for the words "the system designated by the Customs shall process the claim for refund" w.e.f 23.10.2017 vide Notf no.03/2018-CT dt. 23.01.2018

(a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

(5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

(6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in **Part B of FORM GST RFD-07**.

(7) Where the applicant becomes entitled to refund of the amount withheld under clause (a) of sub-rule (4), the concerned jurisdictional officer of central tax, State tax or Union territory tax, as the case may be, shall proceed to refund the amount after passing an order in **FORM GST RFD-06**.

(8) The Central Government may pay refund of the integrated tax to the Government of Bhutan on the exports to Bhutan for such class of goods as may be notified in this behalf and where such refund is paid to the Government of Bhutan, the exporter shall not be paid any refund of the integrated tax.

[[ (9) The application for refund of integrated tax paid on the services exported out of India shall be filed in **FORM GST RFD-01** and shall be dealt with in accordance with the provisions of rule 89]<sup>93</sup>

[[[(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have -

(a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or

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<sup>93</sup>Inserted wef 23.10.2017 vide Notf no. 75/2017-CT dt. 29.12.2017

(b) availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.]<sup>94]</sup><sup>95]</sup><sup>96]</sup>

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<sup>94</sup> Substituted vide Notf no. 54/2018-CT dt. 09.10.2018 for: “(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13<sup>th</sup> October, 2017.”

<sup>95</sup> Substituted w.e.f 23.10.2017 Notf no. 53/2018-CT dt. 09.10.2018 for: “(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have -

- (a) received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate), dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23<sup>rd</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23<sup>rd</sup> October, 2017 has been availed; or
- (b) availed the benefit under notification No. 78/2017-Customs, dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13<sup>th</sup> October, 2017 or notification No. 79/2017-Customs, dated the 13<sup>th</sup> October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13<sup>th</sup> October, 2017.”

<sup>96</sup> Substituted w.e.f 23.10.2017, vide Notf no. 39/2018-CT dt. 04.09.2018 for:

“(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18th October, 2017 or notification No. 40/2017-Central Tax (Rate) 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E) dated the 23rd October,

**96A. [Export]<sup>97</sup> of goods or services under bond or Letter of Undertaking.-** (1) Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in **FORM GST RFD-11** to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of —

- (a) fifteen days after the expiry of three months<sup>[98]</sup>, or such further period as may be allowed by the Commissioner,] from the date of issue of the invoice for export, if the goods are not exported out of India; or
- (b) fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange [or in Indian rupees, wherever permitted by the Reserve Bank of India]<sup>99</sup>.

(2) The details of the export invoices contained in **FORM GSTR-1** furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

[Provided that where the date for furnishing the details of outward supplies in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period.]<sup>100</sup>

(3) Where the goods are not exported within the time specified in sub-rule (1) and the registered person fails to pay the amount mentioned in the said sub-rule, the export

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2017 or notification No. 78/2017-Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13th October, 2017 or notification No. 79/2017-Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13th October, 2017.”

The above text was substituted w.e.f 23.10.2017 vide Notf no. 03/2018- CT dt. 23.01.2018. Till then it read as:  
(9) The persons claiming refund of integrated tax paid on export of goods or services should not have received supplies on which the supplier has availed the benefit of notification No. 48/2017-Central Tax dated 18<sup>th</sup> October, 2017 or notification No. 40/2017-Central Tax (Rate) dated 23<sup>rd</sup> October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23<sup>rd</sup> October, 2017.

<sup>97</sup> Substituted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019 for “Refund of integrated tax paid on export”

<sup>98</sup> Inserted vide Notf no. 47/2017-CT dt. 18.10.2017

<sup>99</sup> Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

<sup>100</sup> Inserted vide Notf no. 51/2017-CT dt. 28.10.2017

as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79.

(4) The export as allowed under bond or Letter of Undertaking withdrawn in terms of sub-rule (3) shall be restored immediately when the registered person pays the amount due.

(5) The Board, by way of notification, may specify the conditions and safeguards under which a Letter of Undertaking may be furnished in place of a bond.

(6) The provisions of sub rule (1) shall apply, *mutatis mutandis*, in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.”;

**[97. Consumer Welfare Fund.-**(1) All amounts of duty/central tax/ integrated tax /Union territory tax/cess and income from investment along with other monies specified in sub-section (2) of section 12C of the Central Excise Act, 1944 (1 of 1944), section 57 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017) and section 12 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017) shall be credited to the Fund:

Provided that an amount equivalent to fifty per cent. of the amount of integrated tax determined under sub-section (5) of section 54 of the Central Goods and Services Tax Act, 2017, read with section 20 of the Integrated Goods and Services Tax Act, 2017, shall be deposited in the Fund:

[Provided further that an amount equivalent to fifty per cent. of the amount of cess determined under sub-section (5) of section 54 read with section 11 of the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017), shall be deposited in the Fund.]<sup>101</sup>

(2) Where any amount, having been credited to the Fund, is ordered or directed to be paid to any claimant by the proper officer, appellate authority or court, the same shall be paid from the Fund.

(3) Accounts of the Fund maintained by the Central Government shall be subject to audit by the Comptroller and Auditor General of India.

(4) The Government shall, by an order, constitute a Standing Committee (hereinafter referred to as the ‘Committee’) with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Fund for welfare of the consumers.

(5) (a) The Committee shall meet as and when necessary, generally four times in a year;

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<sup>101</sup> Inserted vide Notf no. 26/2018-CT dt. 13.06.2018

- (b) the Committee shall meet at such time and place as the Chairman, or in his absence, the Vice-Chairman of the Committee may deem fit;
  - (c) the meeting of the Committee shall be presided over by the Chairman, or in his absence, by the Vice-Chairman;
  - (d) the meeting of the Committee shall be called, after giving at least ten days' notice in writing to every member;
  - (e) the notice of the meeting of the Committee shall specify the place, date and hour of the meeting and shall contain statement of business to be transacted thereat;
  - (f) no proceeding of the Committee shall be valid, unless it is presided over by the Chairman or Vice-Chairman and attended by a minimum of three other members.
- (6) The Committee shall have powers -
- (a) to require any applicant to get registered with any authority as the Central Government may specify;
  - (b) to require any applicant to produce before it, or before a duly authorised officer of the Central Government or the State Government, as the case may be, such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;
  - (c) to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or the State Government, as the case may be;
  - (d) to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;
  - (e) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum along with accrued interest, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;
  - (f) to recover any sum due from any applicant in accordance with the provisions of the Act;
  - (g) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
  - (h) to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
  - (i) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of the nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
  - (j) to identify beneficial and safe sectors, where investments out of Fund may be made, and make recommendations, accordingly;
  - (k) to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
  - (l) to make guidelines for the management, and administration of the Fund.

(7) The Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member Secretary.

(8) The Committee shall make recommendations:-

- (a) for making available grants to any applicant;
- (b) for investment of the money available in the Fund;
- (c) for making available grants (on selective basis) for reimbursing legal expenses incurred by a complainant, or class of complainants in a consumer dispute, after its final adjudication;
- (d) for making available grants for any other purpose recommended by the Central Consumer Protection Council (as may be considered appropriate by the Committee);
- (e) for making available up to 50% of the funds credited to the Fund each year, for publicity/ consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty five crore rupees per annum.

*Explanation.-* For the purposes of this rule,

- (a) 'Act' means the Central Goods and Services Tax Act, 2017 (12 of 2017), or the Central Excise Act, 1944 (1 of 1944) as the case may be;
- (b) 'applicant' means,
  - (i) the Central Government or State Government;
  - (ii) regulatory authorities or autonomous bodies constituted under an Act of Parliament or the Legislature of a State or Union Territory;
  - (iii) any agency or organization engaged in consumer welfare activities for a minimum period of three years, registered under the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force;
  - (iv) village or mandal or samiti or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes;
  - (v) an educational or research institution incorporated by an Act of Parliament or the Legislature of a State or Union Territory in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under section 3 of the University Grants Commission Act, 1956 (3 of 1956) and which has consumers studies as part of its curriculum for a minimum period of three years; and
  - (vi) a complainant as defined under clause (b) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986), who applies for reimbursement of legal expenses incurred by him in a case instituted by him in a consumer dispute redressal agency.
- (c) 'application' means an application in the form as specified by the Standing Committee from time to time;
- (d) 'Central Consumer Protection Council' means the Central Consumer Protection Council, established under sub-section (1) of section 4 of the Consumer Protection Act, 1986 (68 of 1986), for promotion and protection of rights of consumers;

- (e) 'Committee' means the Committee constituted under sub-rule (4);
- (f) 'consumer' has the same meaning as assigned to it in clause (d) of sub-section (1) of section 2 of the Consumer Protection Act, 1986 (68 of 1986), and includes consumer of goods on which central tax has been paid;
- (g) 'duty' means the duty paid under the Central Excise Act, 1944 (1 of 1944) or the Customs Act, 1962 (52 of 1962);
- (h) 'Fund' means the Consumer Welfare Fund established by the Central Government under sub-section (1) of section 12C of the Central Excise Act, 1944 (1 of 1944) and section 57 of the Central Goods and Services Tax Act, 2017 (12 of 2017);
- (i) 'proper officer' means the officer having the power under the Act to make an order that the whole or any part of the central tax is refundable]<sup>102</sup>

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<sup>102</sup> Substituted vide Notf no. 21/2018-CT dt. 18.04.2018 for Consumer Welfare Fund.-(1)All credits to the Consumer Welfare Fund shall be made under sub-rule (5) of rule 92.

(2) Any amount, having been credited to the Fund, ordered or directed as payable to any claimant by orders of the proper officer, appellate authority or Appellate Tribunal or court, shall be paid from the Fund.

(3) Any utilisation of amount from the Consumer Welfare Fund under sub-section (1) of section 58 shall be made by debiting the Consumer Welfare Fund account and crediting the account to which the amount is transferred for utilisation.

(4) The Government shall, by an order, constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other Members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.

(5) The Committee shall meet as and when necessary, but not less than once in three months.

(6) Any agency or organisation engaged in consumer welfare activities for a period of three years registered under the provisions of the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force, including village or mandal or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes, or any industry as defined in the Industrial Disputes Act, 1947 (14 of 1947) recommended by the Bureau of Indian Standards to be engaged for a period of five years in viable and useful research activity which has made, or is likely to make, significant contribution in formulation of standard mark of the products of mass consumption, the Central Government or the State Government may make an application for a grant from the Consumer Welfare Fund:

Provided that a consumer may make application for reimbursement of legal expenses incurred by him as a complainant in a consumer dispute, after its final adjudication.

