

Background Material on GST Law for Commerce Students



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

© The Institute of Chartered Accountants of India

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means electronic, mechanical, photo-copying, recording, or otherwise, without the prior permission, in writing, from the publisher. All disputes are subject to Delhi jurisdiction only.

DISCLAIMER

The views expressed in this Book are of the author(s). The Institute of Chartered Accountants of India may not necessarily subscribe to the views expressed by the author(s)

The information cited in this Book has been drawn primarily from the www.cbec.gov.in and other sources. Readers are requested to note Sl. Nos / Table nos etc., wherever mentioned refer to the appropriate part / table of the relevant Forms.

Names, GSTIN etc., of any person or entity stated in this book are only for a proper understanding of the discussion and not for anything else. Assumptions stated are to be understood in the context of the discussion and cannot be applied to a real time situation, mutatis mutandis.

While every effort has been made in this Book to avoid any kind of errors or omissions. It is likely that errors may have crept in. Any mistake, error or discrepancy noted by the reader should be brought to the notice of the Institute of Chartered Accountants of India, New Delhi if these are found helpful, suitable edits / corrections shall be effected in the next edition.

It is notified that neither ICAI nor the Indirect Taxes Committee, or publisher or sellers will be responsible for any damage or loss to anyone of any kind or in any manner whatsoever by the use of this book. It is suggested that if the context of the book creates any doubt in the mind of the reader, s/he should cross-check all the facts, laws and contents of the publication with original Government / ICAI publications or notifications.

First Edition	:	January, 2019
Committee/Department	:	Indirect Taxes Committee
E-mail	:	idtc@icai.in
Website	:	www.icai.org ; www.idtc.icai.org
Price	:	₹ 350/-
ISBN	:	978-81-8441-947-4
Published by	:	The Publication Department on behalf of the Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi - 110 002.
Printed by	:	Sahitya Bhawan Publications, Hospital Road, Agra - 282 003. February/2018/P2226

Foreword

GST is a biggest transformation reform in the Indirect Taxation system in India, the likes of which has not been seen in India post-independence. New system has improved the collection of taxes as well as boosted the development of Indian economy by removing the indirect tax barriers between States and integrating the country through a uniform tax rate. Further, by subsuming score of taxes under GST, road to a harmonized system of indirect tax has been paved making India an economic union.

GST has a major impact on all type of businesses whether big or small. As companies and other businesses are prepared to adapt this new indirect tax system, students with a commerce background adept at handling this new tax are in demand. Therefore, at the workplace the knowledge of GST law is essential.

The Institute has been continuously undertaking several initiatives to support the Government as well as all related stakeholders for smooth implementation and spreading awareness on GST. In this direction, with the aim to provide students with a working knowledge of principles and provisions of GST law, ICAI has come up with this publication on **“Background Material on GST Law for Commerce Students”** which explains GST law in a simple and lucid language.

I appreciate the efforts put in by CA. Madhukar N. Hiregange, Chairman, CA. Sushil Kumar Goyal, Vice-Chairman and other members of the Indirect Taxes Committee of ICAI for undertaking this tedious task and bringing out this material in such a short span of time.

I hope that this publication would be immensely useful to the Students with commerce background in developing understanding and working knowledge of GST laws.

Date: 01. 01.2019

Place: New Delhi

CA. Naveen ND Gupta

President, ICAI

Preface

The introduction of GST has brought in 'one nation one tax' system as it has replaced multi-layered, complex indirect tax structure with a simple, transparent and technology-driven tax regime. The new indirect tax had a multiplier effect on the economy with the benefits accruing to various sectors such as exporters, small traders and entrepreneurs, agriculture and industry, common consumers. Thus, GST has become a historic transformation and an experience worth it for the country.

We stand by the Government with our role as "Partner in GST Knowledge Dissemination". To make the knowledge dissemination process smoother, we came up with a publication ***"Background Material on GST Law for Commerce Students"***. The efforts have been made to cover all aspects of GST law containing basics of GST, important concepts, analysis in a simple way along with the Flowcharts, illustrations and some MCQ's & FAQ's on GST, etc. to make the reading and understanding easier. We are sure that the publication would help the students in acquiring knowledge and cope-up with the challenges and complexities in the GST.

We thank CA. Naveen N. D. Gupta, President and CA. Prafulla Prem Sukh Chhajed, Vice-President, ICAI for giving us the space to deliver and support for this progressive law initiative. We would like to acknowledge the members of the Indirect Taxes Committee for their timely contribution and support in the coming up of this publication. Special thanks to the effort of CA. Vinamar Gupta, CA. Bishan Shah, CA. Hiren Pathak, CA. Shubham Khaitan, CA. Sanjay Dhariwal and CA. Mahadev R. We also appreciate the Secretariat for their unstinted support and efforts.

We welcome the students to an intellectual learning spree. Interested persons may join the IDT update facility at www.idtc.icai.org. We also welcome suggestions at itdc@icai.in.

CA. Madhukar Narayan Hiregange
Chairman
Indirect Taxes Committee

CA. Sushil Kumar Goyal
Vice-Chairman
Indirect Taxes Committee

Date: 01. 01.2019

Place: New Delhi

Contents

<i>S. No.</i>	<i>Title</i>	<i>Page No.</i>
1.	Overview of GST	1
2.	Definitions	19
3.	Exemptions under GST	57
4.	Composition Scheme	94
5.	Inter and Intra State Supply	113
6.	Time of Supply	147
7.	Value of Supply	161
8.	Input Tax Credit	181
9.	Tax Invoice, Accounts and Records	225
10.	Returns	240
11.	Payment of Tax	247
12.	Offences & Penalties	257
13.	E-Way Bill	268
14.	Job Work	281
15.	Assessment and Audit	295
16.	Demand and Recovery	313
17.	Miscellaneous Issues	332

Chapter 1

Overview of GST

Learning Objective

This chapter is a brief introduction on the GST Law and two important bodies in GST- the GST council & the GSTN (Goods & Services Tax Network).

Coverage

- I. What is GST?
- II. Mile stones in the advent of GST
- III. Legislative History of GST in India
- IV. Tax Structure before GST
- V. Comparison between old and new structure
- VI. Shortcomings of previous tax structure leading to introduction of GST
- VII. Taxes Subsumed into GST
- VIII. Taxes not subsumed into GST
- IX. Taxes deferred to be included into GST
- X. Model of GST adopted in India
- XI. GST Council- Members, Quorum & Functions
- XII. GSTN
- XIII. Functions of GSTN and its portal
- XIV. GST Rates
- XV. Who shall pay GST?
- XVI. When is a person liable to be registered?
- XVII. What is the taxable event under GST?
- XVIII. Supply under GST

Introduction

Goods and service Tax (GST) is a value added destination based taxation which aims to provide seamless input tax credit. This chapter gives an over view of the basic concept of GST and the model of GST adopted in India. This chapter also discusses the brief history of GST in India, major taxes that have been abolished and also those which have not been abolished

Background Material on GST Law for Commerce Students

after advent of GST. There is discussion on the shortcomings in the present structure due to which India moved to GST regime and also major areas of comparison between old and new structure. Also, a brief discussion about GST Council and GSTN, two important bodies in GST has been made along with major areas of their functions.

Analysis/Illustration/Charts

What is GST?

GST means tax on **supply of goods**, or **services** or both **except taxes on the supply of the alcoholic liquor for human consumption** [Article 366(12A) of the Constitution of India]

Hence:

GST is Tax on Supply
GST is applicable to all goods as well as services
GST is not applicable to supply of alcoholic liquor for human consumption

Further, GST is a Value added tax on the supply of goods and/or services. GST is a single tax at a national level to be levied at all stages right from manufacturing to final consumption. Under GST every person is liable to pay tax on his output and is entitled to get input tax credit (ITC) on tax paid on its inputs, input services and capital goods. Therefore, it is a tax on the value addition only. Ultimately the final consumer shall bear the burden of tax under GST.

Understand from following example:

Manufacturer	Distributor	Retailer	Consumer
Value 1,00,000 GST @ 18%= 18,000	Cost 1,00,000 Profit 11,200 Sale 1,11,200 GST @ 18% 20,016	Cost 1,11,200 Profit 24,640 Sale 1,35,840 GST@ 18% 2,4451.20	Cost 16,0291.2 (1,35,840+24,451.20)
Input Tax Credit= NIL	Input Tax Credit= 18,000	Input Tax Credit= Rs. 20,016	Input Tax Credit= NIL
Paid to Government GST = 18,000	Paid to Government GST = 2,016 (Output tax – Input tax)	Paid to Government GST= 4,435.20 (Output tax – Input tax)	Tax Borne by the Consumer 18,000+2016+4,435.20= Rs. 24,451.20
Value Addition = 1,00,000 GST @ 18% = 18,000	Value Addition= 11,200 GST @ 18%= 2,016	Value Addition= 24,640 GST @ 18%= 4,435.20	Value Addition= NIL

Milestones in the advent of GST

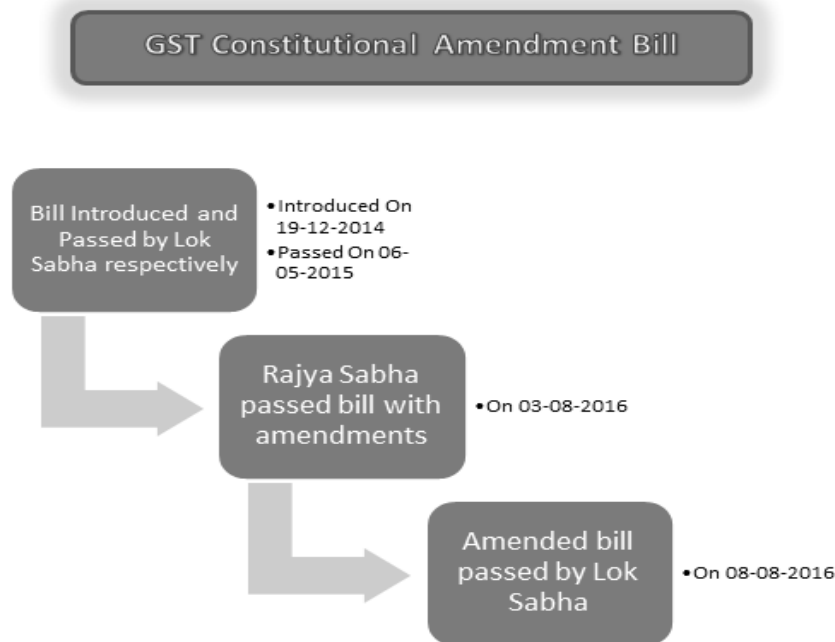
- (a) **France** was the first country to implement GST in the year **1954**. In the last 63 years, more than 160 countries across the world have adopted GST.
- (b) In India the genesis of the concept of taxing the value addition only can be dated back to the concept of **MODVAT** under Central Excise law which was introduced in the year 1986 but it allowed credit of excise duty paid on inputs only against the excise duty liability of Central excise. From 01-03-1994, the credit under MODVAT was introduced for capital goods also but there were distinct rules for inputs and capital goods, which were later unified in the Budget of the year 2000 and formed as Cenvat Credit Rules, 2001. The rules for allowing credit of service tax were separately constituted in the year 2002.
- (c) Old Cenvat Credit Rule and Service Tax Credit Rules were unified in the year 2004 to allow cross credit of excise and service tax on all inputs and input service against the manufacturing of goods or provision of services under **Cenvat Credit Rules 2004**
- (d) **Value added Tax (i.e. VAT)** was introduced between 2003 to 2008 in a staggered manner by the states levying tax on value addition between intra state sale and purchase of goods. Central Sales Tax leviable on interstate sales was kept outside the purview of value added tax i.e. VAT

Legislative History of GST in India

- (a) The idea of GST in India was first mooted by the **Kelkar Task force** in 2004.
- (b) In 2006, the then Finance Minister set out a goal for GST to be implemented in India by 2010, but the deadline could not be met.
- (c) The first discussion paper on GST in India was published by the empowered committee of State Finance Ministers on 10 November 2009, which provided the present dual tax model of GST.
- (d) The report of the Task Force on GST constituted by 13th Finance Commission also contributed to the development of the concept of “flawless” GST
- (e) In the year 2011, the 115th GST Constitutional Amendment Bill was framed but could not be placed before the Houses of Parliament.
- (f) **Goods and Services Tax Network (GSTN)**, a non-profit company was constituted on 28-03-2013 to provide Information Technology infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST).
- (g) In 2014, 122nd **Constitutional Amendment Bill** was introduced in Lok Sabha on 19-12-2014 and was passed by Lok Sabha on 06-05-2015 and sent for concurrence to Rajya Sabha.

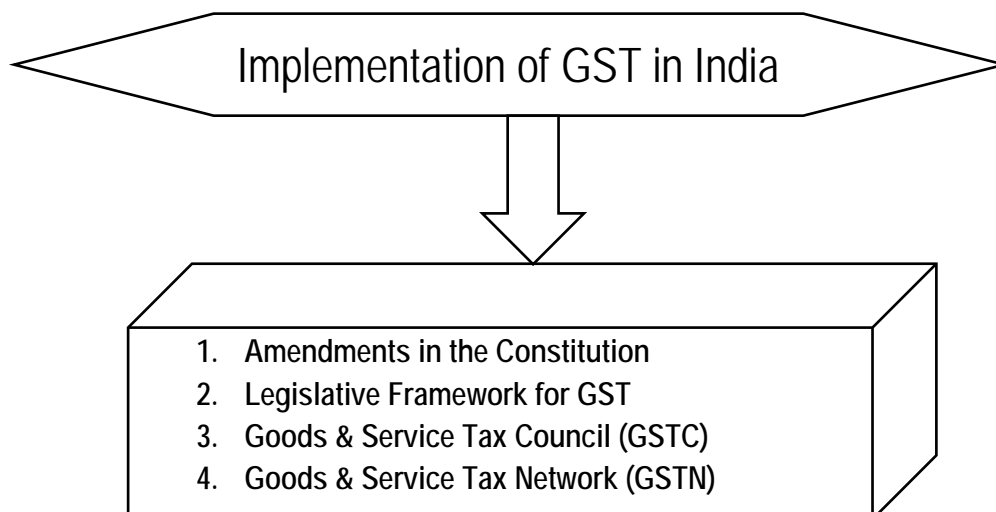
Background Material on GST Law for Commerce Students

- (h) Rajya Sabha passed the Constitutional Amendment Bill with amendments on 03-08-2016 and returned the bill to Lok Sabha and the amended Bill was passed by Lok Sabha on 08-08-2016 with 443 votes cast in favor of the Constitutional Amendment Bill and none against it.



- (i) After ratification of the Bill by more than 50% States, the Bill was sent to President for his assent. Presidential assent was given on 08-09-2017 and thus the 122nd Constitutional amendment Bill became the 101st Constitutional Amendment Act 2016. This Constitutional Amendment Act was implemented w.e.f. 16-09-2016. The laws not in concurrence with GST were allowed to operate for 1 year from the date of implementation of Constitutional Amendment Act i.e. till 15-09-2017. The GST Council was also constituted w.e.f. 12-09-2017 by notification dated 10-09-2017.
- (j) While the Constitutional amendment bill was pending for consideration before Rajya Sabha, different business processes of GST like registration process, return process, payment process, refund process, revenue neutrality structure were framed by the Joint Committee constituted by Empowered Committee of the State Finance Ministers
- (k) In June 2016, the different business processes so framed gave way to the **Model GST law** which was revised in November 2016 and **final act** was passed on 12-04-2017.
- (l) The provisions relating to Administration, Composition levy and registration under GST were implemented with effect from 22-06-2017
- (m) Remaining provisions except provisions relating to deduction of tax (TDS) and collection of tax at source (TCS) under GST law were **implemented w.e.f. 01-07-2017**.

(n) TDS and TCS provisions have been made applicable from 01-10-2018.



Tax Structure before GST

Nature of Duty	Taxable Event	Tax Rate
Central Excise Duties	Manufacture	12.5%
Service Tax	Provision of Service	15%
Customs Duty on Imports	Import	10%
Central Sales Tax	Sale of Goods in the course of Interstate trade or commerce	2% against declaration of registered buyer. Where declaration is not available commodity rate of the state applies
State Tax	Sale of Goods other than in course of Interstate trade or commerce	Varies from State to State. However generally, it is: 1% on precious metals 5-6% on Merit Goods 12.5-14.5% on Remaining Goods

Comparison between old and new structure

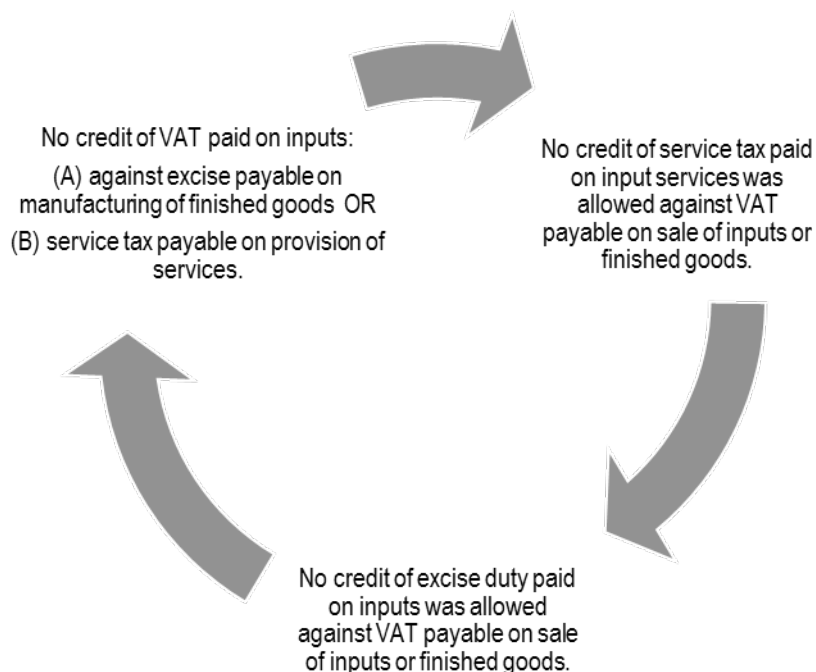
	Old Structure	GST Structure
Supply of Goods with in State	Vat	SGST + CGST
Inter State Supply of Goods	CST	IGST
Supply of Service with in State	Service Tax	SGST + CGST

Background Material on GST Law for Commerce Students

Supply of Service in the course of Interstate trade or commerce	Service Tax	IGST
Import of Goods	BCD + CVD+ SAD	BCD +IGST
Import of Service	Service Tax under Reverse Charge	IGST
Export of Goods	No Tax	No Tax
Export of Service	No Tax	No Tax

Shortcomings of previous tax structure leading to introduction of GST

1. Piecemeal Credit of Taxes on Inputs/Input services



2. No credit of Central Sales Tax against the sale of goods

In pre GST Era, no credit was allowed in respect of central sales tax paid on interstate purchase of goods.

E.g. If goods purchased are for Rs. 1000 + Rs. 20 (2%) = Rs. 1020/- and the goods are sold

within the State for Rs. 1200/- , where the tax rate on sale is 12.5% and hence output tax liability is Rs. 150/-. No credit of Rs 20/- is allowed while making payment of Rs. 150/- and hence the dealer has to pay Rs. 150 as State tax.

3. No credit of VAT paid in one State against the VAT payable in the other State

Although credit of tax paid on purchases is allowed against intra State sales of goods and tax against every sale within State is paid only on the value addition of goods when the goods travel to some other state, the credit of taxes paid in one State does not get transferred to the other State.

E.g. In Maharashtra goods are sold by Mr A to Mr. B for Rs. 1000/- charging tax @ 12.5%= Rs. 125. Mr. B sells goods to Mr. C in Punjab for Rs. 1500 charging tax @ 2%= Rs. 30/-. Hence the tax that has been deposited in Maharashtra is Rs. 125+30=Rs. 155. When Mr. C sells these goods, he is not entitled to credit of taxes paid in Maharashtra.

4. Cascading Effect of tax by charging Vat on value of goods including Excise Duty

State Vat i.e. Value added tax was being charged on the value of goods after including excise duty. Hence, not only the excise duty credit paid on purchase was being denied on the sale of same goods but also against the same sale transaction, Vat was being levied on the excise duty leviable on the manufacture of goods

E.g. If goods are manufactured for Rs. 1000/- and excise duty is payable @ 12.5% and vat is payable say @ 14.30%, the Billing was being done as under:

Assessable Value of Goods under Excise law	Rs. 1000
Excise Duty @ 12.5%	Rs. 125
Taxable Value for Vat	Rs. 1125
Vat @ 14.30%	Rs. 160.88
Total Invoice Value	Rs. 1285.88

5. No system of matching the Indirect tax turnover with Direct tax turnover was available

In Income tax law, also the assessee's possess PAN. Under the excise and service tax also the registration of the assessee is PAN based. Under the State laws, though the possession of PAN was pre requisite to apply for Vat registration, the registration numbers were not PAN based. Hence the IT systems could not configure the matching of turnover figures furnished by

the same assessee to the different departments. This was posing a great threat to the internal control systems of the Government to check revenue leakages under GST.

6. Assessable value being more than the value of goods and or services

In case of indivisible works contracts, where the value of goods and service was not determinable separately, service tax was being charged on 40% to 70% of the value of works contract and vat was chargeable on 70% of the value of works contract. Hence for a contract value of Rs. 100/- the tax was being charged at 110% to 140% of the value. [Note: Generally speaking, Works Contracts are the composite contracts which involve both supply of goods as well as services]

Similarly, for the supply of food and beverages, service tax was chargeable on 40% of the value in case of restaurants, 60% in case of outdoor catering and 70% in the case of bundled contract of lodging in hotels along with supply of meals. Vat was chargeable on 100% of the value of supply of food and beverages. Hence tax was being charged at 140% to 170% of the value.

The above anomaly prevailed because different laws considered the same subject of taxation of goods as well as service but there was no coherence to rationalize the taxation for taxpayers.

Taxes Subsumed into GST

Following Central and State taxes have been subsumed into GST

Central Taxes	State Taxes
<ul style="list-style-type: none">➤ Central excise duty (Cenvat)➤ Additional duties of excise➤ Excise Duty under Medicinal and Toilet Preparation Act➤ Service Tax➤ Additional Customs Duty (CVD)➤ Special Additional Duty of Customs (SAD)➤ Central Surcharge and Cess	<ul style="list-style-type: none">➤ State VAT/Sales Tax➤ Central Sales Tax [levied by Centre but collected by State]➤ Octroi and Entry Tax➤ Luxury Tax➤ Taxes on Lottery, Betting and Gambling➤ State Cess and Surcharge

Note:

1. CVD and SAD are customs duties charged on import of goods but in lieu of excise duty and vat respectively.
2. Amongst Customs duties, only CVD and SAD have been subsumed into GST, but basic customs duty has not been subsumed into GST.

Taxes not subsumed into GST

Only the taxes mentioned here in above have been subsumed into GST. All other taxes are outside the purview of GST. To name a few:

1. Basic Customs Duty
2. Electricity Duty
3. Taxes on alcoholic liquor for human consumption
4. Tax on Sale of land and Building
5. Tax on Securities
6. Fee chargeable under State laws like fee chargeable for sale of agriculture produce popularly known as Mandi fee.

Taxes deferred to be included into GST

Taxes on following items are **yet to be brought into the GST net** and may be subsumed into GST at a later date:

Duty of excise and tax on sale or purchase of

- (a) petroleum crude;
 - (b) high speed diesel;
 - (c) motor spirit (commonly known as petrol);
 - (d) natural gas;
 - (e) aviation turbine fuel; and
- Taxes on entertainment which were earlier collected by State shall after GST be collected by local authorities like Panchayat or a Municipality or a Regional Council or a District Council.

Model of GST adopted in India

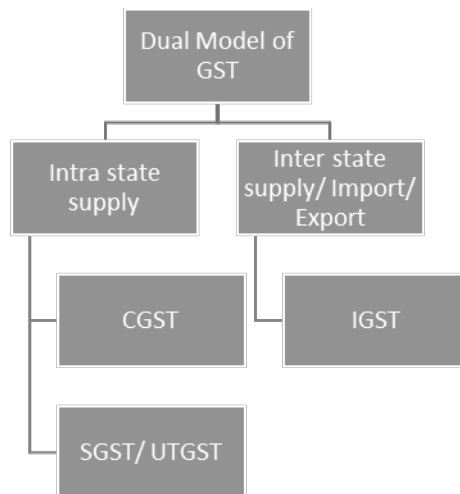
Since India is a union of states, dual model of GST has been adopted.

- State Taxes to be Subsumed in **SGST** (State Goods and Services tax)/**UTGST** (Union territory GST) for intra (within) State or Union Territory supplies of goods or services
- Central Taxes to be subsumed in **CGST** (Central Goods and Service Tax) for intra state supply of goods or services.