(7)All applications for grant from the Consumer Welfare Fund shall be made by the applicant Member Secretary, but the Committee shall not consider an application, unless it has been inquired into in material details and recommended for consideration accordingly, by the Member Secretary.

(8) The Committee shall have powers -

a. to require any applicant to produce before it, or before a duly authorised Officer of the Government such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;

b. to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or, as the case may be, State Government;

c. to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;

d. to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;

e. to recover any sum due from any applicant in accordance with the provisions of the Act;

f. to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;

**[97A. Manual filing and processing.** – Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.]<sup>103</sup>

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- g. to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
  - h. to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be mis-utilised;
  - i. to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly;
  - j. to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
  - k. to make guidelines for the management, administration and audit of the Consumer Welfare Fund.
- The Central Consumer Protection Council and the Bureau of Indian Standards shall recommend to the Goods and Services Tax Council, the broad guidelines for considering the projects or proposals for the purpose of incurring expenditure from the Consumer Welfare Fund.

<sup>103</sup>Inserted vide Notf no. 55/2107-CT dt. 15.11.2017

**CHAPTER XI**  
**ASSESSMENT AND AUDIT**

**98. Provisional Assessment.**-(1) Every registered person requesting for payment of tax on a provisional basis in accordance with the provisions of sub-section (1) of section 60 shall furnish an application along with the documents in support of his request, electronically in **FORM GST ASMT-01** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(2) The proper officer may, on receipt of the application under sub-rule (1), issue a notice in **FORM GST ASMT-02** requiring the registered person to furnish additional information or documents in support of his request and the applicant shall file a reply to the notice in **FORM GST ASMT – 03**, and may appear in person before the said officer if he so desires.

(3) The proper officer shall issue an order in **FORM GST ASMT-04** allowing the payment of tax on a provisional basis indicating the value or the rate or both on the basis of which the assessment is to be allowed on a provisional basis and the amount for which the bond is to be executed and security to be furnished not exceeding twenty-five per cent. of the amount covered under the bond.

(4) The registered person shall execute a bond in accordance with the provisions of sub-section (2) of section 60 in **FORM GST ASMT-05** along with a security in the form of a bank guarantee for an amount as determined under sub-rule (3):

Provided that a bond furnished to the proper officer under the State Goods and Services Tax Act or Integrated Goods and Services Tax Act shall be deemed to be a bond furnished under the provisions of the Act and the rules made thereunder.

*Explanation.*- For the purposes of this rule, the expression “amount” shall include the amount of integrated tax, central tax, State tax or Union territory tax and cess payable in respect of the transaction.

(5) The proper officer shall issue a notice in **FORM GST ASMT-06**, calling for information and records required for finalization of assessment under sub-section (3) of section 60 and shall issue a final assessment order, specifying the amount payable by the registered person or the amount refundable, if any, in **FORM GST ASMT-07**.

(6) The applicant may file an application in **FORM GST ASMT-08** for the release of the security furnished under sub-rule (4) after issue of the order under sub-rule (5).

(7) The proper officer shall release the security furnished under sub-rule (4), after ensuring that the applicant has paid the amount specified in sub-rule (5) and issue an order in **FORM GST ASMT-09** within a period of seven working days from the date of the receipt of the application under sub-rule (6).

**99. Scrutiny of returns.-** (1) Where any return furnished by a registered person is selected for scrutiny, the proper officer shall scrutinize the same in accordance with the provisions of section 61 with reference to the information available with him, and in case of any discrepancy, he shall issue a notice to the said person in **FORM GST ASMT-10**, informing him of such discrepancy and seeking his explanation thereto within such time, not exceeding thirty days from the date of service of the notice or such further period as may be permitted by him and also, where possible, quantifying the amount of tax, interest and any other amount payable in relation to such discrepancy.

(2) The registered person may accept the discrepancy mentioned in the notice issued under sub-rule (1), and pay the tax, interest and any other amount arising from such discrepancy and inform the same or furnish an explanation for the discrepancy in **FORM GST ASMT-11** to the proper officer.

(3) Where the explanation furnished by the registered person or the information submitted under sub-rule (2) is found to be acceptable, the proper officer shall inform him accordingly in **FORM GST ASMT-12**.

**100. Assessment in certain cases.** (1) The order of assessment made under sub-section (1) of section 62 shall be issued in **FORM GST ASMT-13**.

(2) The proper officer shall issue a notice to a taxable person in accordance with the provisions of section 63 in **FORM GST ASMT-14** containing the grounds on which the assessment is proposed to be made on best judgment basis and after allowing a time of fifteen days to such person to furnish his reply, if any, pass an order in **FORM GST ASMT-15**.

(3) The order of summary assessment under sub-section (1) of section 64 shall be issued in **FORM GST ASMT-16**.

(4) The person referred to in sub-section (2) of section 64 may file an application for withdrawal of the summary assessment order in **FORM GST ASMT-17**.

(5) The order of withdrawal or, as the case may be, rejection of the application under sub-section (2) of section 64 shall be issued in **FORM GST ASMT-18**.

**101. Audit.-**(1) The period of audit to be conducted under sub-section (1) of section 65 shall be a financial year [or part thereof]<sup>104</sup> or multiples thereof.

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<sup>104</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

(2) Where it is decided to undertake the audit of a registered person in accordance with the provisions of section 65, the proper officer shall issue a notice in **FORM GST ADT-01** in accordance with the provisions of sub-section (3) of the said section.

(3) The proper officer authorised to conduct audit of the records and the books of account of the registered person shall, with the assistance of the team of officers and officials accompanying him, verify the documents on the basis of which the books of account are maintained and the returns and statements furnished under the provisions of the Act and the rules made thereunder, the correctness of the turnover, exemptions and deductions claimed, the rate of tax applied in respect of the supply of goods or services or both, the input tax credit availed and utilised, refund claimed, and other relevant issues and record the observations in his audit notes.

(4) The proper officer may inform the registered person of the discrepancies noticed, if any, as observed in the audit and the said person may file his reply and the proper officer shall finalise the findings of the audit after due consideration of the reply furnished.

(5) On conclusion of the audit, the proper officer shall inform the findings of audit to the registered person in accordance with the provisions of sub-section (6) of section 65 in **FORM GST ADT-02**.

**102. Special Audit.**-(1) Where special audit is required to be conducted in accordance with the provisions of section 66, the officer referred to in the said section shall issue a direction in **FORM GST ADT-03** to the registered person to get his records audited by a chartered accountant or a cost accountant specified in the said direction.

(2) On conclusion of the special audit, the registered person shall be informed of the findings of the special audit in **FORM GST ADT-04**.

## CHAPTER XII

### ADVANCE RULING

**103. Qualification and appointment of members of the Authority for Advance Ruling.**-[The Government shall appoint officers not below the rank of Joint Commissioner as member of the Authority for Advance Ruling.]<sup>105</sup>

**104. Form and manner of application to the Authority for Advance Ruling.**-(1)An application for obtaining an advance ruling under sub-section (1) of section 97 shall be made on the common portal in **FORM GST ARA-01** and shall be accompanied by a fee of five thousand rupees, to be deposited in the manner specified in section 49.

(2) The application referred to in sub-rule (1), the verification contained therein and all the relevant documents accompanying such application shall be signed in the manner specified in rule 26.

**105. Certification of copies of advance rulings pronounced by the Authority.**-A copy of the advance ruling shall be certified to be a true copy of its original by any member of the Authority for Advance Ruling.

**106. Form and manner of appeal to the Appellate Authority for Advance Ruling.**-

(1)An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by an applicant on the common portal in **FORM GST ARA-02** and shall be accompanied by a fee of ten thousand rupees to be deposited in the manner specified in section 49.

(2) An appeal against the advance ruling issued under sub-section (6) of section 98 shall be made by the concerned officer or the jurisdictional officer referred to in section 100 on the common portal in **FORM GST ARA-03** and no fee shall be payable by the said officer for filing the appeal.

(3) The appeal referred to in sub-rule (1) or sub-rule (2), the verification contained therein and all the relevant documents accompanying such appeal shall be signed,-

- (a) in the case of the concerned officer or jurisdictional officer, by an officer authorised in writing by such officer; and
- (b) in the case of an applicant, in the manner specified in rule 26.

**107. Certification of copies of the advance rulings pronounced by the Appellate Authority.** - A copy of the advance ruling pronounced by the Appellate Authority for Advance Ruling and duly signed by the Members shall be sent to-

- (a) the applicant and the appellant;
- (b) the concerned officer of central tax and State or Union territory tax;
- (c) the jurisdictional officer of central tax and State or Union territory tax; and
- (d) the Authority,

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<sup>105</sup>Substituted wef 01.07.2017 vide Notf no. 22/2017 – CT dt. 17.08.2017

in accordance with the provisions of sub-section (4) of section 101 of the Act.

**[107A. Manual filing and processing.** – Notwithstanding anything contained in this Chapter, in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in such Forms as appended to these rules.]<sup>106</sup>

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<sup>106</sup>Inserted vide Notf no. 55/2017-CT dt. 15.11.2017

**CHAPTER XIII**  
**APPEALS AND REVISION**

**108. Appeal to the Appellate Authority.-** (1)An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in **FORM GST APL-01**, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner, and a provisional acknowledgement shall be issued to the appellant immediately.

- (2) The grounds of appeal and the form of verification as contained in **FORM GST APL-01** shall be signed in the manner specified in rule 26.
- (3) A certified copy of the decision or order appealed against shall be submitted within seven days of filing the appeal under sub-rule (1) and a final acknowledgement, indicating appeal number shall be issued thereafter in **FORM GST APL-02** by the Appellate Authority or an officer authorised by him in this behalf:

Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the **FORM GST APL-01**, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.

*Explanation.-* For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.

**109. Application to the Appellate Authority.-**(1)An application to the Appellate Authority under sub-section (2) of section 107 shall be made in **FORM GST APL-03**, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner.

- (2) A certified copy of the decision or order appealed against shall be submitted within seven days of the filing the application under sub-rule (1) and an appeal number shall be generated by the Appellate Authority or an officer authorised by him in this behalf.

**[109A. Appointment of Appellate Authority.-** (1) Any person aggrieved 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 may appeal to -

- (a) the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;

(b) [any officer not below the rank of Joint Commissioner (Appeals)]<sup>107</sup> where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

within three months from the date on which the said decision or order is communicated to such person.