While SGST directly goes to the State, CGST is directly collected by the Central government. However in terms of the recommendation of 14th Finance Commission, 42% of the CGST also is required to be disbursed to the State.

Background Material on GST Law for Commerce Students

- While CGST, UTGST and SGST are charged for intra State supply of goods and/or services, **IGST** (Integrated Goods and Service Tax) is chargeable for:
 - (a) Inter-State supplies (supply between two different States),
 - (b) Imports, and
 - (c) Exports



- Apart from CGST, SGST/UTGST, **IGST compensation cess** is leviable on certain luxury goods. Exports are however, zero rated.

GST Council

Commencement of GST Council

According to Article 279A of the Constitution, the GST Council has to be constituted by the President within 60 days of the commencement of Article 279A. The notification for bringing into force Article 279A with effect from 12th September, 2016 was issued on 10th September, 2016.

Members of GST Council

The GST Council is a joint forum of the Centre and the States, and consists of the following members:

- Chairperson-** Union Finance Minister
- Vice chairperson-** to be chosen from amongst the members of Ministers of State government
- Members-**
 - (a) The Union Minister of State, in-charge of Revenue/Finance
 - (b) The Minister In-charge of finance or taxation or any other Minister nominated by each State Government

Quorum for GST Council Meetings

- The **quorum** of GST council is 50% of total members
- **Decision** is taken by 3/4th majority (75%), wherein-
 - (a) the Central Government would have the weightage of 1/3rd of the total vote cast, and
 - (b) the State Governments would have a weightage of 2/3rd of the total votes cast.

Functions of the GST Council

GST Council is basically entrusted with task to make recommendations on the different aspects of GST to the Union as well as states.

GST Council under the Constitution is required to make **recommendations on the following**:

- (a) the taxes, cesses and surcharges which may be subsumed in the goods and services tax;
- (b) the goods and services that may be subjected to, or exempted from the goods and services tax;
- (c) model GST Laws, principles of levy, apportionment of IGST and the principles that govern the place of supply;
- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
- (e) GST rates including floor rates;
- (f) any special rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- (h) any other matter relating to the GST, as the Council may decide.

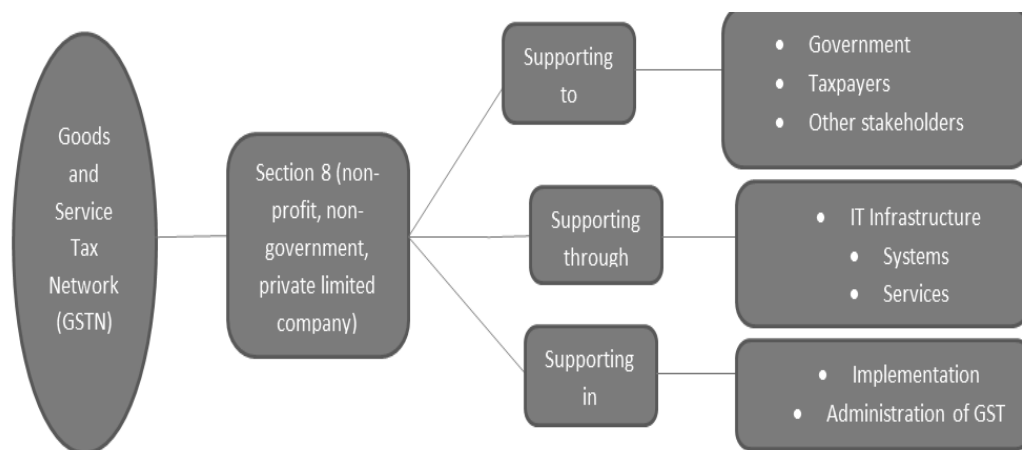
The GST Council shall also recommend the date on which GST will be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

GSTN

- The common GST Portal **www.gst.gov.in** has been developed by GSTN as the front-end of the overall GST IT eco-system.
- Goods and Services Tax Network (GSTN) is a Section 8 (not for profit company), non-Government, private limited company. It was incorporated on March 28, 2013.

Background Material on GST Law for Commerce Students

- Under GST, the registration of taxpayers will be common under Central and State GST and hence one place of filing application for the same i.e. the Common GST portal.
- Query of tax authorities, if any and their final decision will be communicated to GST portal which in turn will communicate the same to the taxpayer.
- The Common GST Portal, is the single interface for all taxpayers from any part of the country.



Functions of GSTN and its portal

Creation of common and shared IT infrastructure for functions relating to taxpayers has been assigned to GSTN and these are:

1. Functions relating to Tax Payers

- Filing of registration application
- Filing of return
- Creation of challan for tax payment

2. Functions relating to Government

- Settlement of IGST payment (like a clearing house)
- Generation of business intelligence and analytics

3. Functions relating to Tax Officials

- All statutory functions to be performed by tax officials under GST like-
 - (a) approval of registration,
 - (b) assessment,
 - (c) audit,
 - (d) appeal,
 - (e) enforcement etc.

GST Rates

Under GST following rates have been prescribed for goods and services

1	NIL Rated
2	0.25%
3	3%
4	5%
5	12%
6	18%
7	28%

Under the Composition scheme, applicable to taxable persons having turnover up to Rs. 1 crore, following rates have been prescribed:

1%	Traders
1%	Manufacturers
5%	Persons engaged in supply of food and beverages

Who shall pay GST?

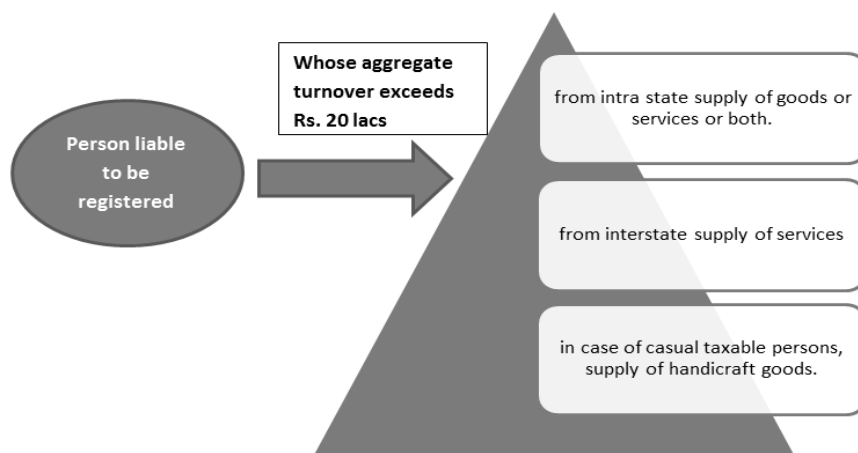
The **Taxable person** is required to pay GST.

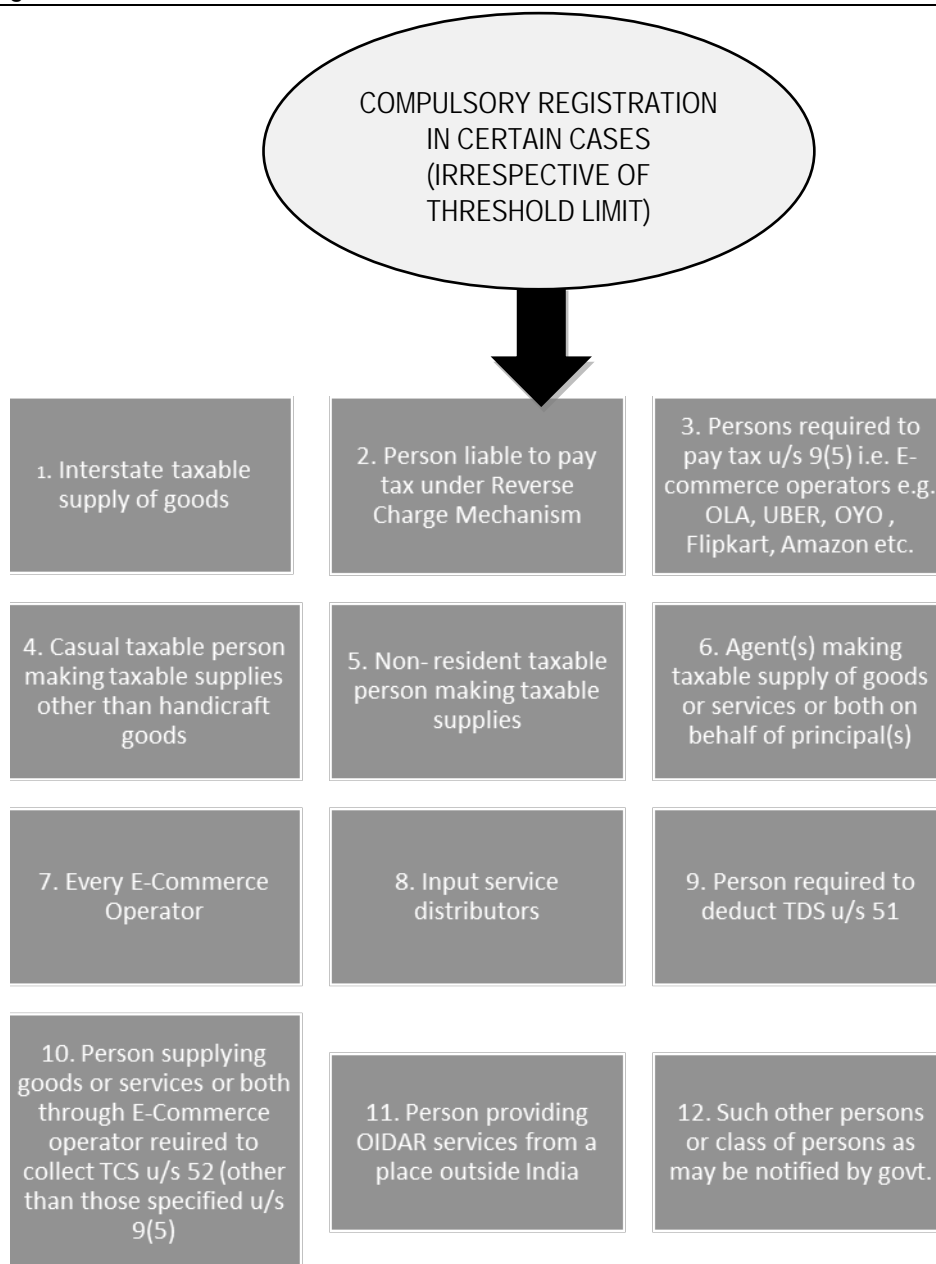
Taxable person means a person who is:

- (a) registered, or
- (b) liable to be registered

When is a person liable to be registered:

A person is liable to be registered under following circumstances:





Voluntary Registration

A person who is not liable to be registered can also make an application for being registered voluntarily and can thereby acquire the status of taxable person.

What is the taxable event under GST?

Under GST, taxable event is supply.



Supply under GST

1. Supply includes

- all forms of supply of goods and/or services
- such as sale, transfer, barter, exchange, license, rental, lease or disposal
- made or agreed to be made
- for a consideration
- by a person
- in the course or furtherance of business,

2. Apart from above:

- Certain supplies not made in course or furtherance of business but made for consideration are also taxable e.g. import of service for personal purpose.
- Certain supplies made in course or furtherance of business but not for a consideration are also taxable e.g. supplies between principal and agent, supplies made to own establishment outside the state.

Question Bank

FAQs

1. What is GST?

Ans. GST is Goods and service tax. GST is a tax on supply of goods, or services except alcoholic liquor on human consumption.

2. What are the taxes subsumed into GST?

Ans. Central taxes subsumed in GST: Cenvat, Additional duty of excise, Excise duty under medical and toilet preparation, service tax, additional customs duty, special additional duty (SAD), Central surcharge and cess

State taxes subsumed in GST: State Vat/ Sales Tax, Central sales tax, octroi and entry tax, luxury tax, taxes on lottery, betting and gambling, state cess and surcharge

3. What are the taxes not subsumed into GST?

Ans. Basic Customs Duty, Electricity Duty, Taxes on alcoholic liquor for human consumption, Tax on Sale of land and Building, Tax on Securities and Fee chargeable under State laws like fee chargeable for sale of agriculture produce popularly known as Mandi fee has not been subsumed into GST.

4. What is GST Council?

Ans. GST Council is a constitutional body for making recommendations to the Union and states on issues relating to GST. It is chaired by Finance Minister and other members are the Union State Minister of Revenue or Finance and Ministers in-charge of Finance or Taxation of all the States.

5. Who shall pay GST?

Ans. Taxable person is required to pay GST. Taxable person is a person registered or required to be registered under GST

6. What is the taxable event under GST?

Ans. Taxable event in GST is supply.

7. How to determine Inter and Intra State Supplies under GST?

Ans. Where location of supplier and place of supply is in two different states or union territories, it is a case of inter-state supply. But where location of supplier and place of supply is in same state or union territory it is intra state supply.

8. What are the Shortcomings of present tax structure leading to concept of GST?

Ans.

1. Piecemeal credit of taxes
2. No credit of Central Sales Tax.
3. No credit of vat paid in other state.
4. Cascading effect of taxes by charging vat on value of goods including excise duty.
5. No system of matching turnover in direct and indirect tax.
6. Assessable value was in some cases more than value of contract

9. What are the functions of GST Council?

Ans.

1. Recommendation on taxes to be subsumed

2. Goods and services to be exempted
 3. Framing of model GST law.
 4. Principles for levy and apportionment of IGST
 5. Principles that govern place of supply.
 6. Thresh hold limit of turnover which may be exempted from GST
 7. Determination of GST rates
 8. Special provisions for certain states
10. How the GST Constitutional Amendment bill was converted into GST Amendment Act?
- Ans.** Constitutional bill was passed by Lok sabha on 19-12-2014. Rajya sabha bill passed the bill on 03-08-16. After ratification by more than 50% of the States presidential assent was given on 08-09-16 and was put into force from 16-09-16. Thus the Constitutional amendment bill was converted into constitutional amendment act.

MCQs

1. GST is tax on
 - (a) Sale
 - (b) Removal
 - (c) Supply
 - (d) Manufacture
- Ans.** (c) Supply
2. GST covers
 - (a) Goods
 - (b) Services
 - (c) Goods and Services
 - (d) All of the above
- Ans.** (d) All of the above
3. Following taxes have been subsumed into GST
 - (a) State taxes only
 - (b) Central Taxes only
 - (c) None of the above
 - (d) Both Central taxes and State taxes
- Ans.** (d) Both Central taxes and State taxes

4. Who is required to pay GST?

- (a) Registered person only
- (b) Every person
- (c) Taxable person
- (d) All of the above

Ans. (c) Taxable person

5. Interstate supply is involved where

- (a) Location of supplier and place of supply is in the same State
- (b) Location of supplier and place of supply is in two different States
- (c) Both of the above
- (d) None of the above

Ans. (b) Location of supplier and place of supply is in two different States

6. GST in India is based on:

- (a) Dual system
- (b) Single system
- (c) None of the Above
- (d) Quadruplicate system

Ans. (b) Single system

7. GST registration is required when the aggregate turnover exceeds:

- (a) Rs. 5 lacs
- (b) Rs. 12 lacs
- (c) Rs. 15 lacs
- (d) Rs. 20 lacs

Ans. (d) Rs. 20 lacs

8. GST is a

- (a) Value added tax
- (b) Tax on outward supplies
- (c) Tax on Inward supplies
- (d) None of the above

Ans. (a) Value added tax

Chapter 2

Definitions

Learning Objective

This Chapter deals with the definitions of some important terms under GST and their simplified explanation.

Coverage

- I. Supply
- II. Taxable supply
- III. Non Taxable Supply
- IV. Exempt Supply
- V. Composite Supply and Principal Supply
- VI. Mixed Supply
- VII. Business
- VIII. Consideration
- IX. Goods
- X. Services
- XI. Reverse Charge
- XII. Aggregate Turnover
- XIII. Registered Person
- XIV. Taxable Person
- XV. Casual Taxable Person
- XVI. Input Tax Credit
- XVII. Input
- XVIII. Capital Goods
- XIX. Input services
- XX. Works Contract

Introduction

A clear and appropriate meaning of the terms used in the law is a must. If meaning of the

words used in the law by legislature is not clearly spelt out, it will vitiate the whole purpose of law.

Analysis/Illustrations/Charts

Supply

Goods and Services tax is a **tax on supply** of goods, or services or both except taxes on supply of alcoholic liquor for human consumption [Article 366(12A) of the Constitution of India].

Further, as per charging section 9(1) of CGST Act, There shall be **levied a tax** called the **central goods and services tax** on all **Intra-State supplies** of **goods** or **services** or both,

Hence, Goods and service tax is a tax on the **supply**. In contradiction to this, earlier

- (a) Excise duty was a tax on **manufacturing of goods**
- (b) Service tax was a tax on **provision of service**
- (c) VAT was a tax on the **sale of goods**.

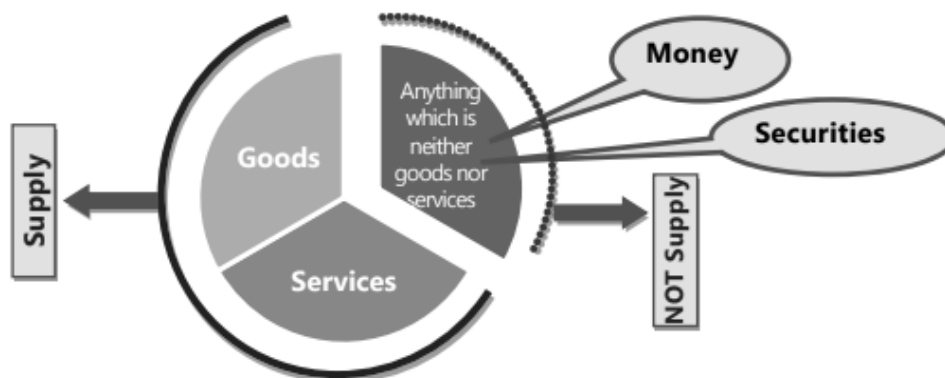
However, the taxable event under the GST is much broader. It takes into account the supply of goods and services as taxable event.

1. What is taxable Event?

'Taxable event' is that, on happening of which, the charge gets fixed. It is that event, which on its occurrence creates or attracts the liability to tax. Such liability does not accrue at any earlier or later point of time. Even though taxable event happens to be at a particular point of time, the levy and collection of such tax may be postponed for administrative convenience, to a later date.

2. What is the Meaning of Supply Under GST?

The term supply has been defined under Section 7 (1) of GST law as under:



The expression “supply” **includes**--

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
- (b) import of services for a consideration whether or not in the course or furtherance of business;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

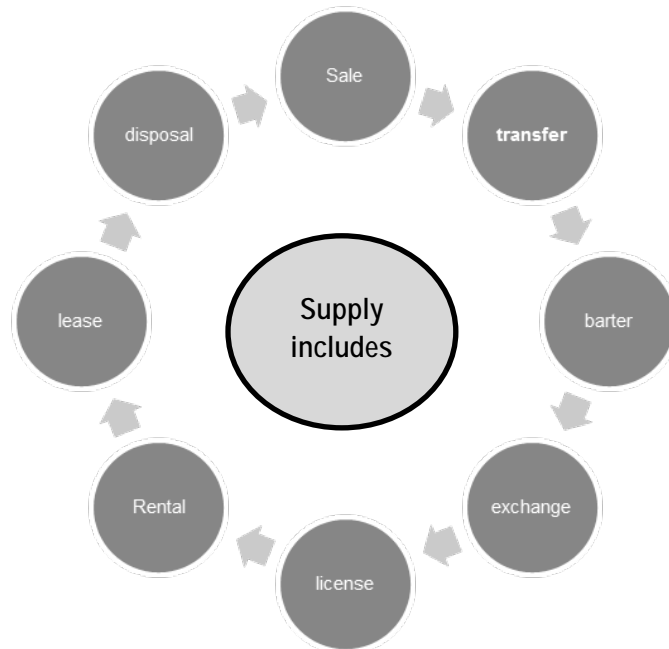
Inclusive definition of Supply

The definition of supply under GST is not an exhaustive definition. A definition is said to be exhaustive when it gives complete meaning and the meaning cannot be stretched any further. But this is not the case with the definition of supply under the Act. It uses the words “includes” and not “means”. Hence, the definition of supply can be extended even beyond what is provided under the law.

3. Types of Supplies

The definition of supply includes all forms of supplies. It means the definition extends beyond the supplies exemplified under the definition. Hence, “supply” includes all forms of supply such as:

1. Sale
2. Transfer
3. Barter
4. Exchange
5. License
6. Rental
7. Lease
8. Disposal



1. Sale is one of the forms of transfer of property in goods for cash, deferred payment or other valuable consideration.
2. Transfer includes sale, exchange, extinguishment of rights, relinquishment, conversion, redemption.
3. Barter is exchange of goods for goods. For example, if guns are purchased by paying the price in gold, it is barter and covered under the definition of supply.
4. Exchange: If new AC is purchased in exchange for old AC valued at 25% of its original cost and by paying balance amount in cash, the act of giving away old AC in exchange is an act of supply.
5. License is permission to use something. For example, if a person is granted a license to use equipment in consideration for some compensation then such permission or license is an act of supply.
6. Rental: Providing an immovable property for rent is an act of supply.
7. Lease: The act of letting out a property for defined period of time is lease. For example, if land is given for one year lease, this is an act of supply.
8. Disposal: Disposal is an act of throwing away a property at a value much lower than its acquisition cost. For example, sale of scrap of furniture is an act of disposal.

However, the above forms are just a few examples of supply and the definition of supply is much wider.

4. Supply “made” or “agreed to be made”

As per definition of supply, both supply “made” or “agreed to be made”, are taxable. Hence not only making of supply but also only agreeing to make supply is an act of supply.

Example 1: If a person agrees to provide a machine in future for Rs. 50 lakhs and pays Rs. 10 lakhs for agreeing to make supply of machine in future, the advance of ` 10 lakhs is also chargeable to tax under the law.

Example 2: An architect agrees to provide consultancy for house construction for Rs.1,50,000/- and receives Rs.10,000/- as advance consideration for agreeing to provide consultancy. In this case, the advance of Rs.10,000/- is chargeable to tax.

Note: Vide Notification 40/2017-CT dated 13-10-17, taxpayers having turnover up to Rs.1.5 crore were exempt from payment of tax on advance against goods and thereafter vide Notification dated 66/2017-CT dated 15-11-17, all the taxpayers were exempt from payment of tax on advance against goods. However, advance against supply of services remains taxable.

5. Significance of Consideration in Supply

Generally, there cannot be supply without consideration, barring a few exceptions provided in Schedule I of CGST Act.

For example

- (a) Gift from relatives
- (b) Donation received by temple
- (c) Free samples distributed by pharmaceutical company to doctors
- (d) Gifts under promotional scheme of the products.

Definition of Consideration

Further, the term consideration is defined under section 2(31) of CGST Act as follows:

“consideration” in relation to the supply of goods or services or both includes—

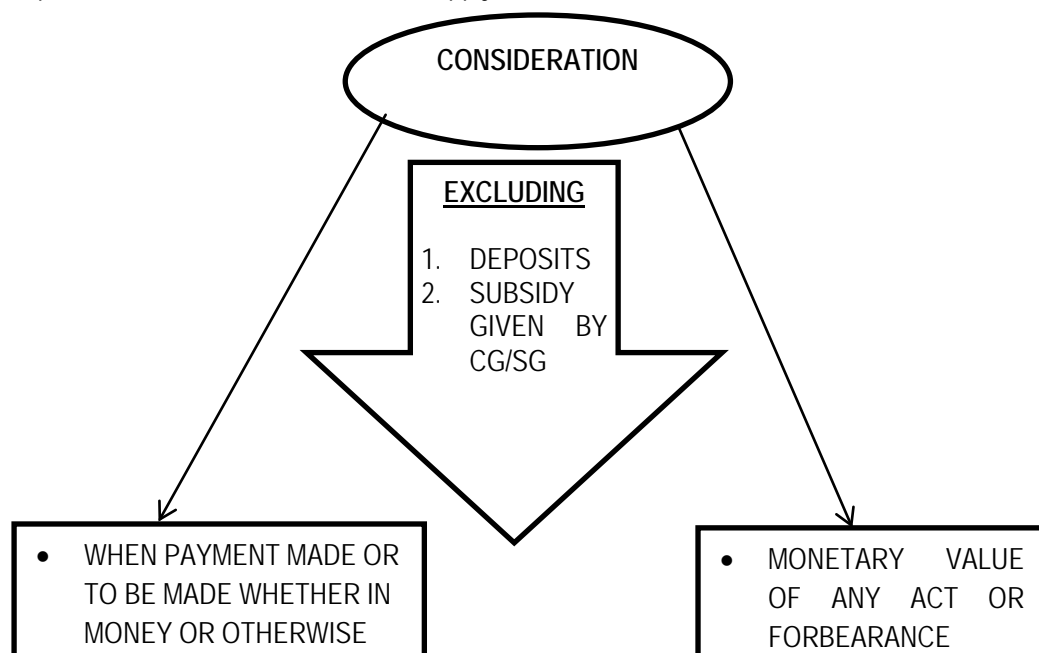
- (a)
 - any payment made or to be made,
 - whether in money or otherwise,
 - in respect of, in response to, or for the inducement of,
 - the supply of goods or services or both,
 - whether by the recipient or by any other person
 - but shall not include any subsidy given by the Central Government or a State Government;

Background Material on GST Law for Commerce Students

(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;



Comments of the definition of Consideration

- (a) Payment made otherwise than in money is also included in the term consideration. E.g. instead of paying in cash, if the payment is made in gold, it is included in the definition of 'consideration'.
- (b) If the payment is made by some person other than recipient of goods, still it forms part of consideration. For example, if the goods are sold to Mr. X and the payment for goods sold to Mr. X is received from Mr. Y, because Mr. Y owes some amount to Mr. X, still the amount received from Mr. Y instead of Mr. X will be treated as 'consideration'.

- (c) **Subsidy given by Central Government or State Government is not to be included in consideration.**

Example: If fertilizer is required to be sold at subsidized price to farmer and balance amount is received from the Central Government or State Government, the amount of subsidy shall not be taxable in the hands of supplier of fertilizer.

As per section 15(2)(e) of the CGST Act also, subsidies directly linked to the price, excluding subsidies provided by the Central Government and State Governments are required to be included in the price of supplies to be taxed. Hence, as per section 15(2)(e) also, subsidies received from Central and State Government are required to be excluded.

- (d) The amount of deposit given in respect of supply also does not form part of consideration. For example, if some telephone security deposit is accepted, the amount received as deposit is not part of consideration for providing telecom service. However, if the amount of deposit which gets adjusted in future billing of the telecom company, then the amount of deposits so applied also gets taxed as consideration for supply. However, a distinction between "advance" and "deposit" under the GST law has to be made minutely. Because advance is taxable but deposit unless applied towards supply is not taxable.
- (e) Monetary Value of an act or forbearance is also included in consideration.
- (i) **For example:** if a company allows another company to market the product in the territory assigned to it in lieu of territory shared in some other part of the country, then the monetary value of this act is also consideration.
- (ii) **Similarly,** if a person withdraws its claim on use of his brand, and allows another person to use his brand name, then forbearance (giving up or refraining) to enforce this claim is also consideration.

6. Cases of Supply without Consideration

Section 7(1)(c) read with Schedule I of the CGST Act specifies the following activities without consideration to be treated as supply:

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 taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

6.1 Permanent transfer or disposal of business assets where input tax credit has been availed on such assets

If the input tax credit has been availed on business assets, then permanent transfer or disposal of such assets with or without consideration falls under “Supply”.

For Example: If a laptop, which is a business asset and on which input tax credit has been taken is permanently transferred to an employee of the company on his joining without charging any amount, then such transfer is also taxable.

As per section 18(6) of the CGST Act, 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:

- (a) the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as maybe prescribed [5% points for every quarter or part thereof from the date of issue of invoice for such goods] or
- (b) the tax on the transaction value of such capital goods or plant and machinery determined under section 15, **whichever is higher**.

6.2 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

This clause covers two types of supplies without consideration

- (a) Supply of Goods to related persons without consideration
- (b) Supply of Goods to distinct persons without consideration

6.2.1 Supply of Goods or services to related person without consideration

Supply of goods or services to related persons without consideration shall be taxable only if supply is in the course or furtherance of business. For example, if job work is done on the goods belonging to relative without charging for job work, then although no consideration is paid in terms of money but consideration has to be evaluated as per Valuation norms to arrive at amount of job work charges taxable in the hands of job worker because the job work has been done for related person.

Meaning of Related Person

As per Explanation below section 15 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 recognized 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 person; or
- (viii) they are members of the same **family**

Meaning of family

As per section 2(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;

Sole Agents deemed as Related Persons

Persons who are associated in the business of one another in which, one is the **sole agent** or **sole distributor** or **sole concessionaire**, howsoever described, of the other, shall be deemed to be related.

6.2.2 Supply of Goods or services to distinct person without consideration

Distinct persons are defined in section 25(4) and section 25(5) of the CGST Act.

As per section 25(4), a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

For example: If a taxable person has establishment both in Delhi and Haryana and the same taxable person makes taxable supplies from both the establishments, then supplies from Delhi establishment to Haryana establishment or from Haryana establishment to Delhi establishment shall be treated as supply between distinct persons, in spite of the fact that both the establishments belong to the same person. Even if such supply is without consideration, still it shall be taxable as per definition of supply under the law, being supply between distinct persons.

Background Material on GST Law for Commerce Students

Further, as per section 25(5) of CGST 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

For example: If a taxable person has a branch office in Delhi from where he makes taxable supplies and has head office in Gurgaon (Haryana) from where he makes no taxable supplies and therefore the head office is not registered under GST, then supplies made from Delhi branch to Head office shall be treated as supply between distinct persons u/s 25(5) of CGST Act. Such supplies even if made without consideration from Delhi Branch to Gurgaon Head office shall be taxable under the definition of "Supply".

6.3 Supply of Goods between principal and agent

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.

Without consideration is also taxable.

Where an agent undertakes to supply goods on behalf of principal then he is "selling agent". When the agent undertakes to receive such goods on behalf of the principal, then he is "buying agent".

Transactions undertaken by agent with outsiders are outside the purview of this clause and hence shall be taxable only if they are for consideration. But transactions with principal are taxable even if they are without consideration.

Further, the above clause taxes only transactions relating to goods. Services provided to principal without consideration are outside the tax net. Hence, if the buying or selling agent does not charge commission for his endeavors, no tax can be charged on commission part.

7. Import of services

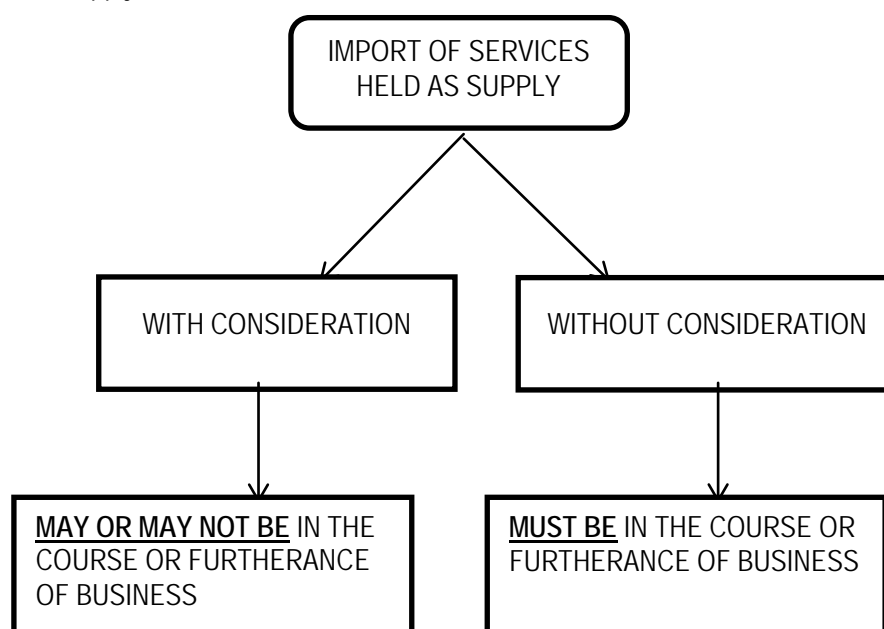
7.1 Import of Service without consideration (in the course or furtherance of business)

Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business without consideration, also falls in the definition of supply and becomes taxable.

For example: If a firm of architects in India receives consultation on interior decoration from its branch outside India without any consideration for providing services in relation to one of its projects of client in India, then the import of service without consideration is also taxable because it has been taken from related person and in the course and furtherance of business in India.

Import of Service not in course or furtherance of business (But for Consideration)

As per section 7(1)(b), import of service for consideration whether or not in the course or furtherance of business is covered by the definition of "Supply". Hence, the import of service **not in course or furtherance of business** but made for consideration is covered by the definition of supply.



Example: If services of an architect from outside India are taken by a person for the construction of his residential property in India, then although the person in India is not obtaining these services in the course or furtherance of business in India but for his personal purposes, the import of service is covered by the definition of supply and hence taxable. It is just like import of goods for personal purposes which is chargeable to Customs duty.

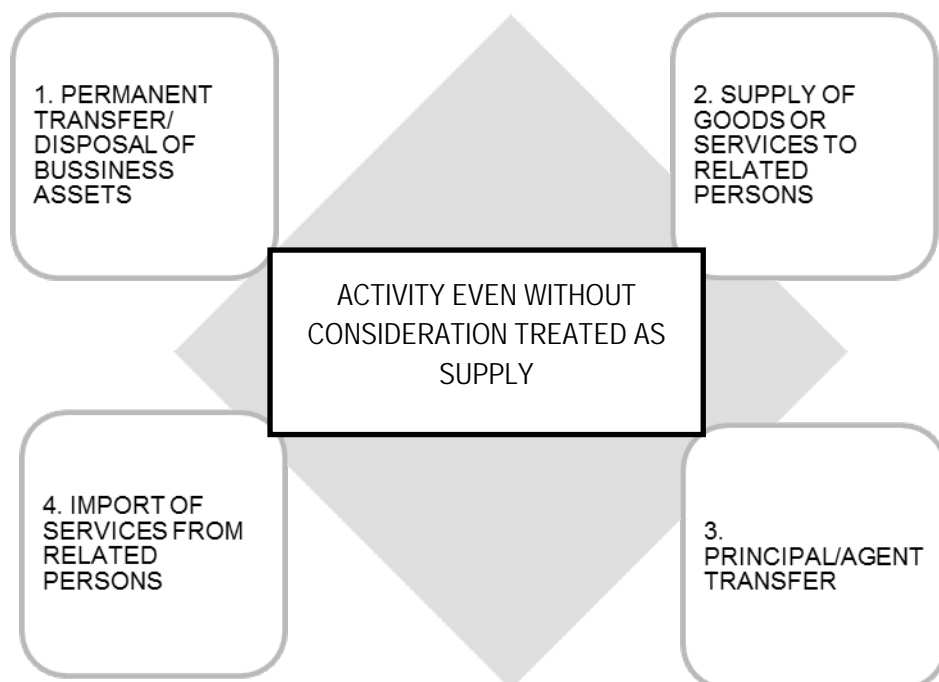
8. What is meant by "In Course or furtherance of Business" in the definition of Supply?"

Supply of goods or services is taxable only if the supply is in the course or furtherance of business. As supply which is not in the course or furtherance of business is not taxable barring a few exceptions.

Background Material on GST Law for Commerce Students

Even supplies without consideration are taxable as per the definition of supply only if they are for business purpose. E.g.

- (a) Permanent transfer or disposal of business assets, on which input tax credit has been taken are covered by supply. Transfer or disposal of non-business assets is not covered by supply. **For instance:** if a personal car is gifted to some employee of the business, it is not taxable.
- (b) Supply of goods or services to related persons and distinct persons without consideration is taxable only if it is in the course or furtherance of business.
- (c) Undertaking to supply or receive goods on behalf of principal by his selling agent or buying agent is also always for business consideration. As per the definition under the CGST Act also, agent is the person who carries on the **business** of supply or receipt of goods or services or both on behalf of another.
- (d) Import of service from related persons without consideration is taxable as “supply” only if it is in the course or furtherance of business.



Exception

Import of service for consideration, however even if it is not in the course or furtherance of business, it is taxable as “supply”

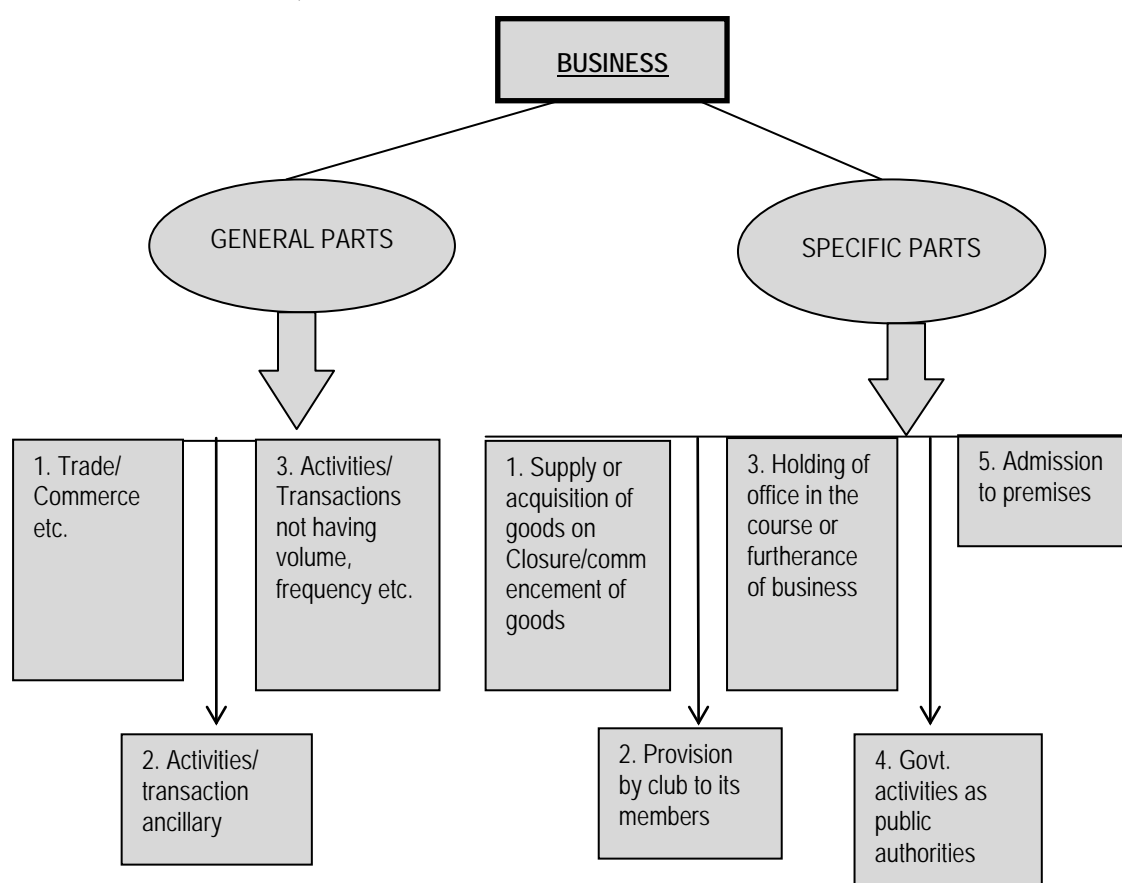
8.1 Definition of Business

Since the supply is taxable only if it is in the course or furtherance of business, it becomes

necessary to understand as to what is business? The term business has been defined in section 2(17) as follows:

“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;



Background Material on GST Law for Commerce Students

- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a license to 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;

Comments:

1. Pecuniary benefit or profit earning is not a pre-condition for business. The taxable person can be said to carry out supply for business even if it is not for profit. Hence, if a charitable institution is providing food to poor at nominal price, still it is business.
2. Volume, frequency, Continuity or regularity is not necessary to constitute business. Solitary transaction can also be business. A public sector undertaking selling its used car can also constitute business.
3. Supply of goods in connection with closure of business is also “business”
4. Acquisition of capital goods in connection with commencement of business is also covered under the definition of business.
5. Subscription fee being charged from members by club for provision of club facilities is also a business. Earlier only facilities provided to non-members were taxable.
6. Admission to premises has also been covered under the extended definition of business. Admission to any premises is normally related to amusement, entertainment of persons being admitted.
7. Activities of government as public authorities also fall under business, but exemption is separately provided for substantial part of such activities, which is dealt in greater details in the Chapter on ‘Exceptions’.
8. GST Amendment Act, 2018 seeks to bring activities of bookmaker along with activities of race club also within the ambit of business but the effective date of amended definition of business in this regard has not yet been notified.

9. Declared Supplies

As per section 7(1)(d), supply includes, the activities to be treated as supply of goods or supply of services as referred to in Schedule II. Hence the following activities even if not covered by the definition of supply as discussed above shall still constitute supply if they are declared by Schedule II to be treated as “supply of goods” or “supply of service”.

Schedule II broadly covers the activities relating to:

1. Transfer
2. Land and Building
3. Treatment or process
4. Transfer of business assets
5. Transactions treated as Supply of services
6. Composite Supply
7. Transactions treated as Supply of Goods

1. Transfer

Transfer is treated as supply of goods or supply of service as per Schedule II as follows in different circumstances:

- (a) any transfer of the title in goods is a supply of goods;

Title of laptop gets transferred on its sale, to be treated as 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; [It covers operating leases]

Laptop given on rent without transfer of title is supply of service

- (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. [It covers hire purchase and finance leases]

Laptop handed over by vendor for which payment to be made in 6 monthly installments, where property in laptop shall pass on making full payment is supply of goods

2. Land and Building

- (a) Any lease, tenancy, easement (right to use someone's land), license to occupy land is a supply of services;

Lease of land to company by Mr. A is a supply of service by Mr. A

- (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. [Letting out of residential complex by companies to their employees shall also get covered]

Background Material on GST Law for Commerce Students

Letting out of factory building to tenant is supply of services

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.
[It covers job work transactions]

Repair of laptop belonging to some other person is supply of service

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;

Note: As per Schedule I permanent transfer or disposal of business assets without consideration is taxable as supply, only if input tax credit is taken. But as per the above clause even if input tax credit is not taken still the transfer of business assets is taxable.

Laptop of the company given to employee, without charging any sum, for employee's personal use permanently is a supply of goods.

- (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**, such usage or making available of such goods is a supply of services;

This covers use of property of taxable person like motor vehicles, residential premises, guest house, telephone, laptop etc. for private use of partner/director/executives/ employees.

- (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.

Only goods are taxable under this clause and not the entire business. Transfer of business on going concern basis is treated as supply of service and is exempt under Notification 12/2017-CTR

5. Supply of services

The following shall be treated as supply of services, namely:—

- (a) renting of immovable property;

This can cover plant and machinery in the nature 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 remodeling of any existing civil structure;

This covers sale of flat in a residential complex *before it is occupied*. Once it is occupied, any sale by the buyer after that will not attract GST, even if completion certificate is not obtained. However, if the builder himself is selling, he will be exempt from GST only if he sells the flat after the completion certificate is obtained.

- (c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

This covers allowing the use of trade mark, copyright, design, patents etc.

- (d) development, design, programming, customization, adaptation, upgradation, enhancement, implementation of information technology software;

This covers development of software but not software itself in physical form

- (e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

This covers demurrage, liquidated Damage charges, notice pay, penalty for violation of contract

Background Material on GST Law for Commerce Students

- (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. [There is transfer of right to use goods when there is transfer of possession or control of goods.]

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

- (a) works contract as defined in clause (119) of section 2; and [Definition of works contract in section 2(119) covers immovable properties]; only.

Building or construction of immovable property is supply of service

- (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.

Supply of food and drinks by restaurant is supply of service
--

7. Supply of Goods

The following shall be treated as supply of goods, namely:—

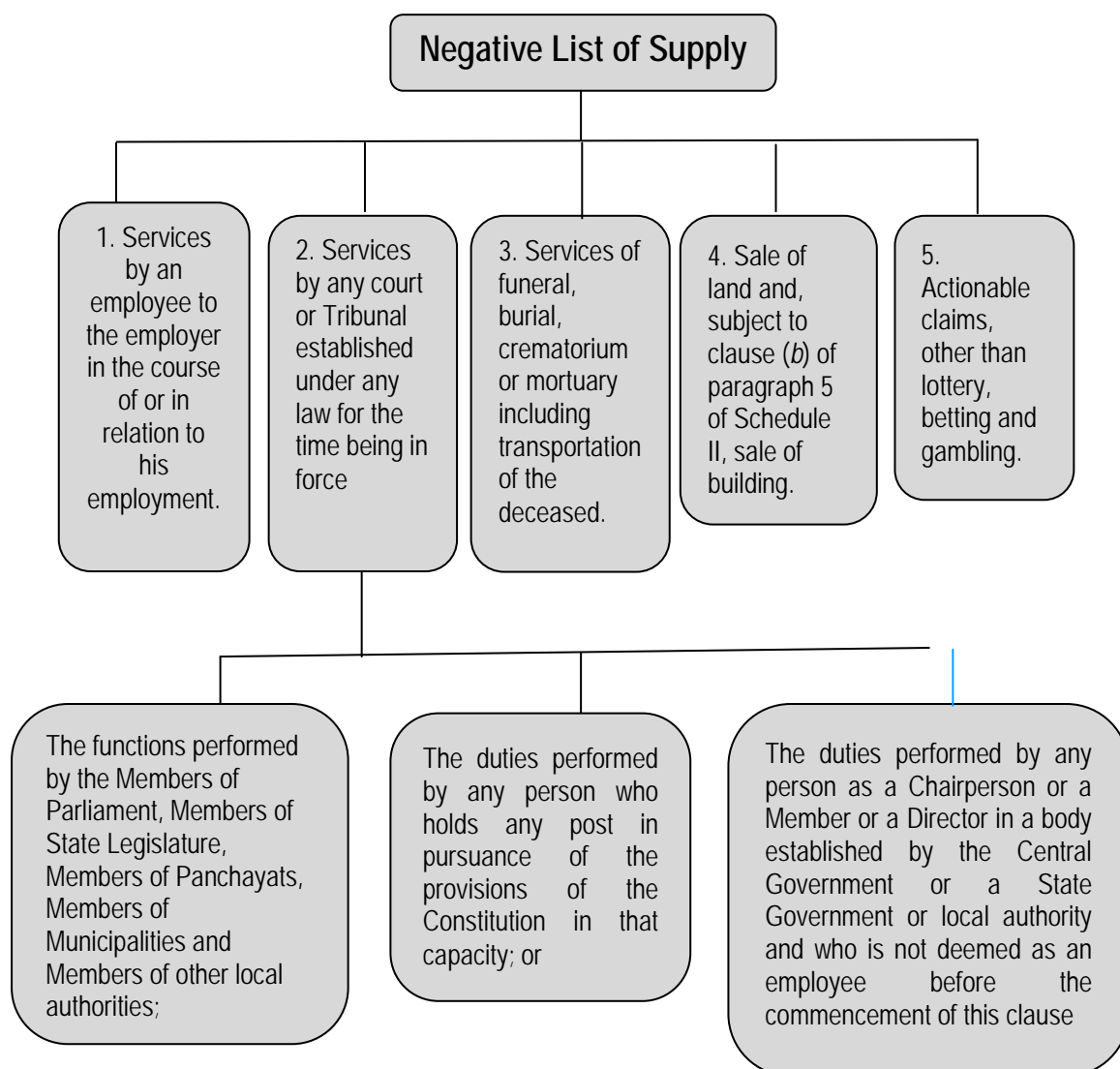
Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

Need to distinguish between supply of goods and supply of service

The CGST Act, 2017 specifies certain provisions separately for supply of goods and supply of services *viz.*, Sections 12 and 13 thereof provides for ascertaining time of supply of goods and time of supply of services respectively; similarly, separate provisions have been specified for ascertaining the place of supply of goods and place of supply of services. Further, the rate of tax applicable to supply of goods and supply of services are different. Hence, it is important to distinguish whether a particular transaction involves supply of goods or supply of services.

10. Negative List of Supply

As per section 7(2) (a), activities or transactions specified in Schedule III, shall be treated neither as a supply of goods nor as supply of services. Activities specified in Schedule III are as under:

**Comments:**

1. Services by employees to employer are covered by the negative list of supply but services by employer to employee are not covered by the Negative list. When the employer provides boarding, lodging transportation service, canteen facility, medical facility to the employee, he can be said to have provided service to the employee.

Since the employer and employee are covered by the definition of related person, hence if employer charges nothing for provision of such services, the amount is taxable in the hands of the employer.

Background Material on GST Law for Commerce Students

However, as per Schedule I, 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.

2. Sale of land and building are not taxable being covered by the negative list but construction of complex service provided before issue of a completion certificate is taxable.
3. Amongst actionable claims, only lottery, betting and gambling are taxable.

Non- Taxable Supply

There are items on which GST is not be leviable when Supply will be treated as non-taxable supply. As per Section 2(78), "non-taxable supply" means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

On items mentioned in section 9(1) and section 9(2) of the CGST Act, 2017 on which currently GST is not leviable are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.