(2) An officer directed under sub-section (2) of section 107 to appeal against 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 may appeal to –

(a) [any officer not below the rank of Joint Commissioner (Appeals)]<sup>108</sup> where such decision or order is passed by the Additional or Joint Commissioner;

(b) the Additional Commissioner (Appeals) where such decision or order is passed by the Deputy or Assistant Commissioner or the Superintendent,

within six months from the date of communication of the said decision or order.]<sup>109</sup>

**[109B. Notice to person and order of revisional authority in case of revision.** - (1) Where the Revisional Authority decides to pass an order in revision under section 108 which is likely to affect the person adversely, the Revisional Authority shall serve on him a notice in **FORM GST RVN-01** and shall give him a reasonable opportunity of being heard.

(2) The Revisional Authority shall, along with its order under sub-section (1) of section 108, issue a summary of the order in **FORM GST APL-04** clearly indicating the final amount of demand confirmed.]<sup>110</sup>

**110. Appeal to the Appellate Tribunal.**-(1) An appeal to the Appellate Tribunal under sub-section (1) of section 112 shall be filed along with the relevant documents either electronically or otherwise as may be notified by the Registrar, in **FORM GST APL-05**, on the common portal and a provisional acknowledgement shall be issued to the appellant immediately.

(2) A memorandum of cross-objections to the Appellate Tribunal under sub-section (5) of section 112 shall be filed either electronically or otherwise as may be notified by the Registrar, in **FORM GST APL-06**.

(3) The appeal and the memorandum of cross objections shall be signed in the manner specified in rule 26.

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<sup>107</sup> Substituted for “the Additional Commissioner (Appeals)” vide Notf no. 60/2018 – CT dt. 30.10.2018

<sup>108</sup> Substituted for “the Additional Commissioner (Appeals)” vide Notf no. 60/2018 – CT dt. 30.10.2018

<sup>109</sup> Inserted vide Notf no. 55/2017-CT dt. 15.11.2017

<sup>110</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

(4) A certified copy of the decision or order appealed against along with fees as specified in sub-rule (5) shall be submitted to the Registrar within seven days of the filing of the appeal under sub-rule (1) and a final acknowledgement, indicating the appeal number shall be issued thereafter in **FORM GST APL-02** by the Registrar:

Provided that where the certified copy of the decision or order is submitted within seven days from the date of filing the **FORM GST APL-05**, the date of filing of the appeal shall be the date of the issue of the provisional acknowledgement and where the said copy is submitted after seven days, the date of filing of the appeal shall be the date of the submission of such copy.

*Explanation.*— For the purposes of this rule, the appeal shall be treated as filed only when the final acknowledgement indicating the appeal number is issued.

(5) The fees for filing of appeal or restoration of appeal shall be one thousand rupees for every one lakh rupees of tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of twenty-five thousand rupees.

(6) There shall be no fee for application made before the Appellate Tribunal for rectification of errors referred to in sub-section (10) of section 112.

**111. Application to the Appellate Tribunal.**— (1) An application to the Appellate Tribunal under sub-section (3) of section 112 shall be made electronically or otherwise, in **FORM GST APL-07**, along with the relevant documents on the common portal.

(2) A certified copy of the decision or order appealed against shall be submitted within seven days of filing the application under sub-rule (1) and an appeal number shall be generated by the Registrar.

**112. Production of additional evidence before the Appellate Authority or the Appellate Tribunal.**—(1) The appellant shall not be allowed to produce before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority except in the following circumstances, namely:—

- (a) where the adjudicating authority or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or
- (b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or
- (c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal; or

- (d) where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal.
- (2) No evidence shall be admitted under sub-rule (1) unless the Appellate Authority or the Appellate Tribunal records in writing the reasons for its admission.
- (3) The Appellate Authority or the Appellate Tribunal shall not take any evidence produced under sub-rule (1) unless the adjudicating authority or an officer authorised in this behalf by the said authority has been allowed a reasonable opportunity -
- (a) to examine the evidence or document or to cross-examine any witness produced by the appellant; or
- (b) to produce any evidence or any witness in rebuttal of the evidence produced by the appellant under sub-rule (1).
- (4) Nothing contained in this rule shall affect the power of the Appellate Authority or the Appellate Tribunal to direct the production of any document, or the examination of any witness, to enable it to dispose of the appeal.

**113. Order of Appellate Authority or Appellate Tribunal.**-(1) The Appellate Authority shall, along with its order under sub-section (11) of section 107, issue a summary of the order in **FORM GST APL-04** clearly indicating the final amount of demand confirmed.

(2) The jurisdictional officer shall issue a statement in **FORM GST APL-04** clearly indicating the final amount of demand confirmed by the Appellate Tribunal.

**114. Appeal to the High Court.**- (1) An appeal to the High Court under sub-section (1) of section 117 shall be filed in **FORM GST APL-08**.

(2) The grounds of appeal and the form of verification as contained in **FORM GST APL-08** shall be signed in the manner specified in rule 26.

**115. Demand confirmed by the Court.**- The jurisdictional officer shall issue a statement in **FORM GST APL-04** clearly indicating the final amount of demand confirmed by the High Court or, as the case may be, the Supreme Court.

**116. Disqualification for misconduct of an authorised representative.**-Where an authorised representative, other than those referred to in clause (b) or clause (c) of sub-section (2) of section 116 is found, upon an enquiry into the matter, guilty of misconduct in connection with any proceedings under the Act, the Commissioner may, after providing him an opportunity of being heard, disqualify him from appearing as an authorised representative.



**CHAPTER XIV**  
**TRANSITIONAL PROVISIONS**

**117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day.**-(1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in **FORM GST TRAN-1**, duly signed, on the common portal specifying therein, separately, the amount of input tax credit of eligible duties and taxes, as defined in Explanation 2 to section 140, to which he is entitled under the provisions of the said section:

Provided that the Commissioner may, on the recommendations of the Council, extend the period of ninety days by a further period not exceeding ninety days.

Provided further that where the inputs have been received from an Export Oriented Unit or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004.

[(1A) Notwithstanding anything contained in sub-rule (1), the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in **FORM GST TRAN-1** by a further period not beyond 31<sup>st</sup> March, 2019, in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension.]<sup>111</sup>

(2) Every declaration under sub-rule (1) shall-

(a) in the case of a claim under sub-section (2) of section 140, specify separately the following particulars in respect of every item of capital goods as on the appointed day-

(i) the amount of tax or duty availed or utilized by way of input tax credit under each of the existing laws till the appointed day; and

(ii) the amount of tax or duty yet to be availed or utilized by way of input tax credit under each of the existing laws till the appointed day;

(b) in the case of a claim under sub-section (3) or clause (b) of sub-section (4) or sub-section (6) or sub-section (8) of section 140, specify separately the details of stock held on the appointed day;

(c) in the case of a claim under sub-section (5) of section 140, furnish the following details, namely:—

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<sup>111</sup> Inserted vide Notf no. 48/2018-CT dt. 10.09.2018

- (i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law;
- (ii) the description and value of the goods or services;
- (iii) the quantity in case of goods and the unit or unit quantity code thereof;
- (iv) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services; and
- (v) the date on which the receipt of goods or services is entered in the books of account of the recipient.

(3) The amount of credit specified in the application in **FORM GST TRAN-1** shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the common portal.

(4) (a) (i) A registered person who was not registered under the existing law shall, in accordance with the proviso to sub-section (3) of section 140, be allowed to avail of input tax credit on goods (on which the duty of central excise or, as the case may be, additional duties of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, is leviable) held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.

(ii) The input tax credit referred to in sub-clause (i) shall be allowed at the rate of sixty per cent. on such goods which attract central tax at the rate of nine per cent. or more and forty per cent. for other goods of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid:

Provided that where integrated tax is paid on such goods, the amount of credit shall be allowed at the rate of thirty per cent. and twenty per cent. respectively of the said tax;

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) The credit of central tax shall be availed subject to satisfying the following conditions, namely:-

(i) such goods were not unconditionally exempt from the whole of the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated in the said Schedule;

(ii) the document for procurement of such goods is available with the registered person;

[(iii) The registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in **FORM GST TRAN 2** by 31<sup>st</sup> March 2018, or within such period as extended by the Commissioner, on the recommendations of the Council, for

each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period:]<sup>112</sup>

[Provided that the registered persons filing the declaration in **FORM GST TRAN-1** in accordance with sub-rule (1A), may submit the statement in **FORM GST TRAN-2** by 30<sup>th</sup> April, 2019;]<sup>113</sup>

(iv) the amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the common portal; and

(v) the stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

**118. Declaration to be made under clause (c) of sub-section (11) of section 142.**-Every person to whom the provision of clause (c) of sub-section (11) of section 142 applies, shall within [the period specified in rule 117 or such further period as extended by the Commissioner]<sup>114</sup>, submit a declaration electronically in **FORM GST TRAN-1** furnishing the proportion of supply on which Value Added Tax or service tax has been paid before the appointed day but the supply is made after the appointed day, and the Input Tax Credit admissible thereon.

**119. Declaration of stock held by a principal and job-worker.**-Every person to whom the provisions of section 141 apply shall, within [the period specified in rule 117 or such further period as extended by the Commissioner]<sup>115</sup>, submit a declaration electronically in **FORM GST TRAN-1**, specifying therein, the stock of the inputs, semi-finished goods or finished goods, as applicable, held by him on the appointed day.

**120. Details of goods sent on approval basis.**-Every person having sent goods on approval under the existing law and to whom sub-section (12) of section 142 applies shall, within [the period specified in rule 117 or such further period as extended by the Commissioner]<sup>116</sup>, submit details of such goods sent on approval in **FORM GST TRAN-1**.