Exempt Supply:

There are certain supplies on which GST is not payable. As per section 2(47)

"Exempt supply" means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;"

Hence, in GST tariff there are supplies of goods which attract "nil" rate of duty and it will be treated as exempt supply. They are exempt from GST by the government on issuance of notification under section 11 of the CGST Act, 2017 or under section 6 of the IGST Act, 2017. Those supplies will be treated as exempt supplies. Even non-taxable supplies are treated as exempt supplies.

Exempt supply comprises of the following:

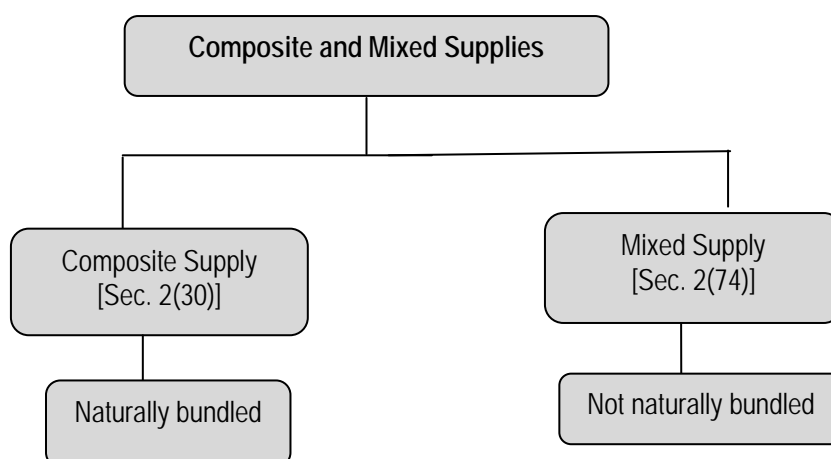
- "Nil" rated supply- the same is exempt vide Notification no. 2/2017 dated 28.06.2017
- Supply exempt under section 11 of CGST Act, 2017 or section 6 of IGST Act, 2017 - e.g. Notification no. 12/2017 dated 28.06.2017
- Non-taxable Supply - Supplies specified in sections 9(1) and (2) of the CGST Act, 2017

With Supply being treated as exempt supply, input tax credit of the same is not available to the supplier. There is also a term called "zero rated supply". Zero rated supplies are exports or SEZ supplies. Though there is no tax on the same, it is not exempt supply.

Composite Supply and Mixed Supply

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

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



What is composite supply

As per section 2(30) of CGST Act, “composite supply” means a supply made by a taxable person to a recipient consisting of two or more **taxable supplies** of goods or services or both, or any combination thereof, which are **naturally bundled** and supplied in conjunction with each other in the ordinary course of business, one of which is a **principal supply**;

Principal Supply

Further as per section 2(90) of CGST Act, “principal supply” means the supply of goods or services which constitutes the main or chief element of a composite supply and to which any other supply forming part of that composite supply is ancillary or subordinate.

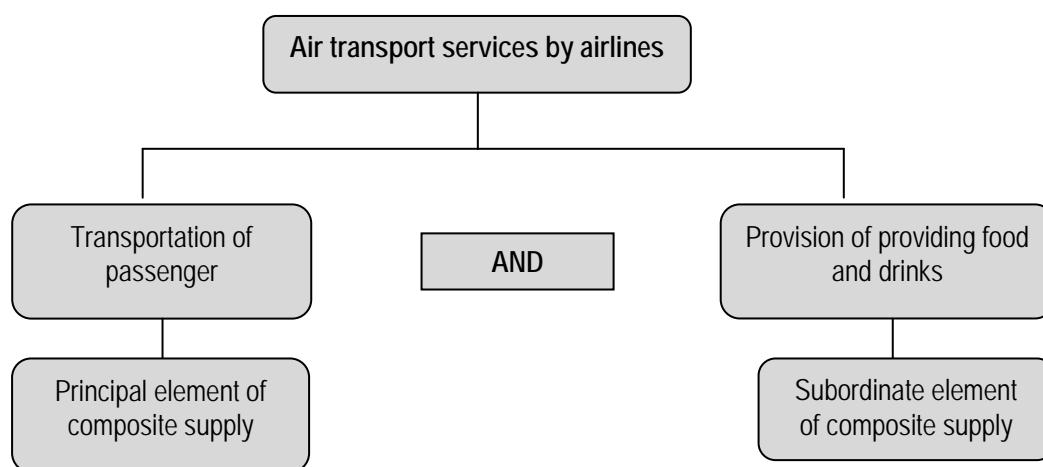
Taxable Supply

Further as per section 2(108), "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act

Natural Bundling in ordinary course of business

Natural Bundling means bundle of supplies where in one supply is combined with an element or elements of provision of other supplies.

Example:



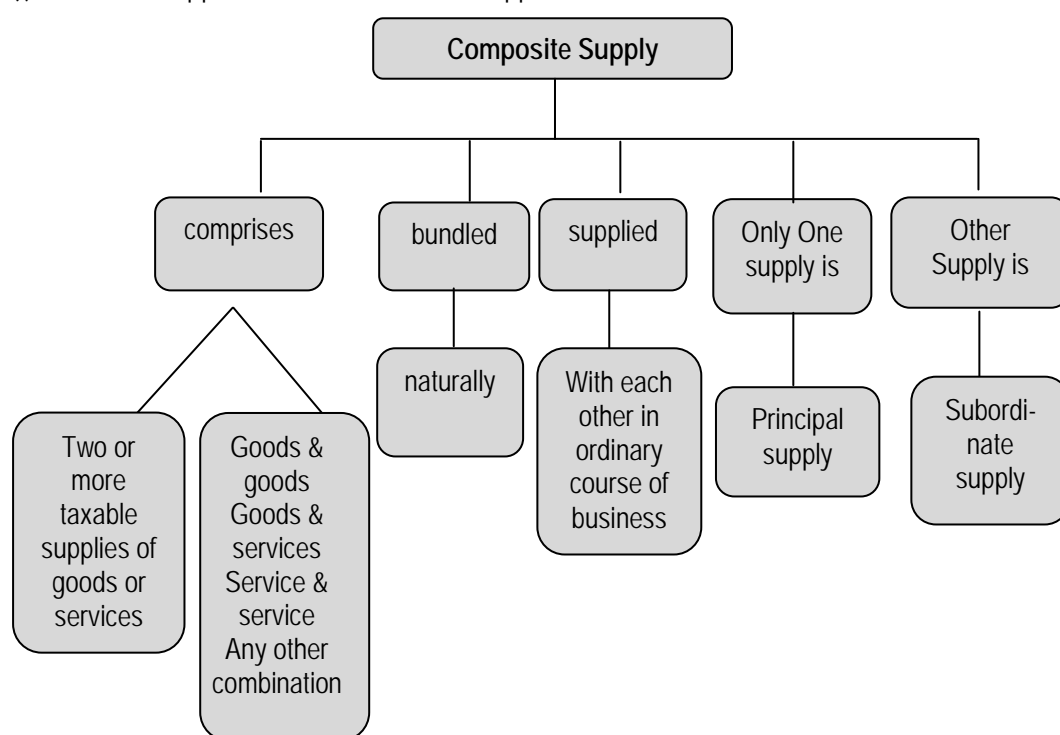
Each service involves differential treatment as the manner of determination of value of two services for the purpose of charging tax is different.

Important Features of Composite Supply

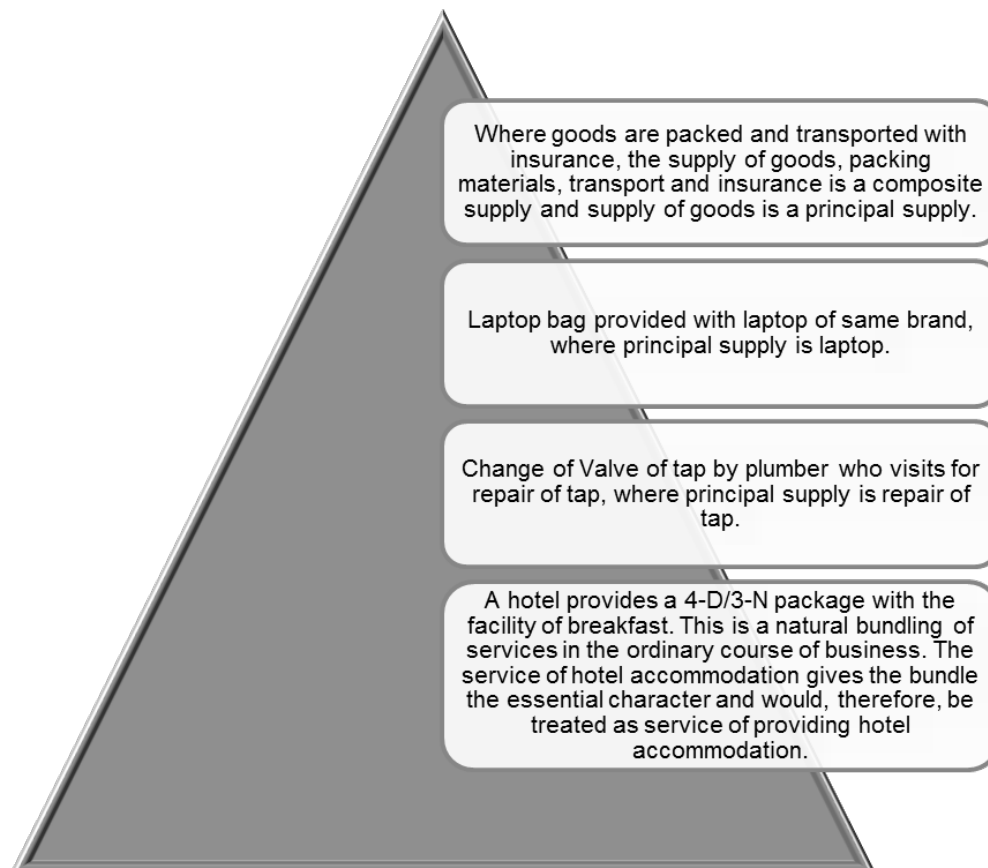
The important features of the definition of Composite supply are:

- (a) Composite supply consists of two or more supplies.
- (b) Composite Supply consists of only taxable supplies
- (c) Composite supply may comprise
 1. goods and goods
 2. goods and service
 3. service and service or
 4. any other combinations
- (d) Different supplies are naturally bundled

- (e) Different supplies are made in conjunction with each other **in the ordinary course of business**
- (f) One of the supplies amongst different supplies comprised in a composite supply is **principal supply**
- (g) Principal Supply is the predominant/ chief element of composite supply
- (h) Other supplies forming part of composite supplies are ancillary/ subordinate.
- (i) All the supplies are leviable to tax. Supplies taxable at NIL rate are also leviable to tax.



EXAMPLES:



11. Tax Rate applicable to Composite Supplies

As per section 8(a) of CGST Act, 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. Hence, the tax rate applicable to principal supply shall apply.

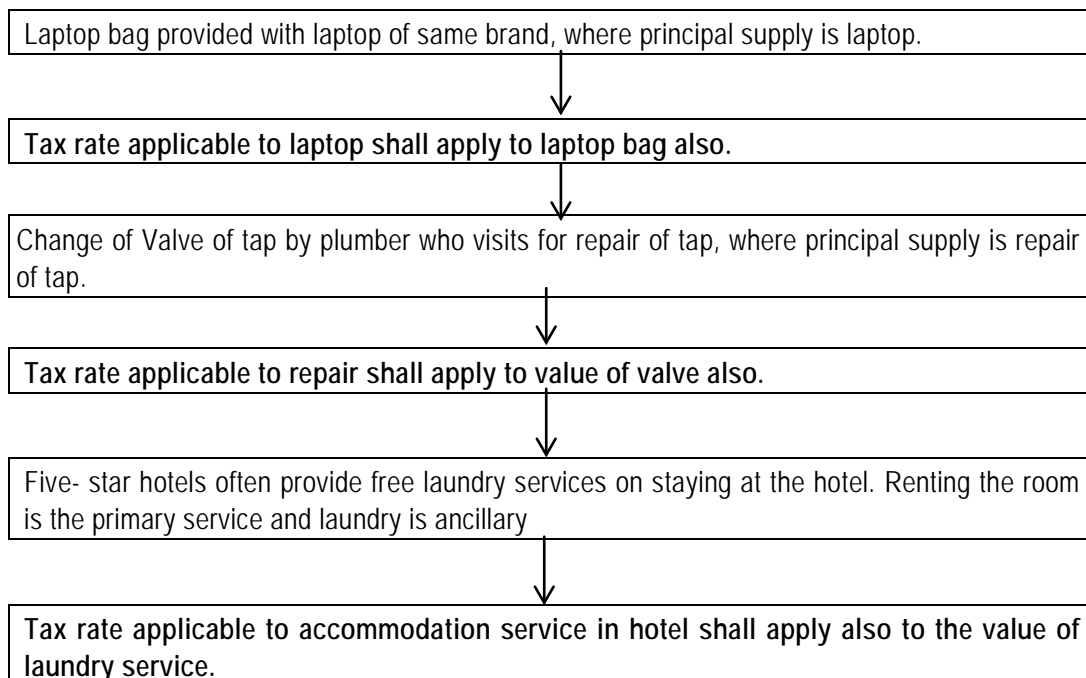
Example

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.



Tax rate applicable for goods shall apply and separate rates for packing, insurance shall not apply





Other Examples of Composite Supply:

- Machinery with Installation
- Travel with food
- Stay with breakfast etc.

Mixed Supply

As per section 2(74) of CGST Act, “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**.

Tax Rate applicable to Mixed Supplies

As per section 8(b) of CGST Act, the tax liability on 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

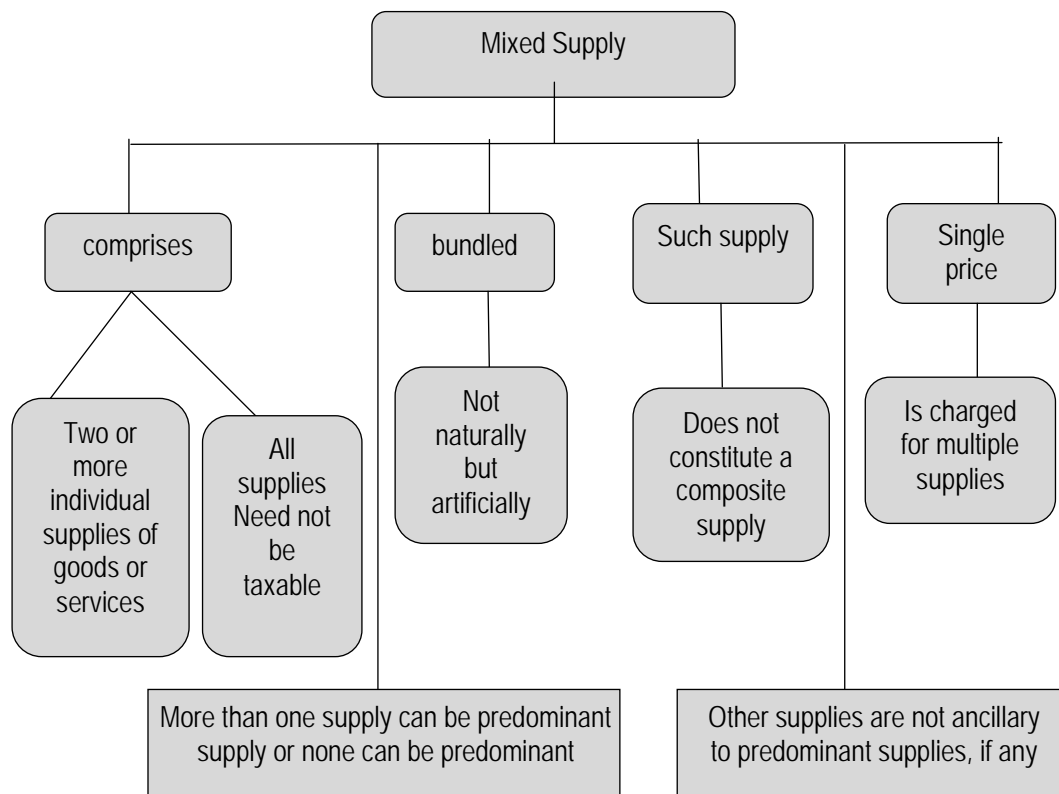
Features of Mixed Supply

Features of Mixed Supply are as under:

- (a) Mixed Supply consists of two or more individual supplies.
- (b) Supplies are not naturally bundled.

Background Material on GST Law for Commerce Students

- (c) One of the supplies may not be principal supply and other supplies need not be ancillary supplies.
- (d) All the supplies need not be taxable supplies. Even non- taxable supplies along with taxable supplies can constitute mixed supply.
- (e) Supply does not fall within the definition of composite supply.
- (f) A single price is charged for multiple supplies.



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

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

A house is given on rent, one floor of which is to be used as residence and the other for housing a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed it will be treated as a service comprising entirely of such service which attracts highest liability of service tax. In this case, renting for use as residence is an exempt service while renting for non-residential use is chargeable to tax. Since the latter category attracts highest liability of service tax amongst the two services bundled together, the entire bundle would be treated as renting of commercial property.

Other Examples of Mixed Supply:

- Tooth brush with tooth paste
- Soap with detergent
- Biscuits with chips etc.

CONCLUSION:

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

12. What are goods and services under GST law?

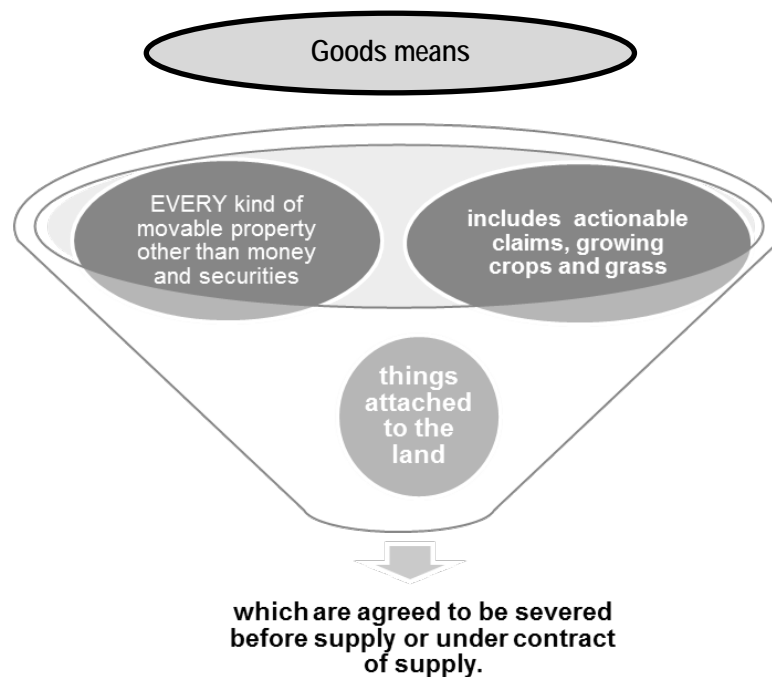
Goods

➤ Under Article 366(12) of the Constitution "goods" includes all materials, commodities, and articles

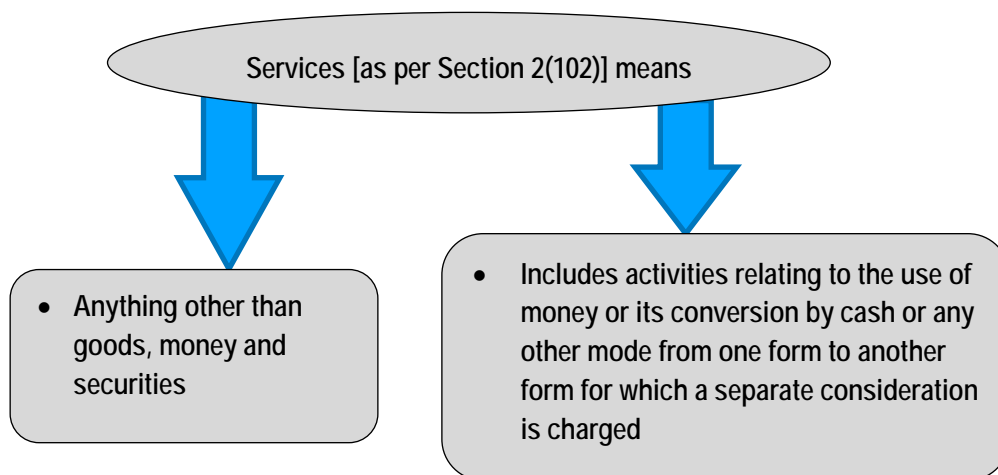
Further As per section 2(52) of CGST Act

- "goods" means
- every kind of **movable property**
- other than money and securities

- *but includes actionable claims*
- *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*



Services



Analysis:

- Movable property means property of every description, except immovable property. Since only movable property can be included in movables. Immovables do not fall under goods. Since services mean anything other than goods, a question arises whether immovables are services?
- Immovable includes land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth. However, in Schedule III, Para 5 of CGST Act sale of land and sale of building shall neither be treated as supply of goods nor supply of services.
- Growing crops and grass though attached to land if they are agreed to be severed before or under the contract of supply, then growing crops and grass shall be included in the definition of goods and GST shall be leviable on the same.
- Goods can be tangible as well as intangible property. Software available off the shelf like oracle, lotus etc., copies of music or songs or films, duty credit scrips falling under the category of intangible property have been held to be goods by various judicial pronouncements over a period of time. Sim Cards though appear to be goods have been held to fall in the category of services. Steam falls under the category of goods. Electricity has also been held to fall under the category of goods but GST is not applicable on electricity and states have been separately empowered under Entry 53 of the State list to levy tax on electricity.
- Money is outside the definition of goods as well as services, because otherwise the person making payment of money shall also become supplier of goods or services and shall attract GST, which is never the intention of any tax law.
- Although money in itself is outside the tax net, the transactions relating to use of money or conversion of money into some other form, currency or denomination for consideration are not outside the tax net. For example, where a money changer charges commission for exchange of foreign currency into Indian currency, the consideration received by that money changer is taxable under GST. Similarly, where a person charges some amount for change in denomination of currency, again the consideration charged is taxable under GST. Further where bank accepts cash and changes the form of money by issuing traveller cheque or draft and charges commission for change in form of money, again the commission amount is taxable under GST. These examples clearly reflect that although supply of money in itself is not taxable but transactions relating to use of money or change in form, denomination, currency for consideration is taxable.
- Securities are also outside the purview of both goods as well as services. The meaning of securities has been provided under section 2(h) of Securities Contracts Regulation Act, 1956 [Section 2(101) of CGST Act]. Securities include

Background Material on GST Law for Commerce Students

- (a) shares, scrips, stocks, debentures debenture stock or other marketable securities
- (b) derivative; (Option / Futures)
- (c) Mutual Fund Units
- (d) Government securities
- (e) Rights in securities

Hence, no GST can be charged on supply of any of the above items of securities. However, the income arising from supply of services as agent or stock broker to persons buying and selling securities is not outside the tax purview.

- Actionable claims represent the claim to recover the debt. However, debts secured by mortgage or pledge or hypothecation of property are outside the definition of actionable claims. Although actionable claims are included in the definitions of goods but GST has been imposed on very limited items of actionable claims. As per Para 6 of Schedule III, Actionable claims, other than lottery, betting and gambling, shall neither be treated as supply of goods nor supply of services. Hence amongst actionable claims, tax shall be charged only on lottery, betting and gambling

Reverse Charge

Generally indirect taxes are payable by the supplier but in certain situations under the earlier law i.e., service tax and VAT it was required to be paid by the recipient when they received those supplies. There were certain supply of services on which service tax was paid by the recipient and in some situation it was partial reverse charge. In VAT when goods were procured from unregistered dealers then VAT on URD purchase was chargeable. In GST, under section 2 (98) *"reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act."*

Section 9(3) of CGST Act and Section 5(3) of the IGST Act deals with certain supplies of goods and services as notified by the government and on which tax under reverse charge will be payable.

Section 9(4) of CGST Act and section 5(4) of IGST Act deals with receipt of supply by a registered person from unregistered person and in that case registered person is liable to pay tax under reverse charge. But till 30.9.2019 the same stands exempted.

Aggregate Turnover

The term 'aggregate turnover' is used in the CGST Act, 2017 for availing the benefit of composition scheme and for getting compulsory registration. As per Section 2(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 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."

From this definition it is clear that for any dealer aggregate turnover in a year will be the sum total of

- All taxable supplies
- Exempt supplies
- Exports of goods or services or both
- Interstate supplies of persons having the same PAN on all India basis

Excluding

- Value of inward supplies on which tax is payable on reverse charge
- Central Tax, State Tax, Union territory tax, integrated tax and cess.

When any person is having presence in multiple States, its aggregate turnover will be the sum total of turnover in all the States and it also includes inter-State supplies amongst its own branches.