**[120A.[Revision of declaration in FORM GST TRAN-1]**<sup>117</sup>Every registered person who has submitted a declaration electronically in **FORM GST TRAN-1** within the time period specified in rule 117, rule 118, rule 119 and rule 120 may revise such

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<sup>112</sup> Substituted vide Notf No. 12/2018-CT dt. 07.03.2018, for "the registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in **FORM GST TRAN 2** at the end of each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period;"

<sup>113</sup> Inserted vide Notification No. 48/2018-CT dt. 10.09.2018

<sup>114</sup>Substituted vide Notf no. 36/2017-CT dt. 29.09.2017 for "a period of ninety days of the appointed day"

<sup>115</sup>Substituted vide Notf no. 36/2017-CT dt. 29.09.2017 for "ninety days of the appointed day"

<sup>116</sup>Substituted vide Notf no. 36/2017-CT dt. 29.09.2017 for "ninety days of the appointed day"

<sup>117</sup>Inserted vide Notf no. 36/2017-CT dt. 29.09.2017

declaration once and submit the revised declaration in FORM **GST TRAN-1**electronically on the common portal within the time period specified in the said rules or such further period as may be extended by the Commissioner in this behalf.]<sup>118</sup>

**121. Recovery of credit wrongly availed.**-The amount credited under sub-rule (3) of rule 117 may be verified and proceedings under section 73 or, as the case may be, section 74 shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

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<sup>118</sup> Inserted vide Notf no. 34/2017 – CT dt. 15.09.2017

**CHAPTER XV**  
**ANTI-PROFITEERING**

**122. Constitution of the Authority.-**The Authority shall consist of,-

- (a) a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and
- (b) four Technical Members who are or have been Commissioners of State tax or central tax [for at least one year]<sup>119</sup> or have held an equivalent post under the existing law, to be nominated by the Council.

**123. Constitution of the Standing Committee and Screening Committees.-**(1)The Council may constitute a Standing Committee on Anti-profiteering which shall consist of such officers of the State Government and Central Government as may be nominated by it.

(2) A State level Screening Committee shall be constituted in each State by the State Governments which shall consist of-

(a) one officer of the State Government, to be nominated by the Commissioner, and

(b) one officer of the Central Government, to be nominated by the Chief Commissioner.

**124. Appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority:-**(1) The Chairman and Members of the Authority shall be appointed by the Central Government on the recommendations of a Selection Committee to be constituted for the purpose by the Council.

(2) The Chairman shall be paid a monthly salary of Rs. 2,25,000 (fixed) and other allowances and benefits as are admissible to a Central Government officer holding posts carrying the same pay:

Provided that where a retired officer is selected as a Chairman, he shall be paid a monthly salary of Rs. 2,25,000 reduced by the amount of pension.

[(3) The Technical Member shall be paid a monthly salary and other allowances and benefits as are admissible to him when holding an equivalent Group 'A' post in the Government of India: Provided that where a retired officer is selected as a Technical Member, he shall be paid a monthly salary equal to his last drawn salary reduced by the amount of pension in accordance with the recommendations of the Seventh Pay Commission, as accepted by the Central Government.]<sup>120</sup>

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<sup>119</sup> Inserted vide Notf no. 34/2017 – CT dt. 15.09.2017

<sup>120</sup> Substituted vide Notf no. 34/2017 – CT dt. 15.09.2017

- (4) The Chairman shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty- five years, whichever is earlier and shall be eligible for reappointment:

Provided that [a]<sup>121</sup> person shall not be selected as the Chairman, if he has attained the age of sixty-two years.

[Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Chairman at any time.]<sup>122</sup>

- (5) The Technical Member of the Authority shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment:

Provided that [a]<sup>123</sup> person shall not be selected as a Technical Member if he has attained the age of sixty-two years.

[Provided further that the Central Government with the approval of the Chairperson of the Council may terminate the appointment of the Technical Member at any time.]<sup>124</sup>

**125. [Secretary to the Authority.-** An officer not below the rank of Additional Commissioner (working in the Directorate General of [Anti-profiteering]<sup>125</sup>) shall be the Secretary to the Authority.]<sup>126</sup>

**126. Power to determine the methodology and procedure.-**The Authority may determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

**127. Duties of the Authority.-** It shall be the duty of the Authority,-

- (i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;

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<sup>121</sup> Inserted vide Notification No. 14/2018-CT dt. 23.03.2018

<sup>122</sup> Substituted vide Notf no. 55/2017-CT dt. 15.11.2017 for "Provided further that upon the recommendations of the Council and subject to an opportunity of being heard, the Central Government may terminate the appointment of the Chairman at any time."

<sup>123</sup> Inserted vide Notification No. 14/2018-CT dt.23.03.2018

<sup>124</sup>Substituted vide Notf no. 55/2017-CT dt. 15.11.2017 for "Provided further that upon the recommendations of the Council and subject to an opportunity of being heard, the Central Government may terminate the appointment of the Technical Member at any time."

<sup>125</sup> Substituted for the word "Safeguards" vide Notf no. 29/2018-CT dt. 06.07.2018 [w.e.f 12.06.2018]

<sup>126</sup> Substituted vide Notf no. 14/2018-CT dt.23.03.2018 for "The Additional Director General of Safeguards under the Board shall be the Secretary to the Authority."

(ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;

(iii) to order,

- (a) reduction in prices;
- (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;
- (c) imposition of penalty as specified in the Act; and
- (d) cancellation of registration under the Act.

[(iv) to furnish a performance report to the Council by the tenth [day]<sup>127</sup> of the close of each quarter.]<sup>128</sup>

**128. Examination of application by the Standing Committee and Screening Committee.**

(1) The Standing Committee shall, within a period of two months from the date of the receipt of a written application, in such form and manner as may be specified by it, from an interested party or from a Commissioner or any other person, examine the accuracy and adequacy of the evidence provided in the application to determine whether there is *prima-facie* evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices.

(2) All applications from interested parties on issues of local nature shall first be examined by the State level Screening Committee and the Screening Committee shall, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

**129. Initiation and conduct of proceedings.**

(1) Where the Standing Committee is satisfied that there is a *prima-facie* evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices,

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<sup>127</sup> Inserted vide Notf no. 14/2018-CT dt. 23.03.2018

<sup>128</sup> Inserted vide Notf no. 34/2017 – CT dt 15.09.2017

it shall refer the matter to the Director General of [Anti-profiteering]<sup>129</sup> for a detailed investigation.

(2) The Director General of [Anti-profiteering]<sup>130</sup> shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices.

(3) The Director General of [Anti-profiteering]<sup>131</sup> shall, before initiation of the investigation, issue a notice to the interested parties containing, *inter alia*, information on the following, namely:-

- (a) the description of the goods or services in respect of which the proceedings have been initiated;
- (b) summary of the statement of facts on which the allegations are based; and
- (c) the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

(4) The Director General of [Anti-profiteering]<sup>132</sup> may also issue notices to such other persons as deemed fit for a fair enquiry into the matter.

(5) The Director General of [Anti-profiteering]<sup>133</sup> shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.

(6) The Director General of [Anti-profiteering]<sup>134</sup> shall complete the investigation within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing [as may be allowed by the Authority]<sup>135</sup> and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

**130. Confidentiality of information.**-(1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 129 and sub-rule (2) of rule 133, the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply *mutatis mutandis* to the disclosure of any information which is provided on a confidential basis.

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<sup>129</sup> Substituted for the word "Safeguards" vide Notf no. 29/2018-CT dt. 06.07.2018 [w.e.f 12.06.2018]

<sup>130</sup> *Ibid*

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*

<sup>134</sup> *Ibid.*

<sup>135</sup> Substituted vide Notf no. 14/2018-CT dt. 23.03.2018 for "as allowed by the Standing Committee".

(2) The Director General of [Anti-profiteering]<sup>136</sup> may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the Director General of [Anti-profiteering]<sup>137</sup> a statement of reasons as to why summarisation is not possible.

**131. Cooperation with other agencies or statutory authorities.**-Where the Director General of [Anti-profiteering]<sup>138</sup> deems fit, he may seek opinion of any other agency or statutory authorities in the discharge of his duties.

**132. Power to summon persons to give evidence and produce documents.**- (1)The Director General of [Anti-profiteering]<sup>139</sup>, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(2) Every such inquiry referred to in sub-rule (1) shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

**133. Order of the Authority.**-(1) The Authority shall, within a period of three months from the date of the receipt of the report from the Director General of [Anti-profiteering]<sup>140</sup> determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

(2) An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.

[(3) Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be;

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<sup>136</sup> Substituted for the word "Safeguards" vide Notf no. 29/2018-CT dt. 06.07.2018 [w.e.f 12.06.2018]

<sup>137</sup> *Ibid.*

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

(c) the deposit of an amount equivalent to fifty per cent. of the amount determined under the above clause in the Fund constituted under section 57 and the remaining fifty per cent. of the amount in the Fund constituted under section 57 of the Goods and Services Tax Act, 2017 of the concerned State, where the eligible person does not claim return of the amount or is not identifiable;

(d) imposition of penalty as specified under the Act; and

(e) cancellation of registration under the Act.

*Explanation:* For the purpose of this sub-rule, the expression, “concerned State” means the State in respect of which the Authority passes an order.]<sup>141</sup>

[(4) If the report of the Director General of [Anti-profiteering]<sup>142</sup> referred to in sub-rule (6) of rule 129 recommends that there is contravention or even non-contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the Director General of [Anti-profiteering]<sup>143</sup> to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.]<sup>144</sup>

**134. Decision to be taken by the majority.-** (1) A minimum of three members of the Authority shall constitute quorum at its meetings.

(2) If the Members of the Authority differ in their opinion on any point, the point shall be decided according to the opinion of the majority of the members present and voting, and in the event of equality of votes, the Chairman shall have the second or casting vote.<sup>145</sup>

**135. Compliance by the registered person.-** Any order passed by the Authority under these rules shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or

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<sup>141</sup> Substituted vide Notf no. 26/2018-CT dt. 13.06.2018, for:

“(3) Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;

(c) imposition of penalty as specified under the Act; and

(d) cancellation of registration under the Act.”

<sup>142</sup> Substituted for the word “Safeguards” vide Notf no. 29/2018-CT dt. 06.07.2018

<sup>143</sup> *Ibid.*

<sup>144</sup> Inserted vide Notf no. 14/2018-CT dt.23.03.2018

<sup>145</sup> Substituted vide Notf no. 14/2018-CT dt.23.03.2018 for “ **134. Decision to be taken by the majority.-**If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority.”

the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be.

**136. Monitoring of the order.**-The Authority may require any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.

**137. Tenure of Authority.**-The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

*Explanation.*-For the purposes of this Chapter,

(a) “Authority” means the National Anti-profiteering Authority constituted under rule 122;

(b) “Committee” means the Standing Committee on Anti-profiteering constituted by the Council in terms of sub-rule (1) of rule 123 of these rules;

(c) “interested party” includes-

- a. suppliers of goods or services under the proceedings; and
- b. recipients of goods or services under the proceedings;
- c. [any other person alleging, under sub-rule (1) of rule 128, that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.]<sup>146</sup>

(d) “Screening Committee” means the State level Screening Committee constituted in terms of sub-rule (2) of rule 123 of these rules.