Registered Person

As we discussed earlier if any inward supply is procured from unregistered person then as per section 9(4) of the CGST Act, 2017, the recipient i.e. purchaser is liable to pay GST on the said transaction under reverse charge. The said provision is operated only till 30.9.2018. Moreover, once the person gets registered voluntarily, though his turnover does not exceed the threshold limit, the person is required to comply with the provisions of law. He should charge applicable taxes on the supplies made by him and is required to pay the same to the exchequer.

Section 2(94) deals with the definition according to which *"registered person means a person who is registered under section 25 but does not include a person having a Unique Identity Number."*

Therefore, if a person gets registered under section 25 then he is a registered person though not a person having Unique Identity Number, since Unique Identity Number is also granted under section 25(9) of the CGST Act, 2017. By virtue of the same the holder of Unique Identity Number will not be required to comply with the responsibilities cast on a Registered Person.

Taxable Person

If a person is not registered though required to get registered and in view of the term taxable person, the law includes all those persons in the definition of taxable person. As per Section 2 (107) *"taxable person" means a person who is registered or liable to be registered under section 22 or section 24."*

Background Material on GST Law for Commerce Students

Thus, person registered is taxable person but person required to get registered and has not got himself registered is also taxable person under the Act. Categories of the persons requiring compulsory registration without considering their aggregate turnover to threshold are:

- Persons making any inter-State taxable supply of goods;
- Casual taxable persons making taxable supply;
- Persons who are required to pay tax under reverse charge;
- Person who are required to pay tax under sub-section (5) of section 9;
- non-resident taxable persons making taxable supply;
- persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- Input Service Distributor, whether or not separately registered under this Act;
- persons who supply goods or services or both, through such electronic commerce operator;
- every electronic commerce operator;
- every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person.

Casual Taxable Person

As we are having federal structure and every citizen of India has fundamental right to do business across the country, it may be possible that a person having fixed place or residence in one state may go to other state to do business. GST is destination based consumption tax. In case of person of other state going to another state and doing business there, the said state in which goods are consumed will not be able to get his share of taxes. In such scenario it is important to define the same. As per section 2(20) *"casual taxable person means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business."*

As a result, where a person is not having fixed place of business and occasionally undertakes transactions involving Supply then the said person will be treated as casual taxable person and he has to comply with the provisions related to casual taxable person.

Input

The term input is very much important as it is used for Input tax credit and getting refunds under the GST. Input is defined under section 2 (59) thus *"input means any goods other than*

capital goods used or intended to be used by a supplier in the course or furtherance of business."

Therefore, if following conditions are fulfilled -

- Each and every good, if not capital good
- Used or intended to be used
- In the course or furtherance of business

will qualify as input. Even if goods are not used in the course or furtherance of business but if it is procured with the intent to be used, it will qualify as input.

Input service

GST is Goods and Services Tax. As term input used for the goods, Input service is the word used for inward supply of services procured by the taxable person.

According to Section 2(60) *"input service means any service used or intended to be used by a supplier in the course or furtherance of business."*

If the services are being used or intended by the supplier in the course or furtherance of business, then it will be treated as input service. Meaning thereby if the said services are of personal nature and not intended for the business it will not be treated as input service.

Capital goods

Treatment for refunds, reversal in removal and during job work is different to input and capital goods. Section 2(19) says that, "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."

Thus, if the value of capital goods is capitalised in the books of account, i.e. it is reflected as fixed assets in the balance sheet then it is capital goods. Though credit eligibility for the input and capital goods are same, even if it is procured with the intent to be used in the business, the same will be treated as capital goods.

Input tax

The main principle of the GST law is seamless credit. If concept of input tax is not there, principles of seamless credit and cascading effects of tax will not get resolved.

As per section 2(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*

Background Material on GST Law for Commerce Students

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."

Thus input tax is always in relation to registered person. If the person who is required to get registered and not registered then though he procure GST paid supply input, capital goods and input services, tax paid will not be treated as input tax. To qualify tax paid as input there must be

- a registered person
- Supply should be made to him
- CGST, SGST/UTGST, IGST must be charged on said Supply
- Also includes, tax payable under reverse charge
- IGST charged on imports
- But excludes tax paid under composition levy.

Hence, if the registered person while procuring any supply pays for GST for inward supply to composition dealer, then the same will not be treated as input tax and input tax credit will also not eligible.

Works contract

Under the earlier indirect tax laws, works Contract transactions were subject to intense litigation. Issues as to whether the transaction falls under sale of goods or rendition of service were raised at all levels including the Supreme Court. After the decision of the Apex court there were certain issues untouched and many round of litigations took place. In GST the Act itself has recognised such transaction as works contract. Since in GST both goods and services are taxable under the same law, battle amongst State and Centre to levy tax is completely negated.

Section 2 (119) defines *"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."*

To consider the contract as works contract, there should be an immovable property and there should be transfer of property in goods. The law has recognised the said supply as supply of services only which put forth all type of previous litigations on conclusions so far as GST law is concerned.

Question Bank

FAQs

1. What is the scope of the term 'supply' as defined in the CGST Act, 2017?
Ans. Supply includes sale, transfer, exchange, barter, lease, license, rental or disposal. Generally supply is for consideration and is in course or furtherance of business. Import of service even if not in course or furtherance of business but for consideration also falls under supply. Certain activities in course or furtherance of business but without consideration are also treated as supply.
2. Is it necessary to distinguish whether a particular supply involves supply of goods or services or both?
Ans. Yes, a number of GST law provisions like regarding for time of supply, place of supply differ in their application for goods and services.
3. How to distinguish whether a particular supply involves supply of goods or services or both?
Ans. The provisions of Schedule II should be followed to determine whether a particular activity or transaction is for supply of goods or service.
4. Whether supply of goods or services without consideration is liable to tax?
Ans. Permanent transfer or disposal of business assets where ITC has been taken or supply of goods or services between distinct or related persons in course of furtherance of business or supply of goods by principal to agent or agent to principal for further supply or import of service in course or furtherance of business from related person or own other establishment outside India even without consideration is liable to tax.
5. Whether gifts given by employer to employee will also qualify as supply?
Ans. 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. However gifts exceeding fifty thousands are treated as supply.
6. What is Mixed Supply?
Ans. 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.
7. Whether import of services will be liable to tax under GST regime?
Ans. Import of service even if not in course or furtherance of business but for consideration also falls under supply. Import of service in course or furtherance of business from related person or own other establishment outside India even without consideration is liable to tax.

Background Material on GST Law for Commerce Students

8. What kind of supplies are considered neither as supply of goods nor supply of service?

Ans. Service by employee to employer, by court or Tribunal established under law, functions of public representatives, constitutional functionaries, services of funeral, burial crematorium or mortuary including transportation of the deceased, sale of land and sale of building, Actionable claims, other than lottery, betting and gambling are neither treated as supply of goods nor supply of services.

9. Whether supply need to be always in course or furtherance of business to be taxable under GST?

Ans. Generally supply is in course or furtherance of business but Import of service even if not in course or furtherance of business but for consideration also falls under supply.

10. State few illustrations of Composite Supply

Ans. Machinery with Installation, Travel with food, stay with breakfast.

11. What is meant by goods and services under goods and services tax?

Ans. 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; 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

12. Whether GST is applicable to Immovable property?

Ans. Construction complex service is treated as supply of service. Renting of immovable property is also taxable. Any lease, tenancy, easement, licence to occupy land is a supply of services. 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.

13. Define Input Service and Input Tax

Ans. Input service" means any service used or intended to be used by a supplier in the course or furtherance of business. Input" means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.

14. Define 'Aggregate Turnover'. What are the exclusions from the definition of Aggregate Turnover?

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

MCQs

1. What are the different types of supplies covered under the scope of Supply?

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

Ans. (c) Both of the above

2. What are the factors differentiating Composite Supply & Mixed Supply?

- (a) Nature of bundling i.e. artificial or natural
- (b) Existence of Principal Supply
- (c) Both of the above
- (d) None of the above

Ans. (c) Both of the above

3. What are the supplies on which reverse charge mechanism would apply?

- (a) Notified categories of goods or services or both
- (b) Inward supply of goods or services or both from an unregistered dealer
- (c) Both the above
- (d) None of the above

Ans. (c) Both the above

4. Reverse charge u/s 9(3) of the CGST Act is applicable on:-

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

Ans. (c) Notified Goods & Services

5. If M/s. PQR Ltd. has availed rent-a-cab service from M/s ABC Travels (Proprietor) then which one of the following is true:-

- (a) Reverse charge is applicable as this is a notified service.
- (b) Reverse charge is applicable if ABC Travels is not registered.
- (c) Joint charge is applicable

Background Material on GST Law for Commerce Students

(d) None of the above

Ans. (b) Reverse charge is applicable if ABC Travels is not registered

6. Reverse Charge is applicable:

(a) Only on intra state supplies

(b) Only on inter-state supplies

(c) Both intra and interstate supplies

(d) None of the above

Ans. (c) Both intra and inter-state supplies

7. Whether the definition of Inputs includes capital goods.

(a) Yes

(b) No

(c) Certain capital goods only

(d) None of the above

Ans. (b) No

8. Whether credit on capital goods can be taken immediately on receipt of the goods?

(a) Yes

(b) No

(c) After usage of such capital goods

(d) After capitalizing in books of Accounts

Ans. (a) Yes

Chapter 3

Exemptions under GST

Learning Objective

This Chapter discusses the meaning of exempt supplies, nature of exemptions available under law, and various categories of goods and services that are exempt under the law.

Coverage

- I. Meaning of Exemption
- II. General Exemption
- III. Exemption by Special order
- IV. Goods Exempt from Tax under GST
- V. Services exempt from tax under GST
 - 5.1. Real Estate Services Exempted from GST
 - 5.2. Works Contract (Construction) Services Exempted from GST
 - 5.3. Exemption in Distributive Trade Services
 - 5.4. Exemption in Accommodation Services
 - 5.5. Exemption in transportation of passengers
 - 5.6. Exemption for Transportation of Goods
 - 5.7. Exemption for Electricity distribution
 - 5.8. Exemption in leasing Services
 - 5.9. Exemption in legal services
 - 5.10. Exemption in Professional, technical and business services
 - 5.11. Exemption in Information Supply and Telecommunication Services
 - 5.12. Support services to agriculture, forestry, fishing, animal husbandry
 - 5.13. Exemption in Financial and Related Services
 - 5.14. Exemption for Educational Services
 - 5.15. Exemption in Human Health Care Services
 - 5.16. Exemption in Sewage and waste disposal
 - 5.17. Exemption for membership societies

- 5.18. Exemption in Recreational, cultural and sporting services
- 5.19. Exemption for Foreign Diplomatic Missions
- 5.20. Exemption for Charitable and Religious Activities
- 5.21. Exemption for Transfer of going concern business
- 5.22. Exemption for Services Provided by Government and Government Entities

VI. Other Exemptions

Introduction

Essential goods and services have been exempted since GST is a tax to benefit common man, and therefore everyday items used by the common man have been included in the list of exempted items. Items such as unbranded atta/besan/maida, unpacked food grains, milk, eggs, curd, lassi, and fresh vegetables are among the list of items that are exempted from GST. Further essential services like health care services, education services etc. have also been exempted from GST

Analysis/Illustration/Charts

I. Meaning of Exemption

Certain goods and services are kept under nil rate of GST for the benefit of common masses. Section 2(47) of the CGST Act, 2017 defines exempt supply as supply of any goods or services or both which attract **nil rate of tax** or which may be **wholly exempt from tax** under section 11, or under section 6 of the IGST Act, **and includes non-taxable supply**.

Two types of GST rate notification are issued. One is rate notification and the other is exemption notification. All items of goods and services mentioned in exemption notification are **“wholly exempt from tax”** while the goods and services which attract NIL rate of tax in rate notification like SUPPORT SERVICES TO AGRICULTURE are also classified as exempt supply as per definition of exempt supply mentioned here in above.

Further non-taxable supplies are also exempt supplies. Non-taxable supplies have been defined under GST as supplies of goods or services which are not leviable to tax. For example, alcoholic liquor for human consumption, petroleum products i.e. petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel are not leviable to tax and hence can be classified as non-taxable supplies. Since these non-taxable supplies are also covered by the definition of exempt supplies, alcoholic liquor for human consumption, petroleum products i.e. petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel can also be classified as exempt supplies.

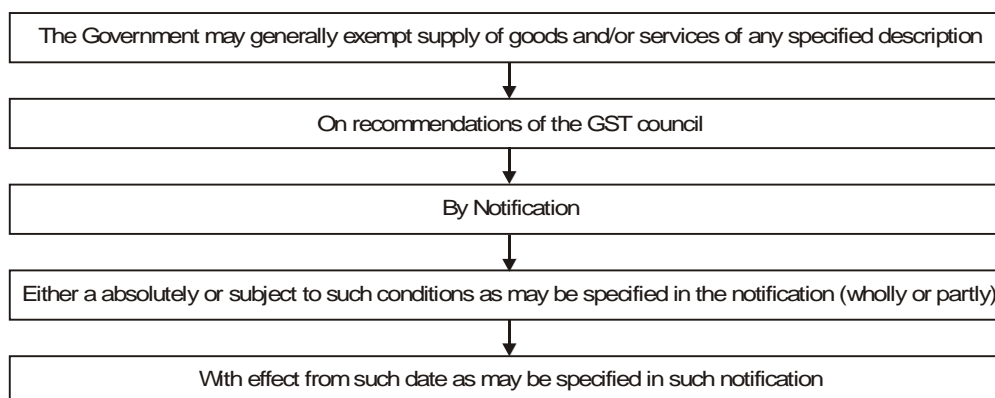
It may be pertinent to mention that generally input tax credit attributable to exempt supplies is reversed. However, for certain exempt supplies like interest on deposits, no reversal of

input tax credit is done. At the same time certain transactions though not falling with in the definition of exempt supplies are categorized as exempt supplies for reversal of ITC e.g. stamp duty value of land and building, 1% of sale value of securities is taken as exempt supply inspite of the fact that both these activities do not fall under the definition of exempt supply.

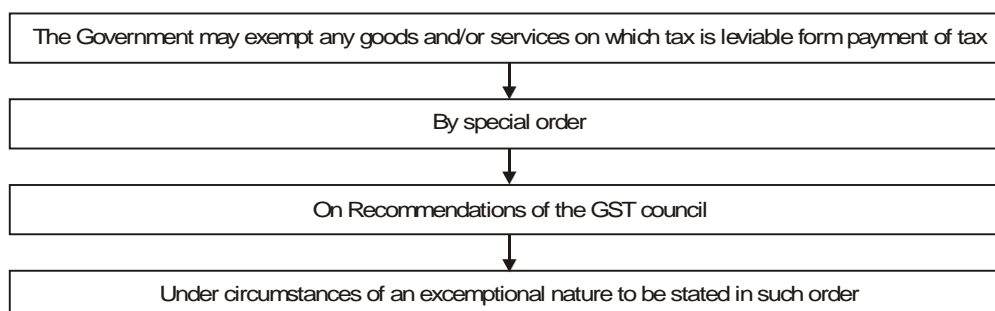
Power to Grant Exemption from Tax (section 11 of the CGST Act/Section 6 of IGST Act)

The government is empowered to grant exemption from tax, if it is necessary in public interest so to do, on the recommendation of the GST council by way of issuance of Notification

II. General Exemption



III. Exemption from payment of tax by Special order under circumstances of exceptional nature



IV. Goods Exempt from Tax

More than 150 items are exempt from tax

Some of the important items covered are as under:

Background Material on GST Law for Commerce Students

Animal Produce exempt from tax	Fresh Meat
	Fish
	Chicken
	Eggs
	Milk
	Natural Honey
	Raw Silk
	Wool (not carded or combed)

Animal Produce Preparations	Butter Milk
	Curd

Agriculture Produce /Tools exempt from tax	Fresh Fruits and Vegetables
	All goods of seed quality
	Unprocessed green leaves of tea
	Fresh turmeric
	Coffee Beans not roasted
	Betel leaves
	Sal leaves, siali leaves, sisal leaves, sabai grass
	Agricultural implements (manually operated or animal driven)
	Jute Fibres

Preparations from Agriculture Produce	Unbranded rice, flour etc.
	Besan

Social Importance Items	Prasad and Puja Samagari
	Indian National Flag
	Deities made of Stone, Wood or marble
	Rakhi

Exemptions under GST

Personal Use Items	Bindi
	Sindoor
	Plastic & Glass Bangles
	Handlooms and other items of daily use
	Passenger Baggage
	Sanitary towels (pads) or sanitary napkins; tampons
Medical Use Items	Human blood and its components
	Hearing aids and parts for manufacture of hearing aids
Education and Awareness	Printed Books
	Newspaper
	Newspapers, journals, periodicals
Food Stuff	Papad (except served for consumption)
	Puffed rice
	Cotton seed oil cake
	Bread (except when served for consumption and pizza bread)
	Salt
Office Use	Stamps
	Judicial papers
	Cheques loose or in book form
Miscellaneous	Electrical energy
	Space craft and suborbital and space craft launch vehicles
	Indigenous handmade musical instruments
	Human hair, dressed thinned, bleached otherwise worked

	Rupee notes when sold to RBI
	Fire wood or fuel wood
	Municipal waste, sewage sludge, clinical waste
	Postal items like envelope, post card etc. sold by government
	Khali Dona, Goods made of sal leaves, siali leaves, sisal leaves, sabai grass including sabai grass rope

V. Services exempt from tax under GST

Following services have been exempted from GST:

5.1 Real Estate Services Exempted from GST

1. Services by way of renting of residential dwelling for use as residence
2. Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable-in respect of the service, by way of

- granting long term (thirty years, or more) lease of industrial plots, or plots
- for development of infrastructure for financial business

Provided by

- the State Government Industrial Development Corporations or Undertakings or
- by any other entity having 50 per cent or more ownership of Central Government, State Government, Union territory

TO

Industrial units or the developers

IN Any industrial or financial business area

have been exempted from GST.

5.2 Works Contract (Construction) Services Exempted from GST

1. Pure Labor Service for residential Unit

Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex is exempt as per Sl. No. 11 of Exemption Notification 12/2017] "original works" means-

- (i) all new constructions;

- (ii) all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
- (iii) erection, commissioning or installation of **plant, machinery or equipment or structures**, whether pre-fabricated or otherwise;

2. Pure services to Government

Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to

- the Central Government,
- State Government or
- Union territory or
- local authority or a
- Governmental authority by way of any activity
- Government Entity
- in relation to any function entrusted to a Panchayat under article 243G of the Constitution or
- in relation to any function entrusted to a Municipality under article 243W of the Constitution.

Services provided to the government entities have been exempted from CGST w.e.f 25-01-18.

'Government Entity' means an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an act of Parliament or a State Legislature or
- (ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted by Central Government, State Government, Union Territory or a Local Authority.

3. Composite supply to Government where value of goods not more than 25%

Composite supply of goods or services in which the value of supply of goods constitutes not more than 25% of value of said composite supply provided to

- the Central Government,
- State Government or
- Union territory or
- local authority or a

- Governmental authority
- Government entity

by way of an activity

- in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or
- in relation to any function entrusted to a Municipality under Article 243W of the Constitution.

4. Pure labor Service under Housing Projects of Housing for All or PM Awas Yojna.

Services provided by way of **pure labour contracts** of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other **original** works pertaining to the **beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana**.

5.3 Exemption in Distributive Trade Services

Service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin.

5.4 Exemption in Accommodation Services

Residential Dwelling

1. Services by way of renting of residential dwelling for use as residence.

Renting of precincts of religious place

2. Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act:

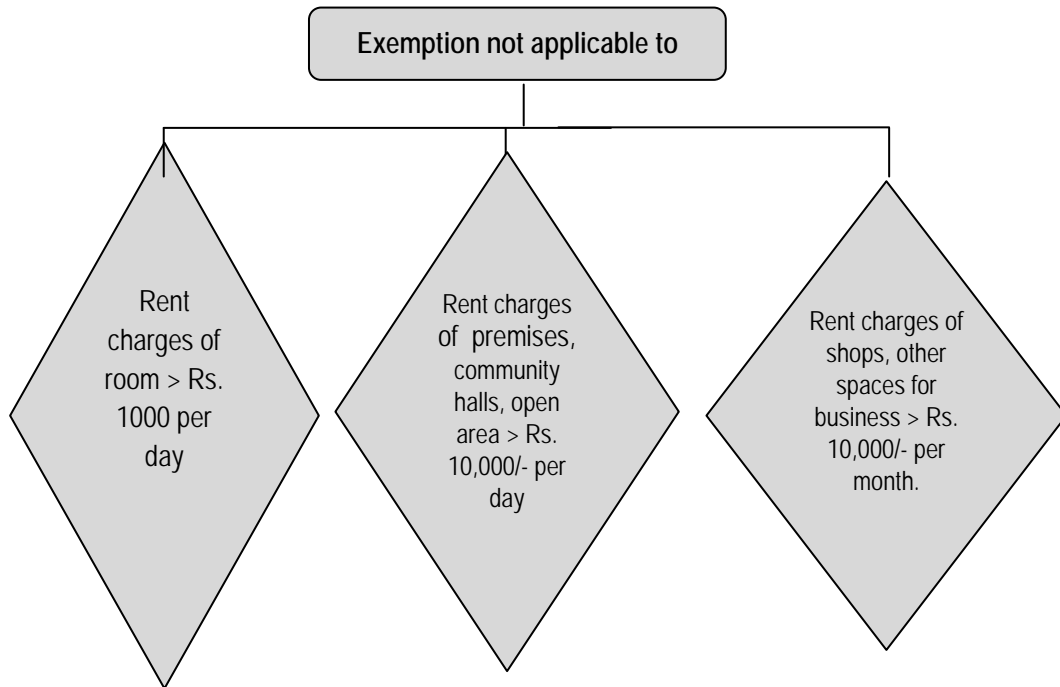
Provided that this exemption shall not apply to,

- (i) renting of rooms **where charges are one thousand rupees or more per day;**
- (ii) renting of premises, community halls, kalyanmandapam or open area, and the like **where charges are ten thousand rupees or more per day;**
- (iii) renting of shops or other spaces for business or commerce **where charges are ten**

thousand rupees or more per month.

Lodging services below Rs. 1000/- per day

3. Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below one thousand rupees per day or equivalent.

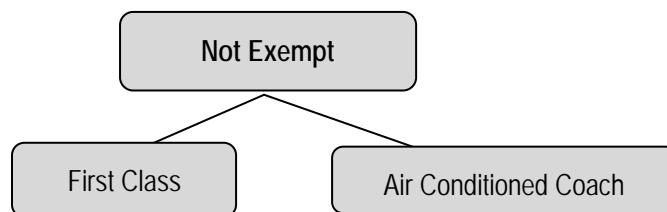


5.5 Exemption in transportation of passengers

1 Exemption on Travel by Rail

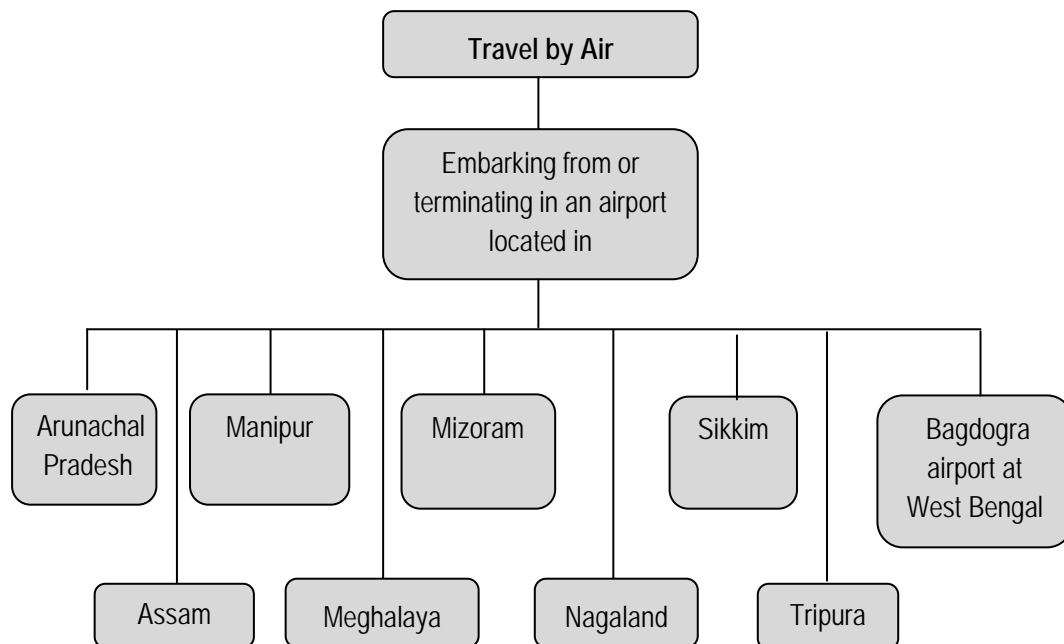
Service of transportation of passengers, with or without accompanied belongings, by—

- (a) Rail and (b) metro, monorail or tramway is exempt.