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<sup>146</sup> Inserted vide Notf no. 14/2018-CT dt. 23.03.2018

## CHAPTER XVI

### E-WAY RULES

**[138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-** (1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees—

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in **Part A** of **FORM GST EWB-01**, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided that the transporter, on an authorization received from the registered person, may furnish information in **Part A** of **FORM GST EWB-01**, electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided further that where the goods to be transported are supplied through an e-commerce operator or a courier agency, on an authorization received from the consignor, the information in **Part A** of **FORM GST EWB-01** may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal:

Provided also that where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment:

Provided also that where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

[Explanation 1. – For the purposes of this rule, the expression “handicraft goods” has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No. 56/2018-Central Tax, dated the 23rd October, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1056 (E), dated the 23rd October, 2018 as amended from time to time.]<sup>147</sup>

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<sup>147</sup> substituted vide Notf no. 74/2018-CT dt. 31.12.2018 for “Explanation 1.– For the purposes of this rule, the expression “handicraft goods” has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No. 32/2017-Central Tax dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1158 (E) dated the 15th September, 2017 as amended from time to time.”

*Explanation 2.*- For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or a public conveyance, by road, the said person shall generate the e-way bill in **FORM GST EWB-01** electronically on the common portal after furnishing information in **Part B** of **FORM GST EWB-01**.

(2A) Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in **Part B** of **FORM GST EWB-01**:

Provided that where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in **Part A** of **FORM GST EWB-01**:

Provided that the registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in **FORM GST EWB-01** on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of upto fifty kilometers within the State or 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 recipient, or as the case may be, the transporter may not furnish the details of conveyance in **Part B** of **FORM GST EWB-01**.

*Explanation 1.*- For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

*Explanation 2.*- The e-way bill shall not be valid for movement of goods by road unless the information in **Part-B** of **FORM GST EWB-01** has been furnished except in

the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub-rule (5).

(4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5) Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part A** of the **FORM GST EWB-01**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in **Part B** of **FORM GST EWB-01**:

Provided that where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of the conveyance may not be updated in the e-way bill.

(5A) The consignor or the recipient, who has furnished the information in **Part A** of **FORM GST EWB-01**, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in **Part B** of **FORM GST EWB-01** for further movement of the consignment:

Provided that after the details of the conveyance have been updated by the transporter in **Part B** of **FORM GST EWB-01**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** of **FORM GST EWB-01** shall not be allowed to assign the e-way bill number to another transporter.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **FORM GST EWB-02** maybe generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated the e-way bill in **FORM GST EWB-01** and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in **FORM GST EWB-01** on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in **FORM GST EWB-02** on the common portal prior to the movement of goods:

Provided that where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in **Part A** of **FORM GST EWB-01** may be furnished by such e-commerce operator or courier agency.

(8) The information furnished in **Part A** of **FORM GST EWB-01** shall be made available to the registered supplier on the common portal who may utilize the same for

furnishing the details in **FORM GSTR-1**:

Provided that when the information has been furnished by an unregistered supplier or an unregistered recipient in **FORM GST EWB-01**, he shall be informed electronically, if the mobile number or the e-mail is available.

(9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within twenty four hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further that the unique number generated under sub-rule (1) shall be valid for a period of fifteen days for updation of **Part B** of **FORM GST EWB-01**.

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

<b>Sl. No.</b>	<b>Distance</b>	<b>Validity period</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Upto 100 km.	One day in cases other than Over Dimensional Cargo
2.	For every 100 km. or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo
3.	Upto 20 km	One day in case of Over Dimensional Cargo
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo:

Provided that the Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in **Part B** of **FORM GST EWB-01**, if required.

*Explanation 1.*—For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

*Explanation 2.*— For the purposes of this rule, the expression “Over Dimensional Cargo” shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988 (59 of 1988).

(11) The details of the e-way bill generated under this rule shall be made available to the-

- (a) supplier, if registered, where the information in **Part A** of **FORM GST EWB-01** has been furnished by the recipient or the transporter; or
- (b) recipient, if registered, where the information in **Part A** of **FORM GST EWB-01** has been furnished by the supplier or the transporter,

on the common portal, and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12) Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be deemed that he has accepted the said details.

(13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory.

(14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated—

- (a) where the goods being transported are specified in Annexure;
- (b) where the goods are being transported by a non-motorised conveyance;
- (c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the State or Union territory Goods and Services Tax Rules in that particular State or Union territory;
- (e) where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28<sup>th</sup> June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 674 (E) dated the 28<sup>th</sup> June, 2017 as amended from time to time;
- (f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel;
- (g) where the supply of goods being transported is treated as no supply under Schedule III of the Act;

- (h) where the goods are being transported—
- (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
  - (ii) under customs supervision or under customs seal;
- (i) where the goods being transported are transit cargo from or to Nepal or Bhutan;
- (j) where the goods being transported are exempt from tax under notification No. 7/2017-Central Tax (Rate), dated 28<sup>th</sup> June 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 679(E) dated the 28<sup>th</sup> June, 2017 as amended from time to time and notification No. 26/2017-Central Tax (Rate), dated the 21<sup>st</sup> September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 1181(E) dated the 21<sup>st</sup> September, 2017 as amended from time to time;
- (k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee;
- (l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- (m) where empty cargo containers are being transported; and
- (n) where the goods are being transported upto a distance of twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.
- (o) [where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.]<sup>148</sup>

*Explanation.* - The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be.

**ANNEXURE**  
**[(See rule 138 (14))]**

S. No.	Description of Goods
<b>(1)</b>	(2)
1.	Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts

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<sup>148</sup> Inserted vide Notf no. 26/2018-CT dt.13.06.2018

4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)

**138A. Documents and devices to be carried by a person-in-charge of a conveyance.**-(1) The person in charge of a conveyance shall carry—

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner:

Provided that nothing contained in clause (b) of this sub-rule shall apply in case of movement of goods by rail or by air or vessel:

[Provided further that in case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in **Part A of FORM GST EWB-01.**]<sup>149</sup>

(2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in **FORM GST INV-1** and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

(3) Where the registered person uploads the invoice under sub-rule (2), the information in **Part A of FORM GST EWB-01** shall be auto-populated by the common portal on the basis of the information furnished in **FORM GST INV-1**.

(4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) Notwithstanding anything contained in clause (b) of sub-rule (1), where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill

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<sup>149</sup> Inserted vide Notf no. 39/2018-CT dt. 04.09.2018

- (a) tax invoice or bill of supply or bill of entry; or
- (b) a delivery challan, where the goods are transported for reasons other than by way of supply.”

**138B. Verification of documents and conveyances.-** (1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.

(2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

(3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:

Provided that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

**138C. Inspection and verification of goods.-** (1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in **Part A** of **FORM GST EWB-03** within twenty four hours of inspection and the final report in **Part B** of **FORM GST EWB-03** shall be recorded within three days of such inspection.

[Provided that where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of **FORM EWB-03**, for a further period not exceeding three days.

*Explanation.-* The period of twenty four hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.]<sup>150</sup>

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently.

**138D. Facility for uploading information regarding detention of vehicle.-**Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the

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<sup>150</sup> Inserted vide Notf no. 28/2018- CT dt. 19.06.2018

transporter may upload the said information in **FORM GST EWB-04** on the common portal.]<sup>151</sup>

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<sup>151</sup> Substituted vide Notf No. 12/2018-CT dt.07.03.2018, to be effective from the date as shall be notified

**NOTE:** Rules 138, 138A, 138C and 138D were originally inserted vide Notf No. 27/2017- CT dt. 30.08.2017 and subsequently amended vide Notf No. 3/2018 – CT dt. 23.01.2018. The older versions of the rules are given below:

**Rule 138 (as substituted vide Notf No. 3/2018-Central Tax, dated 23.01.2018):**

**138. Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-(1)** Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees—

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in **Part A of FORM GST EWB-01**, electronically, on the common portal along with such other information as may be required at the common portal and a unique number will be generated on the said portal:

Provided that where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment:

Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

*Explanation 1.* – For the purposes of this rule, the expression “handicraft goods” has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No.32/2017-Central Tax dated the 15<sup>th</sup> September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1158 (E) dated the 15<sup>th</sup> September, 2017 as amended from time to time.

*Explanation 2.*- For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document.

(2) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in **FORM GST EWB-01** electronically on the common portal after furnishing information in **Part B of FORM GST EWB-01**:

Provided that where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall furnish, on the common portal, the-

- (a) information in **Part B of FORM GST EWB-01**; and
- (b) the serial number and date of the Railway Receipt or the Air Consignment Note or Bill of Lading, as the case may be.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in **Part A of FORM GST EWB-01**:

Provided that the registered person or, the transporter, as the case may be may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in **FORM GST EWB-01** on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of less than ten kilometers within the State or 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 recipient, or as the case maybe, the transporter may not furnish the details of conveyance in **Part B of FORM GST EWB-01**.

*Explanation 1.*– For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

*Explanation 2.*– The e-way bill shall not be valid for movement of goods by road unless the information in **Part-B** of **FORM GST EWB-01** has been furnished except in the case of movements covered under the third proviso to sub-rule (3) and the proviso to sub-rule (5).

(4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

(5) Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part- A** of the **FORM GST EWB-01**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in **FORM GST EWB-01**:

Provided that where the goods are transported for a distance of less than ten kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.

(5A) The consignor or the recipient, who has furnished the information in **Part-A** of **FORM GST EWB-01**, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in **Part-B** of **FORM GST EWB-01** for further movement of consignment:

Provided that once the details of the conveyance have been updated by the transporter in **Part B** of **FORM GST EWB-01**, the consignor or recipient, as the case maybe, who has furnished the information in **Part-A** of **FORM GST EWB-01** shall not be allowed to assign the e-way bill number to another transporter.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **FORM GST EWB-02** maybe generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated **FORM GST EWB-01** in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate **FORM GST EWB-01** on the basis of invoice or bill of supply or delivery challan, as the case maybe, and may also generate a consolidated e-way bill in **FORM GST EWB-02** on the common portal prior to the movement of goods:

Provided that where the goods to be transported are supplied through an e-commerce operator, the information in **Part A** of **FORM GST EWB-01** may be furnished by such e-commerce operator.

(8) The information furnished in **Part A** of **FORM GST EWB-01** shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in **FORM GSTR-1**:

Provided that when the information has been furnished by an unregistered supplier or an unregistered recipient in **FORM GST EWB-01**, he shall be informed electronically, if the mobile number or the e-mail is available.

(9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B:

Provided further the unique number generated under sub-rule (1) shall be valid for 72 hours for updation of **Part B** of **FORM GST EWB-01**.

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

**Table**

Sl. No.	Distance	Validity period
(1)	(2)	(3)
1.	Upto 100 km.	One day
2.	For every 100 km. or part thereof thereafter	One additional day:

Provided that the Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in **Part B** of **FORM GST EWB-01**.

*Explanation.*—For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.

(11) The details of e-way bill generated under sub-rule (1) shall be made available to the-

(a) supplier, if registered, where the information in **Part A** of **FORM GST EWB-01** has been furnished by the recipient or the transporter; or

(b) recipient, if registered, where the information in **Part A** of **FORM GST EWB-01** has been furnished by the supplier or the transporter,

on the common portal, and the supplier or the recipient, as the case maybe, shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12) Where the person to whom the information specified in sub-rule (11) has been made available does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

(13) The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.

(14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated—

(a) where the goods being transported are specified in Annexure;

(b) where the goods are being transported by a non-motorised conveyance;

(c) where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;

(d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State;

(e) where the goods, other than de-oiled cake, being transported are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28<sup>th</sup> June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R 674 (E) dated the 28<sup>th</sup> June, 2017 as amended from time to time;

(f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel; and

(g) where the goods being transported are treated as no supply under Schedule III of the Act.

*Explanation.* - The facility of generation and cancellation of e-way bill may also be made available through SMS.

**ANNEXURE**  
**[(See rule 138 (14))]**

<b>S. No.</b>	<b>Description of Goods</b>
<b>(1)</b>	<b>(2)</b>
1.	Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)

6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)

**Rule 138 (as inserted vide Notf no. 27/2017- CT dt. 30.08.2017**

**138.Information to be furnished prior to commencement of movement of goods and generation of e-way bill.-** (1) shall, before commencement of such movement, furnish information relating to the said goods in **Part A of FORM GST EWB-01**, electronically, on the common portal.

[Provided that where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment:

Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

*Explanation* – For the purposes of this rule, the expression “handicraft goods” has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No.32/2017-Central Tax dated 15.09.2017 published in the Gazette vide number G.S.R 1158 (E)]<sup>151</sup>

(2)Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in **FORM GST EWB-01** electronically on the common portal after furnishing information in **Part B of FORM GST EWB-01**.

(3) Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in **Part B of FORM GST EWB-01** on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in **Part A of FORM GST EWB-01**:

Provided that the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in **FORM GST EWB-01** on the common portal in the manner specified in this rule:

Provided also that where the goods are transported for a distance of less than ten kilometres within the State or 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**.

*Explanation 1.*– For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.

*Explanation 2.*–The information in **Part A of FORM GST EWB-01** shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel.

(4) Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

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(5) Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in **FORM GST EWB-01**:

Provided that where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.

(6) After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **FORM GST EWB-02** maybe generated by him on the said common portal prior to the movement of goods.

(7) Where the consignor or the consignee has not generated **FORM GST EWB-01** in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate **FORM GST EWB-01** on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in **FORM GST EWB-02** on the common portal prior to the movement of goods.

(8) The information furnished in **Part A** of **FORM GST EWB-01** shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in **FORM GSTR-1**:

Provided that when the information has been furnished by an unregistered supplier in **FORM GST EWB-01**, he shall be informed electronically, if the mobile number or the e-mail is available.

(9) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance the goods have to be transported, as mentioned in column (2) of the said Table:

**Table**

<b>Sr. no.</b>	<b>Distance</b>	<b>Validity period</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Upto 100 km	One day
2.	For every 100 km or part thereof thereafter	One additional day

Provided that the Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in **Part B** of **FORM GST EWB-01**.

*Explanation.*—For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty-four hours.

(11)The details of e-way bill generated under sub-rule (1) shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill.

(12)Where the recipient referred to in sub-rule (11) does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

(13) The e-way bill generated under this rule or under rule 138 of the Goods and Services TaxRules of any State shall be valid in every State and Union territory.

(14) Notwithstanding anything contained in this rule, no e-way bill is required to be generated—

- (a) where the goods being transported are specified in Annexure;
- (b) where the goods are being transported by a non-motorised conveyance;
- (c) where the goods are being transported from the port, airport, aircargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and
- (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State.

*Explanation.* - The facility of generation and cancellation of e-way bill may also be made available through SMS.

**ANNEXURE**  
**[(See rule 138 (14))]**

S. No.	Chapter or Heading or Sub-heading or Tariff item	Description of Goods
(1)	(2)	(3)
1.	0101	Live asses, mules and hinnies
2.	0102	Live bovine animals
3.	0103	Live swine
4.	0104	Live sheep and goats
5.	0105	Live poultry, that is to say, fowls of the species Gallus domesticus, ducks, geese, turkeys and guinea fowls.
6.	0106	Other live animal such as Mammals, Birds, Insects
7.	0201	Meat of bovine animals, fresh and chilled.
8.	0202	Meat of bovine animals frozen [other than frozen and put up in unit container]
9.	0203	Meat of swine, fresh, chilled or frozen [other than frozen and put up in unit container]
10.	0204	Meat of sheep or goats, fresh, chilled or frozen [other than frozen and put up in unit container]
11.	0205	Meat of horses, asses, mules or hinnies, fresh, chilled or frozen [other than frozen and put up in unit container]

12.	0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen [other than frozen and put up in unit container]
13.	0207	Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen [other than frozen and put up in unit container]
14.	0208	Other meat and edible meat offal, fresh, chilled or frozen [other than frozen and put up in unit container]
15.	0209	Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled or frozen [other than frozen and put up in unit container]
16.	0209	Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, salted, in brine, dried or smoked [other than put up in unit containers]
17.	0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal, other than put up in unit containers
18.	3	Fish seeds, prawn / shrimp seeds whether or not processed, cured or in frozen state [other than goods falling under Chapter 3 and attracting 2.5%]
19.	0301	Live fish.
20.	0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
21.	0304	Fish fillets and other fish meat (whether or not minced), fresh or chilled.
22.	0306	Crustaceans, whether in shell or not, live, fresh or chilled; crustaceans, in shell, cooked by steaming or by boiling in water live, fresh or chilled.
23.	0307	Molluscs, whether in shell or not, live, fresh, chilled; aquatic invertebrates other than crustaceans and molluscs, live, fresh or chilled.
24.	0308	Aquatic invertebrates other than crustaceans and molluscs, live, fresh or chilled.
25.	0401	Fresh milk and pasteurised milk, including separated milk, milk and cream, not concentrated nor containing added sugar or other sweetening matter, excluding Ultra High Temperature (UHT) milk
26.	0403	Curd; Lassi; Butter milk
27.	0406	Chena or paneer, other than put up in unit containers and bearing a registered brand name;
28.	0407	Birds' eggs, in shell, fresh, preserved or cooked
29.	0409	Natural honey, other than put up in unit container and bearing a registered brand name
30.	0501	Human hair, unworked, whether or not washed or scoured; waste of human hair
31.	0506	All goods i.e. Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or gelatinised; powder and waste of these products
32.	0507 90	All goods i.e. Hoof meal; horn meal; hooves, claws, nails and beaks; antlers; etc.
33.	0511	Semen including frozen semen
34.	6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage
35.	0701	Potatoes, fresh or chilled.
36.	0702	Tomatoes, fresh or chilled.
37.	0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled.
38.	0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled.
39.	0705	Lettuce ( <i>Lactuca sativa</i> ) and chicory ( <i>Cichorium spp.</i> ), fresh or chilled.
40.	0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled.
41.	0707	Cucumbers and gherkins, fresh or chilled.
42.	0708	Leguminous vegetables, shelled or unshelled, fresh or chilled.
43.	0709	Other vegetables, fresh or chilled.

44.	0712	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared.
45.	0713	Dried leguminous vegetables, shelled, whether or not skinned or split.
46.	0714	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content, fresh or chilled; sago pith.
47.	0801	Coconuts, fresh or dried, whether or not shelled or peeled
48.	0801	Brazil nuts, fresh, whether or not shelled or peeled
49.	0802	Other nuts, Other nuts, fresh such as Almonds, Hazelnuts or filberts ( <i>Corylus</i> spp.), walnuts, Chestnuts ( <i>Castanea</i> spp.), Pistachios, Macadamia nuts, Kola nuts ( <i>Cola</i> spp.), Areca nuts, fresh, whether or not shelled or peeled
50.	0803	Bananas, including plantains, fresh or dried
51.	0804	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh.
52.	0805	Citrus fruit, such as Oranges, Mandarins (including tangerines and satsumas); clementines, wilkings and similar citrus hybrids, Grapefruit, including pomelos, Lemons ( <i>Citrus limon</i> , <i>Citrus limonum</i> ) and limes ( <i>Citrus aurantifolia</i> , <i>Citrus latifolia</i> ), fresh.
53.	0806	Grapes, fresh
54.	0807	Melons (including watermelons) and papaws (papayas), fresh.
55.	0808	Apples, pears and quinces, fresh.
56.	0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh.
57.	0810	Other fruit such as strawberries, raspberries, blackberries, mulberries and loganberries, black, white or red currants and gooseberries, cranberries, bilberries and other fruits of the genus <i>vaccinium</i> , Kiwi fruit, Durians, Persimmons, Pomegranates, Tamarind, Sapota (chico), Custard-apple (ata), Bore, Lichi, fresh.
58.	0814	Peel of citrus fruit or melons (including watermelons), fresh.
59.	9	All goods of seed quality
60.	0901	Coffee beans, not roasted
61.	0902	Unprocessed green leaves of tea
62.	0909	Seeds of anise, badian, fennel, coriander, cumin or caraway; juniper berries [of seed quality]
63.	0910 11 10	Fresh ginger, other than in processed form
64.	0910 30 10	Fresh turmeric, other than in processed form
65.	1001	Wheat and meslin [other than those put up in unit container and bearing a registered brand name]
66.	1002	Rye [other than those put up in unit container and bearing a registered brand name]
67.	1003	Barley [other than those put up in unit container and bearing a registered brand name]
68.	1004	Oats [other than those put up in unit container and bearing a registered brand name]
69.	1005	Maize (corn) [other than those put up in unit container and bearing a registered brand name]
70.	1006	Rice [other than those put up in unit container and bearing a registered brand name]
71.	1007	Grain sorghum [other than those put up in unit container and bearing a registered brand name]
72.	1008	Buckwheat, millet and canary seed; other cereals such as Jawar, Bajra, Ragi] [other than those put up in unit container and bearing a registered brand name]
73.	1101	Wheat or meslin flour [other than those put up in unit container and bearing a registered brand name].