2. Exemption on Travel by Air

- (a) Transport of passengers, with or without accompanied belongings, by –



- (b) Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding is **Nil** rated.

Provided that nothing contained in this entry shall apply on or after the expiry of a period of one year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

W.e.f. 25-01-18, the above exemption will not be available on or after the expiry of a period of three years (instead of one year) from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.

3. Exemption for Travel by Contract Carriage:

Transport of passengers, with or without accompanied belongings by non-air-conditioned contract carriage **other than radio taxi**, for transportation of passengers, **excluding tourism**, conducted tour, charter or hire is NIL Rated.

4. Exemption for Stage Carriage:

- (a) Stage carriage other than air conditioned stage carriage is exempted.
- (b) Services by way of giving on hire to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers is exempt.

5. Exemption from travel by road by cab

Service of transportation of passengers, with or without accompanied belongings, by—metered cabs or auto rickshaws (including e-rickshaws) is Nil Rated.

5.6 Exemption for Transportation of Goods

1	Exemption for Transportation of Goods by Rail Services by way of transportation by rail from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure
2	Exemption for transportation of goods by vessel As per Sl. No. 20 of NN 12/2017-CTR, Services by way of transportation by vessel from one place in India to another of the following goods – (a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (b) defence or military equipments; (c) newspaper or magazines registered with the Registrar of Newspapers; (d) railway equipments or materials; (e) agricultural produce; (f) milk, salt and food grain including flours, pulses and rice; and (g) organic manure
3	Exemption for transportation by Inland Waterways Services by way of transportation of goods by inland waterways is exempt.
4	Exemption for Air Cargo from outside India Vide notification No. 2/2018 CT ('R) dated 25.01.2018, Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India have been exempted till 30.09.2018.
5	Exemption for Vessel to a place outside India

	<ul style="list-style-type: none"> • Vide Notification No. 2/2018 CT ('R) dated 25.01.2018, Services by way of transportation of goods by vessel from customs station of clearance in India to a place outside India have been exempted till 30.09.2018. • Amendment has also been made to provide that value of such service may be excluded from the value of exempted services for the purpose of reversal of ITC.
6	<p>Exemption for Transportation of goods by road Services by way of transportation of goods by road is exempt.</p> <div style="text-align: center;"> <div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 150px;">EXCEPT</div> <div style="display: flex; justify-content: space-around; align-items: center; margin-top: 10px;"> <div style="border: 1px solid black; padding: 5px; width: 150px;">Goods Transport Agency</div> <div style="text-align: center;">the services of:</div> <div style="border: 1px solid black; padding: 5px; width: 150px;">Courier Agency</div> </div> </div>
7	<p>Exemption for Transportation of Goods by Goods Transport Agency</p> <p>1. Services provided by a goods transport agency, by way of transport in a goods carriage of -</p> <ol style="list-style-type: none"> agricultural produce; goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees; goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty; <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>E.g. Mr. Goods of Mr. A being transported by ABC Transport Company and freight amount is lesser than Rs. 750/- for carriage of goods of Mr. A. Then the freight amount shall be exempt from GST.</p> <p>If goods of both Mr. A and Mr B are being carried in carriage and freight charges for Mr. A are Rs. 800/- and for Mr. B are Rs. 700/- and not other consignor/consignee is sending goods through that carriage, still Mr. A shall enjoy exemption from freight because freight charges for entire carriage are not more than Rs. 1500/- . Of course, Mr. B shall also enjoy exemption, because freight charges for him are already lesser than Rs. 750/-.</p> </div> <ol style="list-style-type: none"> milk, salt and food grain including flour, pulses and rice; organic manure; newspaper or magazines registered with the Registrar of Newspapers; relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or

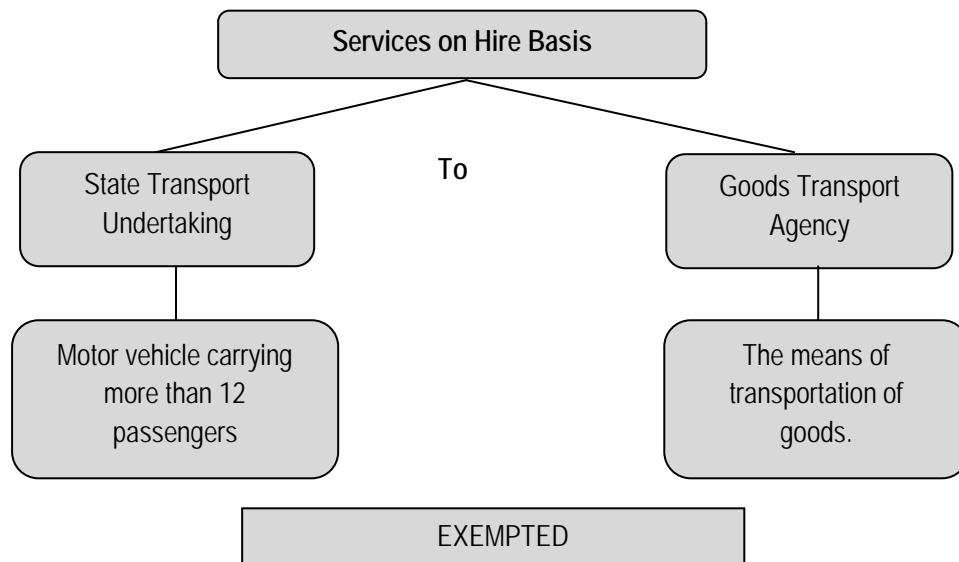
	<p>(h) defence or military equipments.</p> <p>2. Services by way of giving on hire to a goods transport agency, a means of transportation of goods.</p> <p>2. Services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: -</p> <p>(a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or</p> <p>(b) any Society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any Co-operative Society established by or under any law for the time being in force; or</p> <p>(d) any corporate established, by or under any law for the time being in force; or</p> <p>(e) any partnership firm whether registered or not under any law including association of persons;</p> <p>(f) any casual taxable person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</p>
8	<p>Exemption for access charges for roads</p> <p>1. Service by way of access to a road or a bridge on payment of toll charges.</p> <p>2. Service by way of access to a road or a bridge on payment of annuity.</p>
9	<p>Other Exemptions for transportation of goods</p> <p>1. Services by way of loading, unloading, packing, storage or warehousing of rice.</p> <p>2. Supply of service associated with transit cargo to Nepal and Bhutan (landlocked countries)</p>

5.7 Exemption for Electricity distribution

Transmission or distribution of electricity by an electricity transmission or distribution utility is exempt.

5.8 Exemption in respect of Leasing Services

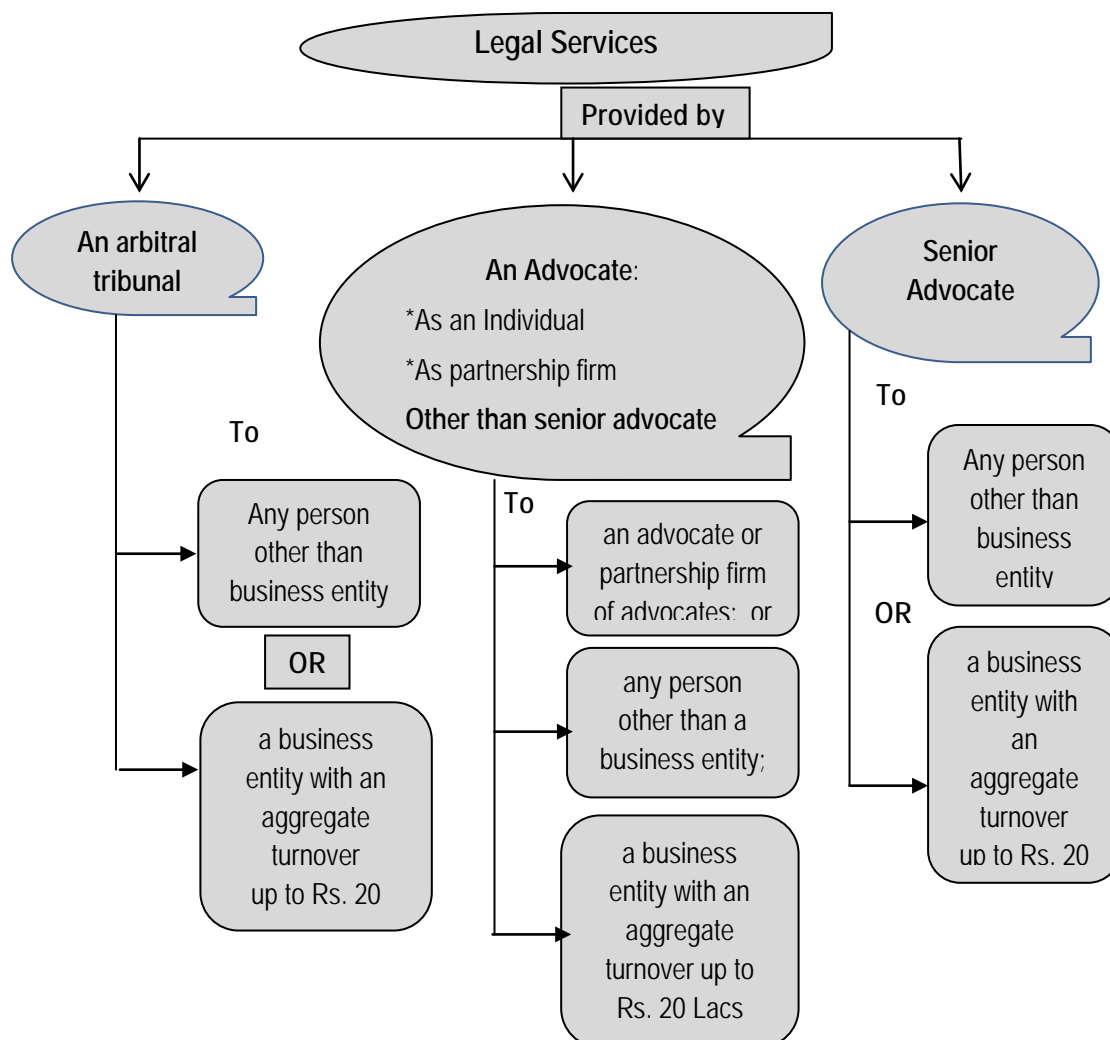
1. Services by way of giving on hire –



Services by way of giving on hire motor vehicle for transportation of students, staff and faculty, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education up to higher secondary school or equivalent, have also been exempted.

2. Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of license fee or spectrum user charges, as the case may be
3. Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.

5.9 Exemption in respect of legal services



The following legal services provided to government have also been exempted:-

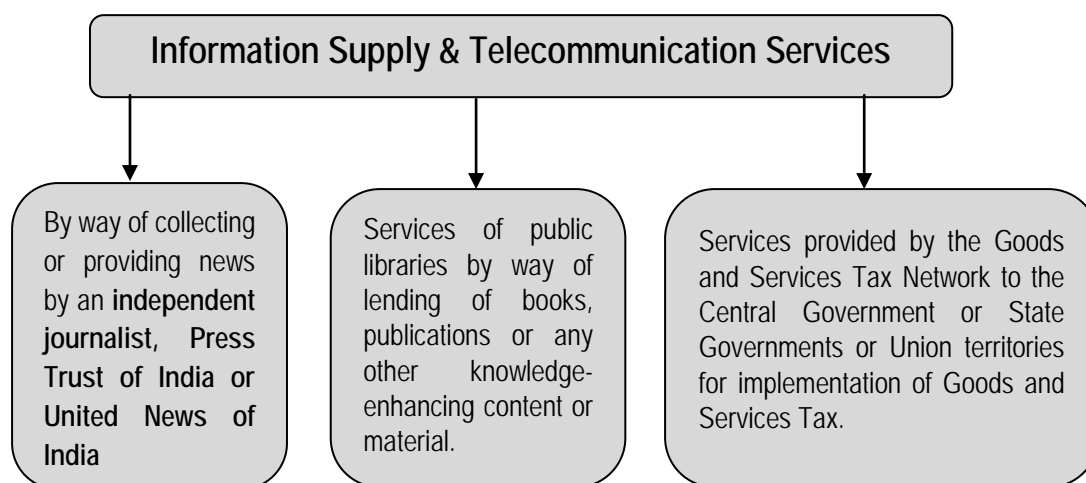
- Services provided by an arbitral tribunal to the Central govt., State govt., Union territory, Local Authority, Governmental authority or Government entity
- Services provided by a partnership firm of advocates or an individual as an advocate other than Senior advocate by way of legal services to the Central govt., State govt., Union territory, Local Authority, Governmental authority or Government entity
- Services provided by a Senior advocate by way of legal services to the Central govt., State govt., Union territory, Local Authority, Governmental authority or Government entity

5.10 Exemption for Professional, technical and business services

1. Services by a veterinary clinic in relation to health care of animals or birds.
2. Services provided by the Central Government, State Government, Union territory or local authority by way of-
 - (a) registration required under any law for the time being in force;
 - (b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.
3. Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India
4. Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme

5.11 Exemption for Information Supply and Telecommunication Services

1. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India.
2. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material.
3. Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.



5.12 Support services to agriculture, forestry, fishing, animal husbandry

1. Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—

- (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
- (b) supply of farm labour;
- (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of **agricultural produce** but make it only marketable for the primary market;
- (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- (e) loading, unloading, packing, storage or warehousing of **agricultural produce**;
- (f) agricultural extension services;
- (g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of **agricultural produce**.
- (h) **Vide Notification No. 2/2018 CT (R) dated 25.01.2018, Fumigation in warehouse of agricultural produce has also been exempted.**

2. Exemption for Processing of Fruits and Vegetables

Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.

3. Exemption for Job work in relation to cultivation of plants and rearing of animals

Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.

4. Exemption for services by way of slaughtering of animals

5. Vide Notification No.2/2018 CT (R) dated 25.01.2018, Services by way of 'fumigation' in a warehouse of agricultural produce have been exempted.

5.13 Exemption for Financial and Related Services

1	<p>Exemption for Interest on deposits, loans or advances</p> <p>Services by way of—</p> <p>(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>"interest" means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized.</p> </div> <p>(b) <i>inter se</i> sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers</p>
2	<p>Exemption for Life Insurance</p> <p>(i) Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).</p> <p>(ii) Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>Vide Notification No. 2/2018 CT ('R) dated 25.01.2018, Services of life insurance provided or agreed to be provided by Naval group Insurance Fund</p> </div>

	<p>to personnel of Coast Guard have also been exempted under the Group Insurance Scheme of Central Government.</p> <p>(iii) Services of life insurance business provided under following schemes-</p> <p>(a) Janashree Bima Yojana;</p> <p>(b) Aam Aadmi Bima Yojana;</p> <p>(c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of fifty thousand rupees;</p> <p>Vide Notification No. 2/2018 CT ('R) dated 25.01.2018, the amount of cover under Life micro-insurance product by IRDA has been enhanced from Rs. 50,000/- to Rs.2,00,000/-.</p> <p>(d) Varishtha Pension BimaYojana;</p> <p>(e) Pradhan Mantri Jeevan JyotiBimaYojana;</p> <p>(f) Pradhan Mantri Jan DhanYogana;</p> <p>(g) Pradhan Mantri Vaya Vandana Yojana.</p> <p>Vide Notification No. 2/2018 CT ('R) dated 25.01.2018, re-insurance of above mentioned life insurance schemes have also been exempted.</p>
3	<p>Exemption for General Insurance</p> <p>Services of general insurance business provided under following schemes –</p> <p>(a) Hut Insurance Scheme;</p> <p>(b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);</p> <p>(c) Scheme for Insurance of Tribals;</p> <p>(d) Janata Personal Accident Policy and Gramin Accident Policy;</p> <p>(e) Group Personal Accident Policy for Self-Employed Women;</p> <p>(f) Agricultural Pumpset and Failed Well Insurance;</p> <p>(g) Premia collected on export credit insurance;</p> <p>(h) Restructured Weather Based Crop Insurance Scheme (RWCIS)</p> <p>(i) Jan Arogya Bima Policy;</p> <p>(j) Pradhan Mantri Fasal BimaYojana (PMFBY) ;</p> <p>(k) Pilot Scheme on Seed Crop Insurance;</p> <p>(l) Central Sector Scheme on Cattle Insurance;</p> <p>(m) Universal Health Insurance Scheme;</p> <p>(n) Rashtriya Swasthya Bima Yojana;</p> <p>(o) Coconut Palm Insurance Scheme;</p>

	<p>(p) Pradhan Mantri Suraksha BimaYojna;</p> <p>(q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Vide Notification No. 2/2018 CT ('R) dated 25.01.2018, re-insurance of the above mentioned General insurance schemes have also been exempted.</p> </div>
4	<p>Exemption for financial regulators</p> <p>(a) Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948 (34 of 1948).</p> <p>(b) Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 (19 of 1952).</p> <p>(c) Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999 (41 of 1999).</p> <p>(d) Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 (15 of 1992) by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market</p> <p>(e) Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.</p> <p><i>Explanation.</i>— For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card</p>
5	<p>Exemption under Pension Schemes</p> <p>(a) Services by way of collection of contribution under the Atal Pension Yojana.</p> <p>(b) Services by way of collection of contribution under any pension scheme of the State Governments.</p>
6	<p>Business facilitation service to Banks in rural area</p> <p>Services by the following persons in respective capacities –</p> <p>(a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;</p> <p>(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or</p> <p>(c) business facilitator or a business correspondent to an insurance company in a rural area</p>

7	Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory
8.	<p>Services by an intermediary of financial services located in multi services SEZ with International Financial Service Centre (IFSC) status to a customer located outside India for International financial services in currencies other than Indian rupees have been exempted.</p> <p>Here, the intermediary of financial services in IFSC is a person;</p> <p>(a) Who is permitted or recognized as such by the govt. of India or any other regulator appointed for Regulation of IFSC or</p> <p>(b) Who is treated as a person resident outside India under the Foreign Exchange Management (IFSC) Regulations, 2015 or</p> <p>(c) Who is registered under IRDA of India (IFSC) guidelines, 2015 as IFSC insurance office or</p> <p>(d) Who is permitted as such by SEBI under the Securities & Exchange Board of India (IFSC) Guidelines, 2015</p>

5.14 Exemption for Educational Services

1	<p>Exemption for services by Educational Institution</p> <ul style="list-style-type: none"> ➤ Services provided - by an educational institution to its students, faculty and staff; ➤ Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.
2	<p>Exemption for Services to Educational Institutions</p> <p>Exemption available Up to Higher Secondary</p> <p>Exemption for services provided to an educational institution, by way of,-</p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or house-keeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary:</p> <p>Provided that this exemption shall not apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p> <p>Exemption available above Higher Secondary</p> <p>(v) Supply of Online Educational Journals or periodicals</p>

	<p>Further nothing contained in sub-item (v) above shall apply to an institution providing services by way of:-</p> <ol style="list-style-type: none"> 1. Pre-school education & education up to higher secondary school or equivalent or 2. Education as a part of an approved vocational educational course. <p>Meaning of Educational Institution</p> <p>"Educational institution" means an institution providing services by way of,-</p> <ol style="list-style-type: none"> (i) pre-school education and education up to higher secondary school or equivalent; (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; (iii) education as a part of an approved vocational education course;
3	<p>Exemption for Cold Chain Dissemination Knowledge by National Centre</p> <p>Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination</p>
4	<p>Exemption for Educational programmes of IIMs except Executive Development Programme</p> <p>Services provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme: -</p> <ol style="list-style-type: none"> (a) twoyear full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management; (b) fellow programme in Management; (c) five years integrated programme in Management.
5	<p>Services for Skill Development Programmes</p> <p>Any services provided by, _</p> <ol style="list-style-type: none"> (a) the National Skill Development Corporation set up by the Government of India; (b) a Sector Skill Council approved by the National Skill Development Corporation; (c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation; (d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to- <ol style="list-style-type: none"> (i) the National Skill Development Programme implemented by the National Skill Development Corporation; or

	<p>(ii) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or</p> <p>(iii) any other Scheme implemented by the National Skill Development Corporation</p>
6	<p>Exemption for Skill Development Assessing Bodies</p> <p>Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme.</p>
7	<p>Exemption for Trainers under Rural Skill programmes</p> <p>Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training.</p>
	<p>Exemption under Govt. Sponsored Training Programmes</p> <p>Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration</p>
8	<p>Exemption for Training in Arts, Culture, Sports</p> <p>Services by way of training or coaching in recreational activities relating to-</p> <p>(a) arts or culture, or</p> <p>(b) sports by charitable entities registered under section 12AA of the Income-tax Act.</p>
9	<p>Vide Notification No. 2/2018 CT (R) dated 25.01.2018, Services by way of providing information under Right To Information Act, 2005 have been exempted.</p>

5.15 Exemption in respect of Human Health Care Services

<p>Exemption for Health Care Services [S.No. 74 of 12/2012-CTR]</p> <p>Services by way of-</p> <p>(a) health care services by a clinical establishment, an authorised medical practitioner or para-medics;</p> <p>(b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above</p>	<p>“health care services” means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;</p>
---	---

“clinical establishment” means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases

“authorised medical practitioner” means a medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

Cord Blood Banks

Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.

5.16 Exemption in Sewage and waste disposal

1. Bio Medical Waste Treatment

Services provided by operators of the common **bio-medical waste treatment facility** to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.

2. Public Conveniences

Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets.

5.17 Exemption for membership societies

Service by an unincorporated body or a non- profit entity **registered under any law for the time being in force**, to its own members by way of reimbursement of charges or share of contribution-

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or
- (c) Up to an **amount of five thousand rupees per month per member** for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.

Vide Notification No. 2/2018 CT (R) dated 25.01.2018, the share of contribution of a member of a housing society / residential complex has been raised up to an amount of Rs.7500/- (instead of Rs.5000 limit as provided earlier) per month per member

5.18 Exemption for Recreational, cultural and sporting services

1. Exemption for Admission to Circus, Dance, Theatre, Musical and Sporting Events

Services by way of right to admission to

- (a) circus, dance, or theatrical performance including drama or ballet;
- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- (c) recognised sporting event,
- (d) planetarium

where the consideration for admission is not more than Rs.500 per person as referred to in (a) (b) and (c) above.

2. Exemption for admission to Museum etc.

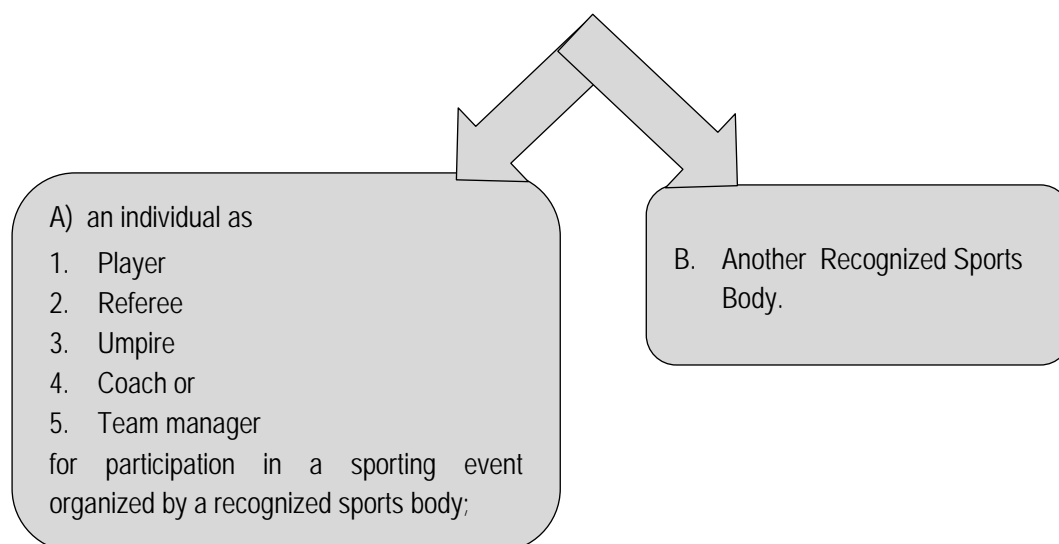
Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo

3. Exemption for admission to protected monuments

With effect from 15.11.2017, Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 (24 of 1958) or any of the State Acts, for the time being in force have been exempted.

4. Exemption for services provided by sportsmen to Recognized Sports body [SI No. 68 of 12/2012-CTR]

Services provided to a recognised sports body by-



5. Exemption for Training in Arts, Culture, Sports

Services by way of training or coaching in recreational activities relating to-

- (a) arts or culture, or
- (b) sports by charitable entities registered under section 12AA of the Income-tax Act.

6. Performances (folk or classical) by artists charging not more than Rs.1,50,000

Services by an artist by way of a performance in folk or classical art forms of-

- (a) music, or
- (b) dance, or
- (c) theatre, if the consideration charged for such performance is not more than one lakh and fifty thousand rupees:

Provided that the exemption shall not apply to service provided by such artist as a brand ambassador.

“brand ambassador” means a person engaged for promotion or marketing of a brand of goods, service, property or actionable claim, event or endorsement of name, including a trade name, logo or house mark of any person;

7. Sponsorship of Sporting Events

Services by way of sponsorship of sporting events organized:

- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
- (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- (c) by the Central Civil Services Cultural and Sports Board;
- (d) as part of national games, by the Indian Olympic Association; or
- (e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme

8. Services related to hosting of FIFA U-17 World Cup 2017

Services provided by and to FIFA and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup, 2017 to be hosted in India.

Vide Notification No. 25/2017 CT ('R) dated 21.09.2017

Supply of services by way of right to admission to the events organized under FIFA U-17 World Cup, 2017 have also been exempted from CGST.

5.19 Exemption for Foreign Diplomatic Missions

Services by a foreign diplomatic mission located in India are exempt.

5.20 Exemption for Charitable and Religious Activities

1. Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. [SI No.1 of 12/2017-CTR]

“Charitable activities” means activities relating to -

- (i) public health by way of ,-
 - (A) care or counseling of
 - (I) terminally ill persons or persons with severe physical or mental disability;
 - (II) persons afflicted with HIV or AIDS;
 - (III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - (B) public awareness of preventive health, family planning or prevention of HIV infection;
 - (ii) advancement of religion, spirituality or yoga;
2. Services by a person by way of conduct of any religious ceremony
 3. Services by a specified organization in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement have been exempted.

Vide Notification No. 2/2018 CT (R) dated 25.01.2018, the said entry has been amended to omit the words “the Ministry of External Affairs” therefrom.

4. Services by a person by way of renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act.

“religious place” means a place which is primarily meant for conduct of prayers or worship pertaining to a religion, meditation, or spirituality

“renting in relation to immovable property” means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;

Provided that this exemption shall not apply to,-

- (i) renting of rooms where charges are one thousand rupees or more per day;
- (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day;
- (iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.

5.21 Exemption for Transfer of going concern business

Services by way of transfer of a going concern,

- as a whole or
- an independent part thereof

5.22 Exemption for Services Provided by Government and Government Entities

1	Service by Government and Govt. Authority for Municipality Function Services by Central Government, State Government, Union territory, local authority or governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution
2	Service by Govt. Authority for Panchayat functions Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution. Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution have also been covered in Notification No. 14/2017-CTR and have been notified u/s 7(2) treated neither as a supply of goods nor a supply of service Vide Notification No. 32/2017 CT ('R) dated 13.10.2017, Supply of services by Central Government, State Government, Union territory and local authority by way of an activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution have also been exempted from CGST. <div style="border: 1px solid black; padding: 5px;"><p>Governmental Authority means an authority or a board or any other body:</p><ul style="list-style-type: none">(i) set up by an act of Parliament or a State Legislature or(ii) established by any Government,<p>With 90% or more participation by way of equity or control, to carry out any function entrusted to Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.</p></div>

3.	<p>All services by Government excluding specified services</p> <p>Services by the Central Government, State Government, Union territory or local authority excluding the following services—</p> <ul style="list-style-type: none"> (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (c) transport of goods or passengers; or (d) any service, other than services covered under entries (a) to (c) above, provided to business entities. <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">Further reverse charge is also applicable.</div>
4	<p>Service by Government to small business entities</p> <p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year.</p> <p><i>Explanation.-</i> For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to-</p> <ul style="list-style-type: none"> (a) services,- <ul style="list-style-type: none"> (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; (ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) of transport of goods or passengers; and (b) services by way of renting of immovable property <div style="border: 1px solid black; padding: 2px; margin-top: 5px;">"business entity" means any person carrying out business</div>
5	<p>Inter Government Services</p> <p>Services provided by the Central Government, State Government, Union territory or local authority to another Central Government, State Government, Union territory or local authority:</p> <p>Provided that nothing contained in this entry shall apply to services-</p> <ul style="list-style-type: none"> (i) by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;

	<p>(ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) of transport of goods or passengers.</p>
6	<p>Service by Government up to Rs. 5000/-</p> <p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees:</p> <p>Provided that nothing contained in this entry shall apply to-</p> <p>(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers:</p> <p>Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.</p>
7	<p>Services by RBI [S.No.26 of 12/2017]</p>
8	<p>Long Term lease of Industrial Plots</p> <p>Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable-in respect of the service, by way of granting long term (thirty years, or more) lease of industrial plots, or plots for development of infrastructure for financial business provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50 per cent. or more ownership of Central Government, State Government, Union territory to industrial units or the developers in any industrial or financial business area</p>
9	<p>License fee for Telecom Operators</p> <p>Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of license fee or spectrum user charges, as the case may be</p> <div>"Business entity" means any person carrying out business</div>
10	<p>Registration Services and Testing & Certification Service for Workers/Consumers/Public</p>

	<p>Services provided by the Central Government, State Government, Union territory or local authority by way of-</p> <p>(a) registration required under any law for the time being in force;</p> <p>(b) testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required under any law for the time being in force.</p>
11	<p>Service by GSTN</p> <p>Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax.</p>
12	<p>Exemption for Cold Chain Knowledge dissemination by National Centre</p> <p>Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination</p>
13	<p>Exemption for passport, visa, driving license, death, birth certificates</p> <p>Services provided by the Central Government, State Government, Union territory or local authority by way of issuance of passport, visa, driving license, birth certificate or death certificate</p>
14	<p>Fines and Liquidated Damaged imposed by Government</p> <p>Services provided by the Central Government, State Government, Union territory or local authority by way of tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages is payable to the Central Government, State Government, Union territory or local authority under such contract.</p>
15	<p>Assignment of right to cultivate and Rearing to Individual farmers</p> <p>Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fiber, fuel, raw material or other similar products.</p>
16	<p>Right to Use Natural Resources for One time charges assigned before 01-04-06</p> <p>Services provided by the Central Government, State Government, Union territory or local authority by way of assignment of right to use any natural resource where such right to use was assigned by the Central Government, State Government, Union territory or local authority before the 1st April, 2016:</p> <p>Provided that the exemption shall apply only to tax payable on onetime charge</p>

	payable, in full upfront or in installments, for assignment of right to use such natural resource.
17	Merchant Overtime Charges Services provided by the Central Government, State Government, Union territory by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges .
18	Grants received from Government Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.

VI. Other exemptions

1. Supplies received by a registered person from any unregistered supplier
2. Supplies received by a TDS deductor from any unregistered supplier
3. Services imported by unit/developer in SEZ (special economic Zone).

Question Bank

FAQs

1. Does exemption from CGST automatically operate as exemption from SGST?
Ans. Yes, notification issued under section 11(1) or 11(2) of the CGST Act will be deemed to be issued under the SGST Act / UTGST Act, reference can be taken from section 11(4) of SGST Act and section 8(4) of UTGST Act.
2. Does exemption from IGST automatically operate as exemption from CGST?
Ans. No, there is no such correlated sections in the two Acts. Separate exemption notification is required to the extent relevant under IGST Act.
3. Does exemption from IGST automatically operate as exemption from GST on imports
Ans. Yes, as GST on import of goods is levied under proviso to section 5(1) of IGST Act which provides that IGST will be levied 'at the point' when customs duties are leviable. Accordingly, to determine the IGST applicable under section 3(7) of Customs Tariff Act, reference must be made to the IGST rate prevailing on the date of levy of such IGST. Hence, any exemption issued under IGST Act will apply to import of goods

4. Is it possible for SGST to be exempted but not CGST for any supply?

Ans. Yes, it is possible since exemption in SGST Act does not apply to CGST Act

5. Exemption applies from date of notification or date of publication of notification?

Ans. Exemption notifications will apply from the date of publication of the same or any special start date specified in the said notification as the effective date

6. What is the effect of violating condition of exemption?

Ans. In case of violation, exemption will stand withdrawn and consequences of non-conformance with conditions will follow and from the date when the said departure occurred.

7. What is the effect of mistaken claim of exemption?

Ans. GST applicable will be recovered with benefit of ITC available only to the limited extent of the time available within section 16(4) when this mistake is realized. There is no estoppel that ITC must be availed because claim of credit is through the return filed under section 39 (section 16(2) refers) and not from the receipt of tax paid supplies.

8. What is the effect of omitting to avail exemption?

Ans. Exemption is where tax is leviable but exempted from the payment of the tax. Exclusion from GST is stating that GST will not apply either by treating it neither as supply of goods nor as services or by excluding it from section 9

9. Whether Petrol is exempted goods or non-taxable goods?

Ans. Five petroleum products i.e., petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel are excluded from levy for the time being and as such petrol is non-taxable good.

10. Is alcohol (human consumption) exempted goods?

Ans. Yes, alcohol is exempted goods though it is not leviable to tax. It is required to treat all goods whether non-leviable or leviable-but-non-taxable, to be classified as exempt goods in order to restrict input tax credit.

MCQs

1. Which one of the following is true?

- (a) Entire income of any trust is exempted from GST
- (b) Entire income of a registered trust is exempted from GST
- (c) Incomes from specified/defined charitable activities of a trust are exempted from GST

Background Material on GST Law for Commerce Students

- (d) Incomes from specified/defined charitable activities of a registered trust are exempted from GST

Ans. (d) Incomes from specified/defined charitable activities of a registered trust are exempted from GST

2. Select the correct statement?

- (a) Transfer of a going concern wholly is exempted from GST
- (b) Transfer of a going concern partly is exempted from GST
- (c) Transfer of going concern wholly or party is exempted from GST
- (d) None of the above

Ans. (c) Transfer of going concern wholly or party is exempted from GST

3. Service by whom, by way of any activity in relation to any function entrusted to a municipality under Article 243 W of the Constitution, is exempted?

- (a) Central Government or State Government or Union territory or Local authority
- (b) Governmental authority
- (c) Both (a) and (b)
- (d) Only a municipality under Article 243 W of the Constitution

Ans. (c) Both (a) and (b)

4. Which is a wrong statement?

- (a) All services of Department of Post are exempted
- (b) All services by State/Central Governments/local authorities in relation to an aircraft or a vessel in a Port or an Airport are exempted
- (c) All services by State/Central Governments/local authorities in relation to transport of passengers are exempted
- (d) All the above mentioned

Ans. (d) All the above mentioned

5. Service to a single residential unit is exempted if:

- (a) It is pure labour service only
- (b) It is works contract only
- (c) It is a part of residential complex only
- (d) It is on ground floor without further super structure

Ans. (a) It is pure labour service only

6. Which of the following exemption option is right?

- (a) For letting out any immovable property
- (b) For letting out any residential property for use as residence
- (c) For letting out any residential property irrespective of its use
- (d) For none of the above

Ans. (b) For letting out any residential property for use as residence

7. Services by a hotel, inn, guest house, club or campsite are exempted for residential / lodging purposes -

- (a) If the declared tariff for a unit of accommodation is below ₹ 10,000
- (b) If the declared tariff for a unit of accommodation is below ₹ 1,000
- (c) If the declared tariff for a unit of accommodation is exactly ₹ 1,000
- (d) If the declared tariff for a unit of accommodation is above ₹ 1,000

Ans. (b) If the declared tariff for a unit of accommodation is below ₹ 1,000

8. Transportation of passengers exempted if -

- (a) It is by air-conditioned stage carriage
- (b) It is by air-conditioned contract carriage
- (c) It is by non-air conditioned stage carriage for tourism, charter or hire
- (d) None of the above

Ans. (d) None of the above

9. Transportation of passengers is exempted -

- (a) In an air conditioned railway coach
- (b) In a vessel for public tourism purpose between places in India
- (c) In a metered cab/auto rickshaw / e rickshaw
- (d) In all the above mentioned

Ans. (c) In a metered cab/auto rickshaw / e rickshaw

10. Transportation of goods is not exempted if it is -

- (a) by a goods transport agency / courier agency
- (b) by inland waterways
- (c) by an aircraft from a place outside India up to the customs station of clearance in India
- (d) by all the above mentioned

Ans. (a) by a goods transport agency / courier agency

11. If the aggregate turnover of in FY 2016-17 of M/s ABCD Enterprises, Kanchipuram, Tamil Nadu, India was Rs 18 lakh, exemption is available for the following services rendered to ABCD Enterprises -

- (a) Arbitral Tribunal services
- (b) Legal services by firm of advocates
- (c) Legal services by senior advocate
- (d) All of the above

Ans. (d) All of the above

12. Which one of the following is exempted from GST?

- (a) Any business exhibition
- (b) A business exhibition in India
- (c) A business exhibition outside India
- (d) None of the above

Ans. (c) A business exhibition outside India

13. Which of the following is not exempted -

- (a) Health care service to human beings by authorized medical practitioners / para medics
- (b) Health care services to Animals/Birds
- (c) Slaughtering of animals
- (d) Rearing horses

Ans. (d) Rearing horses

14. Which of the following are exempted services?

- (a) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre for consideration not exceeding ₹ 1 lakh
- (b) Services by an artist by way of a performance in folk or classical art forms of music/ dance for consideration not exceeding ₹ 1.5 lakh
- (c) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre for consideration not exceeding ₹ 1.5 lakh
- (d) Services by an artist as a brand ambassador by way of a performance in folk or classical art forms of music/ dance / theatre for consideration not exceeding ₹ 1.5 lakh

Ans. (c) Services by an artist by way of a performance in folk or classical art forms of music/ dance / theatre for consideration not exceeding ₹ 1.5 lakh

15. Service by way of access to a road or a bridge on payment of annuity is exempt?

(a) True

(b) False

Ans. (a) True [With effect from 13.10.2017]

Chapter 4

Composition Scheme

Learning Objective

This chapter discusses eligibility and ineligibility to opt for composition scheme and its related aspects.

Coverage

- I. What is composition Scheme
- II. Eligibility for Composition Scheme
- III. Tax Rates applicable under Composition Scheme
- IV. Turnover on which composition tax shall be calculated
- V. Conditions and Restrictions for Opting Composition Scheme
- VI. How to Opt Composition Scheme
- VII. Validity Period of Composition Scheme
- VIII. Return by Composition dealer
- IX. Failure to file return by composition dealer
- X. Treatment of ITC on switching between composition and Normal Scheme
- XI. Penalty for wrongly opting for Composition Scheme
- XII. Advantage of Composition Scheme
- XIII. Limitations of Compositions Scheme

Introduction

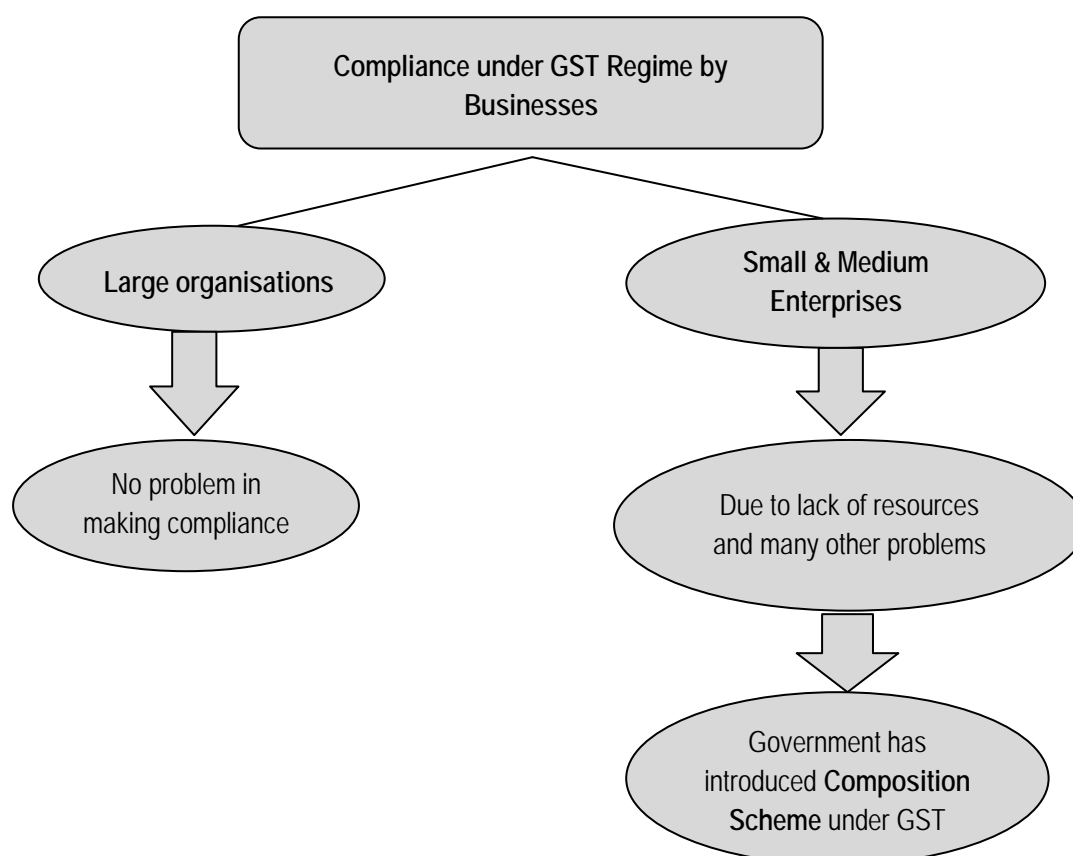
The composition scheme under GST is meant for small traders and manufacturers, to reduce their burden of compliance. It allows the assessee who is registered under this scheme to pay tax at a very low rate, but it has some restrictions such as ineligibility to claim ITC.

Analysis/Illustration/Charts

What is composition scheme?

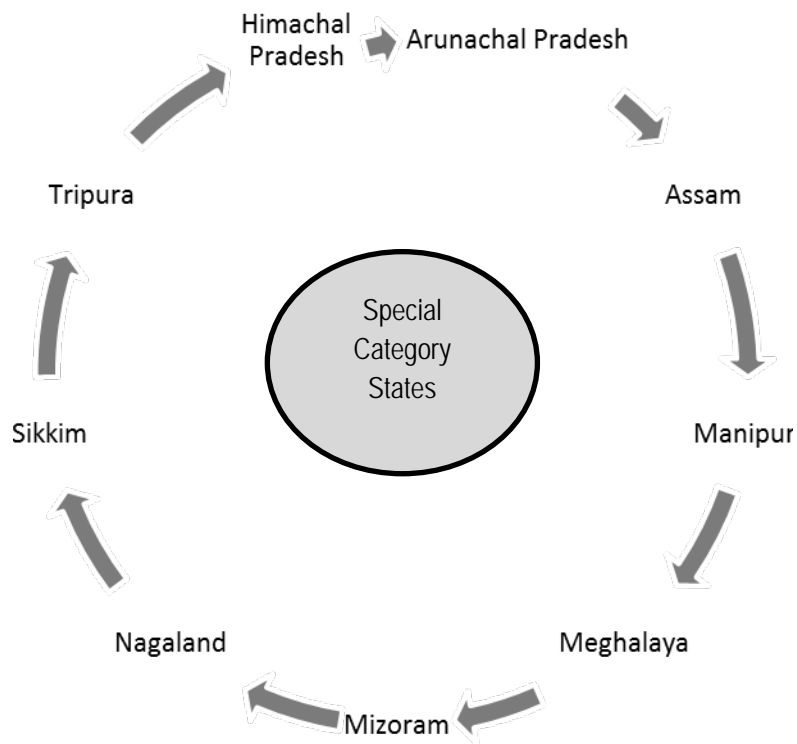
Large organizations have the requisite resources and expertise to address and facilitate the requirements and compliance procedure. On the flip side, many startups and Small and Medium Enterprises (SMEs) may find it tough and hard to comply with these provisions. To

resolve the burden of compliance for SME's and small businesses, the government has introduced Composition Scheme under GST, which is merely an extension of the similar scheme under VAT law. Under this scheme, assessee has to pay tax at comparatively very low rate based on their turnover subject to various restrictions including non-availment of input tax credit. Section 10 of the CGST Act, 2017 contains the provisions related to composition scheme. In terms of section 21 of the UTGST Act, 2017 provisions related to composition scheme of the CGST Act, 2017 would be applicable to Union Territory tax (UTGST).



Eligibility Conditions for Composition Scheme

Getting registered under composition scheme is optional and voluntary. Any business which has an **aggregate turnover** less than **Rs.1crore** in the preceding financial year can opt for this scheme but on any given day, if turnover crosses the above-mentioned limit, then he becomes ineligible and has to take registration under the regular scheme. For Special category States (excluding J&K and Uttarakhand), lower threshold limit of **Rs.75 Lakhs** for composition scheme has been proposed under the law.

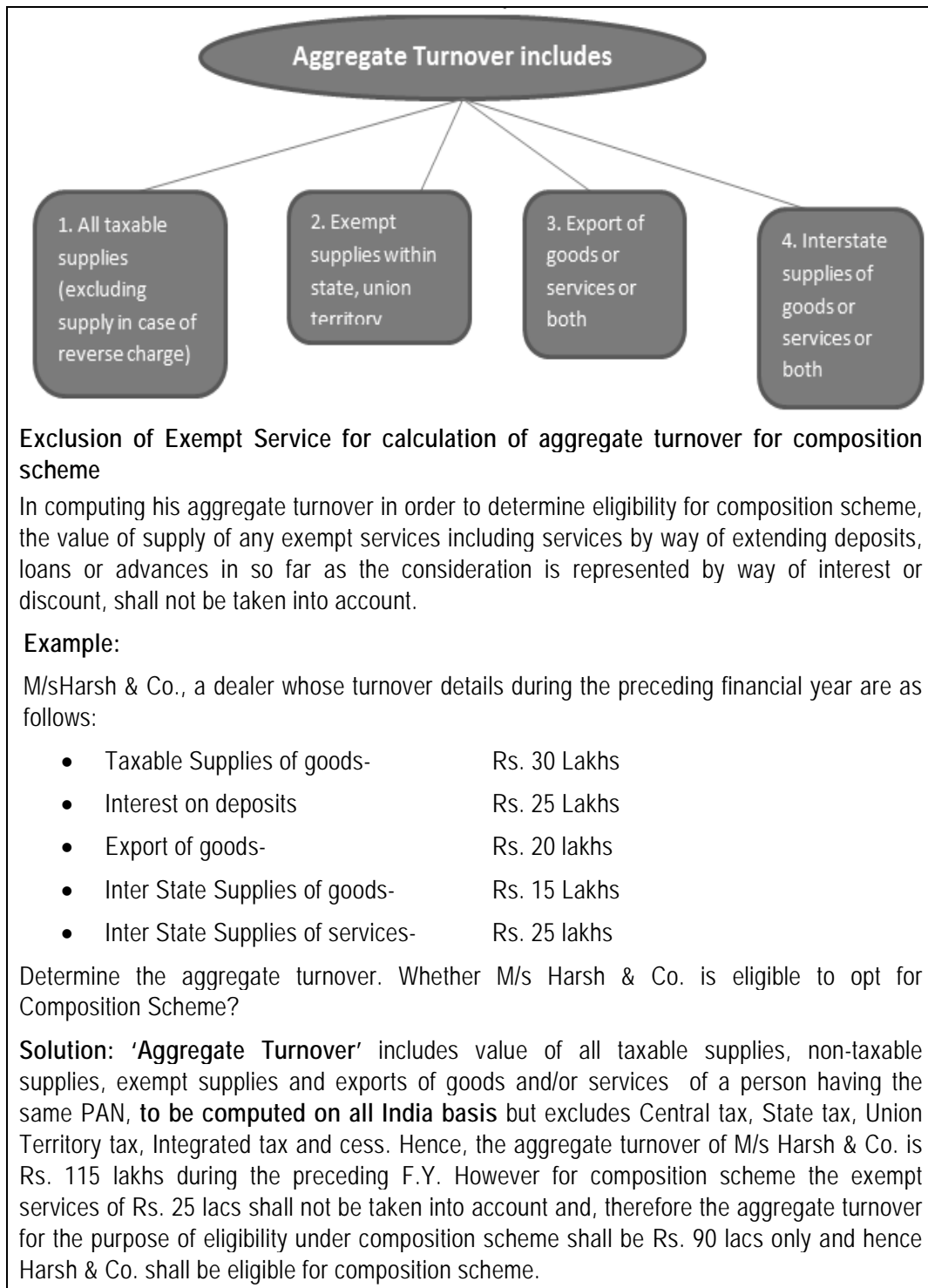


- At the 23rd meeting of GST Council held on 10-11-2017, the threshold limit for taxable persons was proposed to be increased from 1 crore to 1.5 crore. However, these changes require modification in the provisions of the Act, which has not been effected as yet.

Aggregate turnover" shall include

Value of all:

- taxable supplies
- non-taxable supplies,
- exempt supplies and
- exports of goods and/or services of a person having the same PAN, **to be computed on all India bases** but Excludes Central tax, State tax, Union Territory tax, Integrated tax and cess.