74.	1102	Cereal flours other than of wheat or meslin, [maize (corn) flour, Rye flour, etc.] [other than those put up in unit container and bearing a registered brand name]
75.	1103	Cereal groats, meal and pellets [other than those put up in unit container and bearing a registered brand name]
76.	1104	Cereal grains hulled
77.	1105	Flour, of potatoes [other than those put up in unit container and bearing a registered brand name]
78.	1106	Flour, of the dried leguminous vegetables of heading 0713 (pulses) [other than guar meal 1106 10 10 and guar gum refined split 1106 10 90], of sago or of roots or tubers of heading 0714 or of the products of Chapter 8 i.e. of tamarind, of singoda, mango flour, etc. [other than those put up in unit container and bearing a registered brand name]
79.	12	All goods of seed quality
80.	1201	Soya beans, whether or not broken, of seed quality.
81.	1202	Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken, of seed quality.
82.	1204	Linseed, whether or not broken, of seed quality.
83.	1205	Rape or colza seeds, whether or not broken, of seed quality.
84.	1206	Sunflower seeds, whether or not broken, of seed quality.
85.	1207	Other oil seeds and oleaginous fruits (i.e. Palm nuts and kernels, cotton seeds, Castor oil seeds, Sesamum seeds, Mustard seeds, Safflower (Carthamustinctorius) seeds, Melon seeds, Poppy seeds, Ajams, Mango kernel, Niger seed, Kokam) whether or not broken, of seed quality.
86.	1209	Seeds, fruit and spores, of a kind used for sowing.
87.	1210	Hop cones, fresh.
88.	1211	Plants and parts of plants (including seeds and fruits), of a kind used primarily in perfumery, in pharmacy or for insecticidal, fungicidal or similar purpose, fresh or chilled.
89.	1212	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh or chilled.
90.	1213	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets
91.	1214	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets.
92.	1301	Lac and Shellac
93.	1404 90 40	Betel leaves
94.	1701 or 1702	Jaggery of all types including Cane Jaggery (gur) and Palmyra Jaggery
95.	1904	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki
96.	1905	Pappad
97.	1905	Bread (branded or otherwise), <u>except</u> pizza bread
98.	2201	Water [other than aerated, mineral, purified, distilled, medicinal, ionic, battery, de-mineralized and water sold in sealed container]
99.	2201	Non-alcoholic Toddy, Neera including date and palm neera
100.	2202 90 90	Tender coconut water other than put up in unit container and bearing a registered brand name

101.	2302, 2304, 2305, 2306, 2308, 2309	Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake
102.	2501	Salt, all types
103.	2835	Dicalcium phosphate (DCP) of animal feed grade conforming to IS specification No.5470 : 2002
104.	3002	Human Blood and its components
105.	3006	All types of contraceptives
106.	3101	All goods and organic manure [other than put up in unit containers and bearing a registered brand name]
107.	3304	Kajal [other than kajal pencil sticks], Kumkum, Bindi, Sindur, Alta
108.	3825	Municipal waste, sewage sludge, clinical waste
109.	3926	Plastic bangles
110.	4014	Condoms and contraceptives
111.	4401	Firewood or fuel wood
112.	4402	Wood charcoal (including shell or nut charcoal), whether or not agglomerated
113.	4802 / 4907	Judicial, Non-judicial stamp papers, Court fee stamps when sold by the Government Treasuries or Vendors authorised by the Government
114.	4817 / 4907	Postal items, like envelope, Post card etc., sold by Government
115.	48 / 4907	Rupee notes when sold to the Reserve Bank of India
116.	4907	Cheques, loose or in book form
117.	4901	Printed books, including Braille books
118.	4902	Newspapers, journals and periodicals, whether or not illustrated or containing advertising material
119.	4903	Children's picture, drawing or colouring books
120.	4905	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed
121.	5001	Silkworm laying, cocoon
122.	5002	Raw silk
123.	5003	Silk waste
124.	5101	Wool, not carded or combed
125.	5102	Fine or coarse animal hair, not carded or combed
126.	5103	Waste of wool or of fine or coarse animal hair
127.	52	Gandhi Topi
128.	52	Khadi yarn
129.	5303	Jute fibres, raw or processed but not spun
130.	5305	Coconut, coir fibre
131.	63	Indian National Flag
132.	6703	Human hair, dressed, thinned, bleached or otherwise worked
133.	6912 00 40	Earthen pot and clay lamps
134.	7018	Glass bangles (except those made from precious metals)
135.	8201	Agricultural implements manually operated or animal driven i.e. Hand tools, such as spades, shovels, mattocks, picks, hoes, forks and rakes; axes, bill hooks and similar hewing tools; secateurs and pruners of any kind; scythes, sickles, hay knives, hedge shears, timber wedges and other tools of a kind used in agriculture, horticulture or forestry.
136.	8445	Amber charkha
137.	8446	Handloom [weaving machinery]
138.	8802 60 00	Spacecraft (including satellites) and suborbital and spacecraft launch vehicles

139.	8803	Parts of goods of heading 8801
140.	9021	Hearing aids
141.	92	Indigenous handmade musical instruments
142.	9603	Muddhas made of sarkanda and phoolbaharijhadoo
143.	9609	Slate pencils and chalk sticks
144.	9610 00 00	Slates
145.	9803	Passenger baggage
146.	Any chapter	Puja samagrinamely,- (i) Rudraksha, rudraksha mala, tulsikanthi mala, panchgavya (mixture of cowdung, desi ghee, milk and curd); (ii) Sacred thread (commonly known as yagnopavit); (iii) Wooden khadau; (iv) Panchamrit, (v) Vibhuti sold by religious institutions, (vi) Unbranded honey (vii) Wick for diya. (viii) Roli (ix) Kalava (Raksha sutra) (x) Chandantika
147.		Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers
148.		Kerosene oil sold under PDS
149.		Postal baggage transported by Department of Posts
150.		Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
151.		Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
152.		Currency
153.		Used personal and household effects
154.		Coral, unworked (0508) and worked coral (9601);

**Rules 138A to 138D, as inserted vide Notf. No. 27/2017-Central Tax, dated 30.08.2017 and amended vide Notf. No. 3/2018, dated 23.01.2018**

**138A. Documents and devices to be carried by a person-in-charge of a conveyance.**-(1) The person in charge of a conveyance shall carry—

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

(2) A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in **FORM GST INV-1** and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

(3) Where the registered person uploads the invoice under sub-rule (2), the information in Part A of **FORM GST EWB-01** shall be auto-populated by the common portal on the basis of the information furnished in **FORM GST INV-1**.

(4) The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to the movement of goods.

(5) Notwithstanding anything contained in clause (b) of sub-rule (1), where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill-

- (a) tax invoice or bill of supply or bill of entry; or

**[138E. Restriction on furnishing of information in PART A of FORM GST EWB-01.-** Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in **PART A of FORM GST EWB-01** in respect of a registered person, whether as a supplier or a recipient, who,—

(a) being a person paying tax under section 10, has not furnished the returns for two consecutive tax periods; or

(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months:

Provided that the Commissioner may, on sufficient cause being shown and for reasons to be recorded in writing, by order, allow furnishing of the said information in **PART A of FORM GST EWB 01**, subject to such conditions and restrictions as may be specified by him:

Provided further that no order rejecting the request of such person to furnish the information in **PART A of FORM GST EWB 01** under the first proviso shall be passed without affording the said person a reasonable opportunity of being heard:

Provided also that the permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

Explanation:— For the purposes of this rule, the expression “Commissioner” shall mean the jurisdictional Commissioner in respect of the persons specified in clauses (a) and (b).]<sup>152</sup>

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(b) a delivery challan, where the goods are transported for reasons other than by way of supply.

**138B. Verification of documents and conveyances.**-(1) The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods.

(2) The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

(3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:

Provided that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

**138C. Inspection and verification of goods.** -(1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in **Part A of FORM GST EWB-03** within twenty four hours of inspection and the final report in **Part B of FORM GST EWB-03** shall be recorded within three days of such inspection.

(2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

**138D. Facility for uploading information regarding detention of vehicle.**-Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in **FORM GST EWB-04** on the common portal.

<sup>152</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

*[Explanation.* - For the purposes of this Chapter, the expressions ‘transported by railways’, ‘transportation of goods by railways’, ‘transport of goods by rail’ and ‘movement of goods by rail’ does not include cases where leasing of parcel space by Railways takes place.”.]<sup>153</sup>

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<sup>153</sup> Inserted vide Notf no. 14/2018- CT dt. 23.03.2018 wef 01.04.2018

## CHAPTER XVII

### INSPECTION, SEARCH AND SEIZURE

**139. Inspection, search and seizure.**- (1) Where the proper officer not below the rank of a Joint Commissioner has reasons to believe that a place of business or any other place is to be visited for the purposes of inspection or search or, as the case may be, seizure in accordance with the provisions of section 67, he shall issue an authorisation in FORM GST INS-01 authorising any other officer subordinate to him to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation.

(2) Where any goods, documents, books or things are liable for seizure under subsection (2) of section 67, the proper officer or an authorised officer shall make an order of seizure in **FORM GST INS-02**.

(3) The proper officer or an authorised officer may entrust upon the the owner or the custodian of goods, from whose custody such goods or things are seized, the custody of such goods or things for safe upkeep and the said person shall not remove, part with, or otherwise deal with the goods or things except with the previous permission of such officer.

(4) Where it is not practicable to seize any such goods, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in **FORM GST INS-03** that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(5) The officer seizing the goods, documents, books or things shall prepare an inventory of such goods or documents or books or things containing, *inter alia*, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized.

**140. Bond and security for release of seized goods.**-(1) The seized goods may be released on a provisional basis upon execution of a bond for the value of the goods in FORM GST INS-04 and furnishing of a security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable.

*Explanation.*- For the purposes of the rules under the provisions of this Chapter, the “applicable tax” shall include central tax and State tax or central tax and the Union territory tax, as the case may be and the cess, if any, payable under the Goods and Services Tax (Compensation to States) Act, 2017 (15 of 2017).

(2) In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.

**141. Procedure in respect of seized goods.**-(1) Where the goods or things seized are of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower, such goods or, as the case may be, things shall be released forthwith, by an order in FORM GST INS-05, on proof of payment.

(2) Where the taxable person fails to pay the amount referred to in sub-rule (1) in respect of the said goods or things, the Commissioner may dispose of such goods or things and the amount realized thereby shall be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.

**CHAPTER XVIII**  
**DEMANDS AND RECOVERY**

**142. Notice and order for demand of amounts payable under the Act.**-(1) The proper officer shall serve, along with the

(a) notice under sub-section (1) of section 73 or sub-section (1) of section 74 or sub-section (2) of section 76, a summary thereof electronically in **FORM GST DRC-01**,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in **FORM GST DRC-02**,

specifying therein the details of the amount payable.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, he shall inform the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in **FORM GST DRC-04**.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in **FORM GST DRC-06**.

(5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 [or sub-section (12) of section 75]<sup>154</sup> or sub-section (3) of section 76 [or section 125]<sup>155</sup> [or section 129 or section 130]<sup>156</sup> shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in **FORM GST DRC-08**.

**[142A. Procedure for recovery of dues under existing laws. -** (1) A summary of order issued under any of the existing laws creating demand of tax, interest, penalty, fee or any other dues which becomes recoverable consequent to proceedings launched under the existing law before, on or after the appointed day shall, unless recovered under that law, be recovered under the Act and may be uploaded in **FORM GST DRC-07A**

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<sup>154</sup> Inserted vide Notf no. 74/2018-CT dt. 31.12.2018

<sup>155</sup> Inserted vide notification No. 48/2018-CT dt. 10.09.2018

<sup>156</sup> Inserted vide notification No. 28/2018-CT dt.19.06.2018

electronically on the common portal for recovery under the Act and the demand of the order shall be posted in Part II of Electronic Liability Register in **FORM GST PMT-01**.

(2) Where the demand of an order uploaded under sub-rule (1) is rectified or modified or quashed in any proceedings, including in appeal, review or revision, or the recovery is made under the existing laws, a summary thereof shall be uploaded on the common portal in **FORM GST DRC-08A** and Part II of Electronic Liability Register in **FORM GST PMT-01** shall be updated accordingly.]<sup>157</sup>

**143. Recovery by deduction from any money owed.**-Where any amount payable by a person (hereafter referred to in this rule as “the defaulter”) to the Government under any of the provisions of the Act or the rules made thereunder is not paid, the proper officer may require, in **FORM GST DRC-09**, a specified officer to deduct the amount from any money owing to such defaulter in accordance with the provisions of clause (a) of sub-section (1) of section 79.

*Explanation.*-For the purposes of this rule, “specified officer” shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

**144. Recovery by sale of goods under the control of proper officer.**- (1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause (b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.

(2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in **FORM GST DRC-10** clearly indicating the goods to be sold and the purpose of sale.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in **FORM GST DRC-11** requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall transfer the

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<sup>157</sup> Inserted vide Notf no. 60/2018 – CT dt. 30.10.2018

possession of the said goods to the successful bidder and issue a certificate in **FORM GST DRC-12**.

(6) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (2), the proper officer shall cancel the process of auction and release the goods.

(7) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

145. Recovery from a third person.- (1) The proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (hereafter referred to in this rule as "the third person"), a notice in **FORM GST DRC-13** directing him to deposit the amount specified in the notice.

(2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in **FORM GST DRC-14** to the third person clearly indicating the details of the liability so discharged.

**146. Recovery through execution of a decree, etc.-** Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in **FORM GST DRC- 15** to the said court and the court shall, subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.

147. Recovery by sale of movable or immovable property.- (1) The proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and a notice for sale in **FORM GST DRC- 16** prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due:

Provided that the attachment of any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any Court, shall be attached in the manner provided in rule 151.

(2) The proper officer shall send a copy of the order of attachment or distraint to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the proper officer to that effect.

(3) Where the property subject to the attachment or distraint under sub-rule (1) is-

(a) an immovable property, the order of attachment or distraint shall be affixed on the said property and shall remain affixed till the confirmation of sale;

(b) a movable property, the proper officer shall seize the said property in accordance with the provisions of chapter XIV of the Act and the custody of the said property shall either be taken by the proper officer himself or an officer authorised by him.

(4) The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in **FORM GST DRC- 17** clearly indicating the property to be sold and the purpose of sale.

(5) Notwithstanding anything contained in the provision of this Chapter, where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.

(6) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders or, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(7) The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4):

Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(8) Where any claim is preferred or any objection is raised with regard to the attachment or distraint of any property on the ground that such property is not liable to such attachment or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.

(9) The person making the claim or objection must adduce evidence to show that on the date of the order issued under sub-rule (1) he had some interest in, or was in possession of, the property in question under attachment or distraint.

(10) Where, upon investigation, the proper officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter on the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any other person, or partly on his own account and partly on account of some other person, the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.

(11) Where the proper officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the proper officer shall reject the claim and proceed with the process of sale through auction.

(12) The proper officer shall issue a notice to the successful bidder in **FORM GST DRC-11** requiring him to make the payment within a period of fifteen days from the date of such notice and after the said payment is made, he shall issue a certificate in **FORM GST DRC-12** specifying the details of the property, date of transfer, the details

of the bidder and the amount paid and upon issuance of such certificate, the rights, title and interest in the property shall be deemed to be transferred to such bidder:

Provided that where the highest bid is made by more than one person and one of them is a co-owner of the property, he shall be deemed to be the successful bidder.

(13) Any amount, including stamp duty, tax or fee payable in respect of the transfer of the property specified in sub-rule (12), shall be paid to the Government by the person to whom the title in such property is transferred.

(14) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (4), the proper officer shall cancel the process of auction and release the goods.

(15) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

**148. Prohibition against bidding or purchase by officer.-** No officer or other person having any duty to perform in connection with any sale under the provisions of this Chapter shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

**149. Prohibition against sale on holidays.-**No sale under the rules under the provision of this chapter shall take place on a Sunday or other general holidays recognized by the Government or on any day which has been notified by the Government to be a holiday for the area in which the sale is to take place.

**150. Assistance by police.-**The proper officer may seek such assistance from the officer-in-charge of the jurisdictional police station as may be necessary in the discharge of his duties and the said officer-in-charge shall depute sufficient number of police officers for providing such assistance.

**151. Attachment of debts and shares, etc.-** (1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in **FORM GST DRC-16** prohibiting.-

(a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;

(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same.

(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

**152. Attachment of property in custody of courts or Public Officer.**-Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

**153. Attachment of interest in partnership.**- (1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

**154. Disposal of proceeds of sale of goods and movable or immovable property.**- The amounts so realised from the sale of goods, movable or immovable property, for the recovery of dues from a defaulter shall,-

- (a) first, be appropriated against the administrative cost of the recovery process;
- (b) next, be appropriated against the amount to be recovered;
- (c) next, be appropriated against any other amount due from the defaulter under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017 and the rules made thereunder; and
- (d) any balance, be paid to the defaulter.

**155. Recovery through land revenue authority.**-Where an amount is to be recovered in accordance with the provisions of clause (e) of sub-section (1) of section 79, the proper officer shall send a certificate to the Collector or Deputy Commissioner of the district or any other officer authorised in this behalf in **FORM GST DRC-18** to recover from the person concerned, the amount specified in the certificate as if it were an arrear of land revenue.

**156. Recovery through court.**-Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate Magistrate in accordance with the provisions of clause (f) of sub-section (1) of section 79 in **FORM GST DRC- 19** to recover from the person concerned, the amount specified thereunder as if it were a fine imposed by him.

**157. Recovery from surety.**-Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter.

**158. Payment of tax and other amounts in instalments.**-(1) On an application filed electronically by a taxable person, in **FORM GST DRC- 20**, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments in accordance with the provisions of section 80, the Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.

(2) Upon consideration of the request of the taxable person and the report of the jurisdictional officer, the Commissioner may issue an order in **FORM GST DRC- 21** allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(3) The facility referred to in sub-rule (2) shall not be allowed where-

(a) the taxable person has already defaulted on the payment of any amount under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017, for which the recovery process is on;

(b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017;

(c) the amount for which instalment facility is sought is less than twenty-five thousand rupees.

**159. Provisional attachment of property.**-(1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in **FORM GST DRC-22** to that effect mentioning therein, the details of property which is attached.

(2) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.

(3) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in **FORM GST DRC-23**, on proof of payment.

(4) Where the taxable person fails to pay the amount referred to in sub-rule (3) in respect of the said property of perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.

(5) Any person whose property is attached may, within seven days of the attachment under sub-rule (1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in **FORM GST DRC- 23**.

(6) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in **FORM GST DRC-23**.

**160. Recovery from company in liquidation.-** Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in **FORM GST DRC -24**.

**161. Continuation of certain recovery proceedings.-**The order for the reduction or enhancement of any demand under section 84 shall be issued in **FORM GST DRC- 25**.

**CHAPTER XIX**  
**OFFENCES AND PENALTIES**

**162. Procedure for compounding of offences.**-(1)An applicant may, either before or after the institution of prosecution, make an application under sub-section (1) of section 138 in **FORM GST CPD-01** to the Commissioner for compounding of an offence.

(2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.

(3) The Commissioner, after taking into account the contents of the said application, may, by order in **FORM GST CPD-02**, on being satisfied that the applicant has co-operated in the proceedings before him and has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant him immunity from prosecution or reject such application within ninety days of the receipt of the application.

(4) The application shall not be decided under sub-rule (3) without affording an opportunity of being heard to the applicant and recording the grounds of such rejection.

(5) The application shall not be allowed unless the tax, interest and penalty liable to be paid have been paid in the case for which the application has been made.

(6) The applicant shall, within a period of thirty days from the date of the receipt of the order under sub-rule (3), pay the compounding amount as ordered by the Commissioner and shall furnish the proof of such payment to him.

(7) In case the applicant fails to pay the compounding amount within the time specified in sub-rule (6), the order made under sub-rule (3) shall be vitiated and be void.

(8) Immunity granted to a person under sub-rule (3) may, at any time, be withdrawn by the Commissioner, if he is satisfied that such person had, in the course of the compounding proceedings, concealed any material particulars or had given false evidence. Thereupon such person may be tried for the offence with respect to which immunity was granted or for any other offence that appears to have been committed by him in connection with the compounding proceedings and the provisions the Act shall apply as if no such immunity had been granted.