Tax rate applicable under Composition Scheme

Businesses dealing only in goods can opt for composition scheme. Service providers have been kept outside the scope of this scheme. However, the restaurant sector taxpayers may also opt for the scheme. Any dealer whose aggregate turnover in a preceding financial year does not exceed Rs. 1 crore can opt for the composition scheme.

Composition Scheme- Applicable GST Rate

Type of Business	CGST	SGST	Total
• Traders	0.5%	0.5%	1.0%
• Manufacturers	0.5%	0.5%	1.0%
• Person engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II (Restaurants)	2.5%	2.5%	5%

1. However, the Composition Scheme taxable person is liable to pay tax on full rate of tax on inward supplies from unregistered person taxable under Reverse Charge.
2. Further the Composition Scheme taxable person is liable to pay tax on reverse charge on specified supplies notified u/s 9(3).

Examples:

1. M/s Ravi traders, a composition dealer dealing in goods made the following supplies during the quarter ending 30.06.2018.

(a) Taxable Supplies- Rs.25 lakhs

(b) Exempt supplies- Rs.50 lakhs

Calculate the tax payable during the quarter.

Solution: A composition dealer is liable to pay tax only in respect of turnover of taxable supplies of goods. Thus, M/s Ravi Traders is liable to pay tax of Rs.25000/- i.e. 1% of Rs.25 lakhs.

2. M/s Ravi traders, a manufacturer who has opted for composition scheme made the following supplies during the quarter ending 30.06.2018.

(a) Taxable Supplies- Rs.25 lakhs

(b) Exempt supplies- Rs.50 lakhs

Calculate the tax payable during the quarter.

Solution: A manufacturer who has opted for composition scheme is liable to pay tax @1% on its turnover in a state. Thus, M/s Ravi Traders is required to pay tax in respect of its taxable as well as exempt turnover in the state. Hence, the firm is required to pay tax of Rs.75000 during the quarter ending 30.06.2018 (1% of its total turnover of Rs.75 lakhs/-)

3. M/s Ravi traders, a restaurant service provider who has opted for composition scheme made the supplies of Rs.75 lakhs during the quarter ending 30.06.2018. Calculate the tax payable during the quarter.

Solution: A manufacturer who has opted for composition scheme is liable to pay tax @ 5% on its turnover in a State. Hence, M/s Ravi Traders is required to pay tax of Rs.3,75,000/- during the quarter ending 30.06.2018 (5% of its total turnover of Rs.75 lakhs/-)

Turnover on which Composition Tax shall be calculated

The tax rate as above is applied to turnover in a State or Union Territory.

As per section 2(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)
- exempt supplies made within a State or Union territory by a taxable person,
- exports of goods or services or both
- 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

Example: Mr. X, a composition dealer is a registered person in different states including Punjab, Haryana & Delhi. Turnover details are as follows:

Punjab- 10Lakhs

Haryana-25 lakhs

Delhi-15 lakhs

Calculate the tax to be paid in the State of Punjab.

Solution: Since the tax is to be paid by Mr. X on the basis of "turnover in State" or "turnover in Union territory". Mr. X is liable to pay Rs.10000/- (1% on turnover of Punjab of Rs.10 lakhs). In the state of Haryana and Delhi also tax shall be paid under the composition scheme only.

Conditions and Restrictions for opting composition Scheme:

- | | |
|----------|---|
| 1 | <p>Supplier of Service not allowed to opt</p> <p>Supplier of service is not allowed to opt for Composition Scheme except the supplier of service of food and beverages. However as per the decisions taken at the 23rd GST Council meeting on 10-11-2017, supply of services by Composition taxpayer up to Rs 5 lakh per annum will be allowed.</p> |
|----------|---|

	<p>Further a composition dealer providing any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be ineligible for the composition scheme.</p> <p>Example: M/s Ravi Traders is engaged in supply of services its turnover during the preceding F.Y was Rs.95 lakhs. Determine whether M/s Ravi Traders is eligible to opt for Composition Scheme?</p> <p>Solution: Although, the turnover of M/s Ravi Traders does not exceed Rs.100 lakhs during the preceding F.Y., still the firm is not eligible to opt for composition scheme as they are engaged in supply of services.</p> <p>As per GST Amendment Act 2018 (effective date of implementation not yet notified),</p> <p>Composition dealer may supply services of value not exceeding ten percent of turnover in the preceding financial year in a State or Union territory or five lakh rupees, whichever is higher.</p>
2	<p>Inter-state outward Supplies not allowed</p> <p>There should not be any interstate outward supply of goods that means businesses having only intra state supply of goods are eligible.</p> <p>However there is no bar for interstate purchases, except that 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</p> <p>Example: M/s Ravi Traders engaged in interstate outward supply of goods, whose turnover during the preceding F.Y was Rs.95 lakhs. Determine whether M/s Ravi Traders is eligible to opt for Composition Scheme?</p> <p>Solution: Although, the turnover of M/s Ravi Traders does not exceed Rs.100 lakhs during the preceding F.Y., still the firm is not eligible to opt for composition scheme as they are engaged in interstate outward supply of goods.</p>
3	<p>Supply through E-Commerce operators not allowed to opt for composition</p> <p>Any dealer who is supplying goods through electronic commerce operator will be barred from being registered under composition scheme.</p> <p>If M/s XYZ sells its products through Snapdeal, Myntra, Flipkart or Amazon (Electronic Commerce Operator) then M/s. XYZ cannot opt for composition scheme.</p>
4	<p>Cannot be availed for multiple establishments on selective basis</p> <p>Composition scheme is available for all business verticals with the same PAN. A taxable person will not have the option to select composition scheme for one of its establishment and to pay normal taxes for others.</p> <p>A taxable person has the following business verticals separately registered:</p>

	<ul style="list-style-type: none"> • Sale of footwear • sale of mobiles • Franchisee of McDonald's <p>If the taxable person wants to opt for composition scheme, in that case he has to opt for the scheme for all the three business verticals i.e. he cannot opt for the composition scheme for one business vertical and regular scheme for other business vertical.</p>						
5	<p>Not allowed to collect Tax</p> <p>Composition dealers are not allowed to collect composition tax from the recipient of supplies. In Composition Scheme, the taxable person cannot issue tax Invoice and is mandatorily required to issue only "Bill of Supply"</p> <p>Composition dealer 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.</p>						
6	<p>Input Tax Credit not allowed</p> <p>Composition taxable persons are not allowed to take Input Tax Credit.</p>						
7	<p>Credit of tax paid under Composition Scheme not allowed</p> <p>As per section 17(5), credit of tax paid under composition scheme is prohibited</p>						
8	<p>Manufacturer of notified goods not allowed to enter Composition Scheme</p> <p>The Composition Scheme taxable person should not be a manufacturer of notified goods and thus following manufacturers cannot opt for composition scheme</p> <table border="1"> <tr> <td>1</td><td>Manufacturer of ice cream and other edible ice, whether or not containing cocoa</td></tr> <tr> <td>2</td><td>Manufacturer of Pan Masala</td></tr> <tr> <td>3</td><td>Manufacturer of Tobacco and manufactured tobacco substitutes</td></tr> </table> <p>Example: Mr. Y engaged in trading of Tobacco products wants to know whether he is eligible for composition scheme or not?</p> <p>Solution: Only manufacturers of Ice- cream, Edible ice, Pan masala and Tobacco products are ineligible to opt for composition scheme. Since, in this case, Mr. Y is not the manufacturer but trading in Tobacco products. He can opt for composition Scheme.</p>	1	Manufacturer of ice cream and other edible ice, whether or not containing cocoa	2	Manufacturer of Pan Masala	3	Manufacturer of Tobacco and manufactured tobacco substitutes
1	Manufacturer of ice cream and other edible ice, whether or not containing cocoa						
2	Manufacturer of Pan Masala						
3	Manufacturer of Tobacco and manufactured tobacco substitutes						
9	<p>Not allowed to deal in non-taxable supplies</p> <p>The Composition Scheme taxable person should not be engaged in making any supply of goods which are not leviable to tax under this Act i.e. petroleum products, alcoholic liquor for human consumption.</p>						
10	<p>Casual Taxable person not allowed</p> <p>A casual taxable person cannot opt for Composition Scheme</p>						

Background Material on GST Law for Commerce Students

11	Non-resident taxable person not allowed A non-resident taxable person cannot opt for composition scheme
12	No concession for reverse charge on inward supplies from unregistered person The Composition Scheme taxable person is liable to pay tax at full rate on stock purchased from unregistered person
13	No concession for reverse charge on specified supplies The Composition Scheme taxable person is liable to pay tax on reverse charge on specified supplies notified u/s 9(3).
14	Display on Sign Board The Composition taxable person 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.

How to Opt Composition Scheme

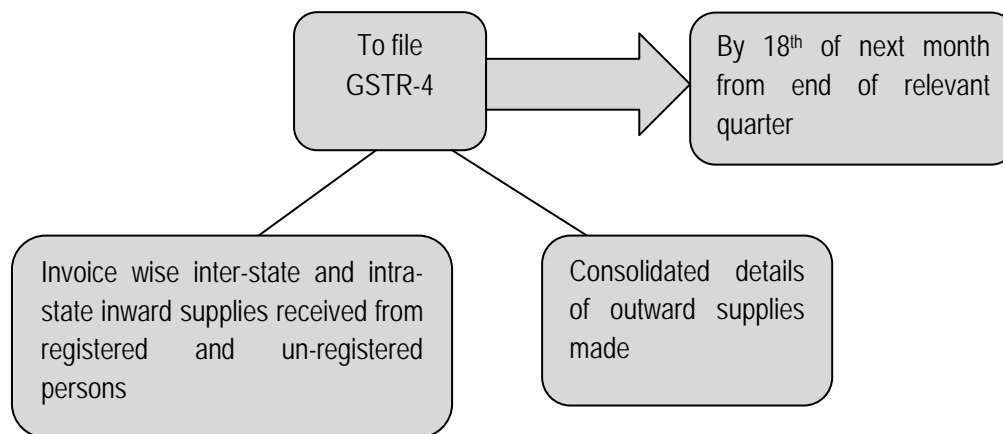
Composition Scheme	Forms Required
Option for composition Scheme on Appointed Day i.e. 22-06-2017 by persons registered under existing law	Form CMP-01 for registration on or before Appointed day, to be filed within 30 days from the Appointed Day i.e. 22-06-2017. The date for CMP-01 was later extended to 16-08-2017. Where CMP-01 is filed after appointed day, no tax can be collected during the intervening period from appointed day till filing of CMP-01. Form CMP-03 for furnishing the details of stock held on the appointed day within a period of 90 days from the date on which the option for composition levy is exercised. The date for filing CMP-03 had also been extended till 15-12-2017.
New Registration	Form REG-01: Intimation for opting composition scheme to be given at the time of filing Part B of REG-01.
Shift from Normal taxation scheme to composition scheme from the commencement of financial year	Form CMP-02 for migration from normal to Composition Scheme to be filed prior to the commencement of the financial year for which composition scheme is exercised.

	Form GST ITC-03 for details of ITC relating to inputs lying in the stock, inputs in semi-finished/finished goods within 60 days of commencement of relevant financial year.
Special Option for 2017-18	Allowed to OPT for Composition Scheme from the first day of the month immediately succeeding the month in which GST CMP-02 is filed
	Form GST ITC-03 for details of ITC relating to inputs lying in the stock, inputs in semi-finished/finished goods within 90 days of commencement of option to pay tax under Composition Scheme.
Further such persons are not be allowed to furnish the declaration in FORM GST TRAN-1 (Form for transactional credits on the basis of input tax credit carried forward on stock on 30-6-2017.) after the statement in FORM GST ITC-03 has been furnished.	

Validity Period of Composition Scheme

1	The Composition Scheme is valid till all the conditions of Composition Scheme are Complied.
2	When a person ceases to comply with the conditions of Composition Scheme <ul style="list-style-type: none"> ➤ He shall file Intimation of withdrawal from Composition Scheme within 7 days in GST CMP-04 from the occurrence of event resulting in cessation of Composition Scheme ➤ Issue Tax Invoice from the date of cessation instead of Bill of Supply.
3	Where Proper officer discovers contravention of Composition Scheme he shall give notice in GST CMP-05 for 15 days to reply as to why composition scheme benefit not be denied
4	Reply to notice to be filed in GST CMP-06
5	Proper Officer shall pass order accepting or rejecting composition scheme in GST CMP-07 within 30 days from the reply.
6	Detail of stock of inputs and inputs contained in semi-finished or finished goods held in stock by a person on the date on which the option is withdrawn or denied, to be furnished 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 in Form GST ITC -01

Return by Composition TAXABLE PERSON



- Details of inward supply from registered person shall be available in GSTR-4A. Composition dealer can amend, add or delete the details available in GSTR-4A and file GSTR-4 accordingly.
- Composition Taxable person is required to file Annual return in Form GSTR 9A.

Failure to file return by Composition Dealer [Section 29]

The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where a person paying tax under Composition Scheme has not furnished returns for three consecutive tax periods;

Mr. Y, a composition dealer has not filed its GSTR-4 for all the quarters of F.Y 2017-18. In this case, the proper officer has the power to cancel the registration of Mr. Y, as he has failed to file its GSTR-4 for three consecutive tax periods.

Treatment of ITC on Switching between Composition Scheme and Normal Scheme

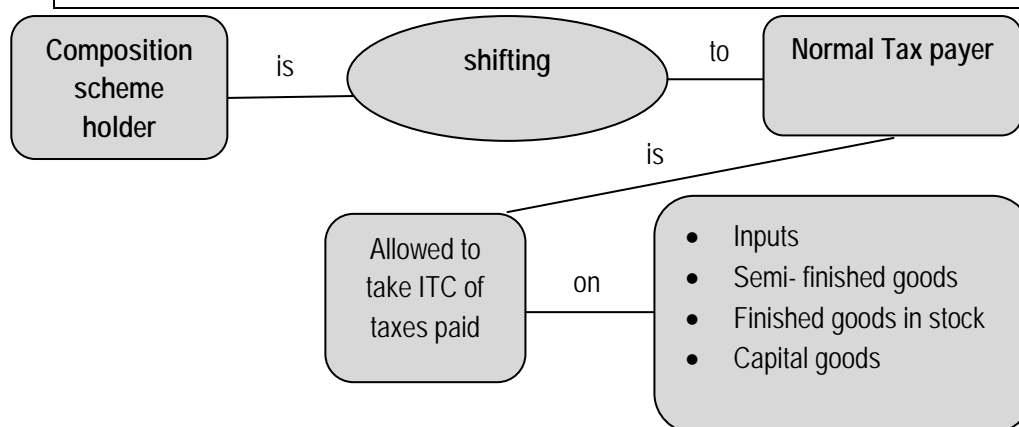
ITC on inputs on cessation of Composition levy [Section 18-(1)]

1. Where any registered person ceases to pay tax under Composition Scheme, 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:
2. The credit on capital goods shall be reduced by such percentage points as may be prescribed i.e. **five percentage points per quarter of a year or part thereof from the date of the invoice**
3. The registered person shall within a period of thirty days from the date of his becoming eligible to avail the input tax credit 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.

4. The declaration in Form GST ITC-01 shall contain the details of stock held by a person on cessation of composition scheme.
5. **The details 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**
6. Further, A registered person shall not be entitled to take input tax credit after the expiry of one year from the date of issue of tax invoice.

- X, a registered taxable person, was paying tax at composition rate upto 30th August. However, w.e.f. 31st August, X becomes liable to pay tax under regular scheme. Mr.X will be eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as on 30th August. ITC on capital goods will be reduced by **5% per quarter** from the date of the invoice.



ITC reversal on opting for Composition levy [Section18(4)]

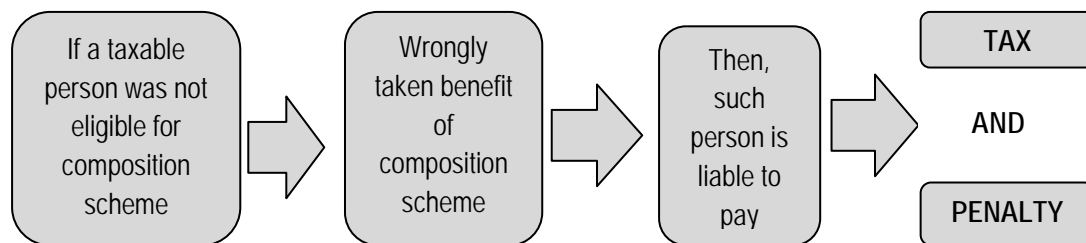
Where any registered person who has availed of input tax credit opts to pay tax under Composition Scheme he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in 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.

<pre> graph LR A[Normal tax payer] -- is --> B[shifting] B -- to --> C[Composition scheme holder] C -- then --> D[/Liable to/] D -- and --> E([Pay an amount which shall be equal to ITC]) D -- and --> F([Balance of ITC shall lapse]) </pre>	
<p>Rule 44(1) : Manner of reversal of credit :</p> <ul style="list-style-type: none"> ➤ 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 [Switch to Composition/Exemption] ➤ be determined in the following manner, namely,- <p>(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;</p> <p>(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.</p>	
<p>Illustration:</p> <p>Capital goods have been in use for 4 years, 6 month and 15 days.</p> <p>The useful remaining life in months= 5 months ignoring a part of the month</p> <p>Input tax credit taken on such capital goods= C</p> <p>Input tax credit attributable to remaining useful life= C multiplied by 5/60</p>	
<p>(2) The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of integrated tax and central tax.</p> <p>(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</p>	

Penalty for wrongly opting for Composition Scheme

If the tax administration has reason to believe that a composition dealer has wrongly availed the benefit under the composition scheme, then such a person shall be liable to pay all the taxes which he would have paid under the normal scheme. Also, he will be liable to pay a penalty equivalent to an amount of tax payable. This penalty will not be levied without giving a show cause notice to the dealer.



Advantages

1. **Lesser compliances (returns, maintaining books of record, issuance of invoices):** Under the normal scenario, a taxpayer under GST has to file minimum 3 returns monthly and one annual return. To be precise, he is compelled to file 37 returns in a year and penalty will be levied for non-compliance. For small suppliers and manufacturers, it is quite difficult to maintain such detailed books of accounts on a daily basis and record every transaction with supporting documents.

Whereas, in composition scheme, only a quarterly return will be uploaded under GSTR-4. Further under the composition scheme the taxation person is not required to maintain stock details.

- | |
|---|
| <ol style="list-style-type: none"> 1. Stock details are not required to be maintained by the composition dealer. 2. Details of tax also not required to be maintained by such dealer. |
|---|

Further while normal taxable person is required to provide name and address of unregistered customers also on his invoice, the composition taxable person is not required to provide such detail on bill of supply.

This will ease the compliance burden for SMEs, and they can focus more on their business rather than getting occupied in compliance procedures.

2. **Reduced tax liability:** Another advantage of being registered under the composition scheme is the rate structure. The rate is 1% for manufacturers, 5% for restaurants and 1% for traders (only on taxable supply of goods).
3. **High Liquidity:** For normal taxpayers, most of his working capital will be blocked as Input Tax credit because he can avail the input only if his supplier has filed the return. The supplier has to pay tax at the standard rate and credit of the input will only be availed when his supplier files the return. In composition levy, the dealer need not worry about his supplier filing return as he cannot take credit and will pay tax at a nominal rate.

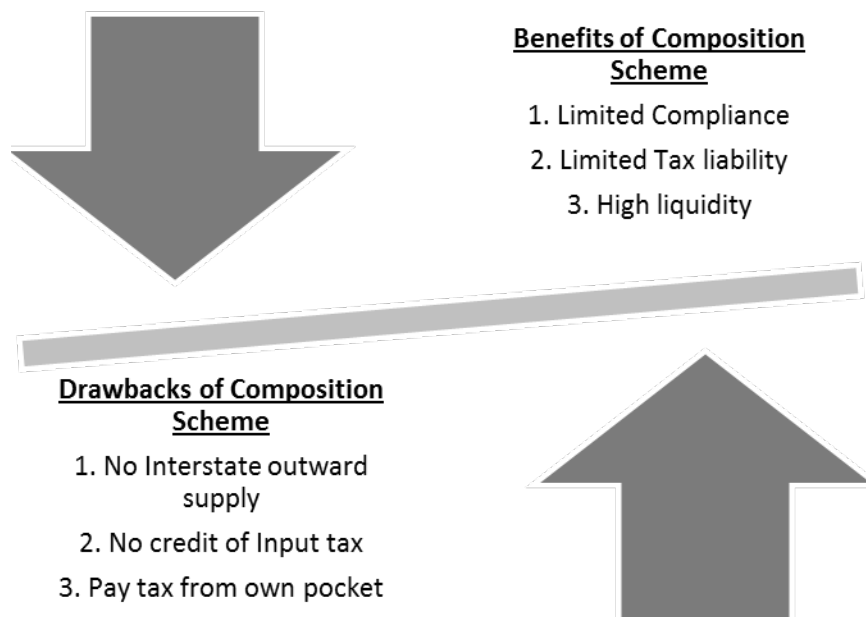
Limitations of GST Composition Scheme

Following are some of the limitations that every business owner must be aware of:

No Credit of Input Tax: Any dealer registered under composition scheme will not be eligible to take credit of Input Tax credit on purchases. Also, the buyer of those goods will not get the credit of taxes paid.

No Inter-state outward supplies: The major drawback of this scheme is that the assessee cannot make inter states outward supplies. He is barred from performing such actions which limit his territory for expansion and can only conduct local or intra state transactions.

Pay tax from own pocket: Since the dealer is not allowed to charge tax from his buyer, despite the rate being very low, he has to pay the tax out of his own pocket. He is not even allowed to issue a tax invoice, resulting in placing the burden on the assessee to pay tax.



Question Bank

FAQs

1. Can a customer who buys from a taxable person who is under composition scheme claim composition tax as input credit?

Ans. No, the recipient is not eligible to take input tax credit of composition tax paid. Moreover, a taxable person paying taxes under composition scheme is not entitled to collect taxes from the recipient in terms of Section 10(4) of the CGST Act, 2017. Accordingly, there does not arise a question for the recipient to claim input tax credit.

2. A taxable person having same PAN can opt to pay tax under composition scheme by seeking separate registration for branches?

Ans. No, a registered person shall not be eligible to opt for the composition scheme unless all such registered persons (branches having separate registration under a single PAN) opt to pay tax under composition scheme.

3. What tax rates are applicable to persons registered under composition scheme?

Ans. Subject to such conditions and restrictions as may be prescribed, rate of tax for composition dealers with effect from 1.1.2018, the rate of tax, shall be:

1. Half per cent of the turnover in State or turnover in Union territory in case of a manufacturer;
2. 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
3. half per cent, of the turnover of taxable supplies of goods in State or turnover in Union territory in case of other suppliers

4. What are the returns uploaded in composition scheme?

Ans. GSTR-4 & GSTR-9A.

5. Whether a supplier of services is eligible to pay tax under composition scheme?

Ans. No, a supplier of services is not eligible to opt for composition scheme. However, a supplier supplying composite supply involving supply of service or goods being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) is eligible to opt for payment of taxes under composition scheme.

6. Whether an application/ intimation needs to be made by the supplier opting for composition scheme?

Ans.

Taxable Person	Form to be filed
Migrating from old registration to GST registration	Form GST CMP-01
Obtaining new registration under GST laws	Part B of Form GSTREG-1.
Paying tax under normal levy in one financial year and wants to opt for composition scheme in next financial year, under the GST regime	Form GST CMP-02

MCQs

1. Which of the following persons can opt for composition scheme?
- (a) Person making any supply of goods which are not leviable to tax under this Act;
 - (b) Person making any inter-State outward supplies of goods;
 - (c) Person effecting supply of goods through an e-commerce operator liable to collect tax at source
 - (d) None of the above

Ans. (d) None of the above

2. What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme?
- (a) 20 lacs
 - (b) 10 lacs
 - (c) 50 lacs
 - (d) 1 crore

Ans. (d) 1 crore

3. What is the rate applicable under CGST to a registered person being a manufacturer opting to pay taxes under composition scheme?
- (a) 2.5%
 - (b) 1%
 - (c) 0.5%
 - (d) No composition for manufacturer

Ans. (c) 0.5%

4. What is the rate applicable under CGST to a registered person being a hotelier (providing accommodation also) opting to pay taxes under the composition scheme?
- (a) 1%
 - (b) 0.5%
 - (c) 2.5%
 - (d) Not eligible for composition scheme and hence liable to pay normal tax

Ans. (d) Not eligible for composition scheme and hence liable to pay normal tax – Composition scheme is available to restaurants only. Even composition scheme is not extended to any other service provider.

5. Mr. Richard, a trader in Delhi has opted for composition scheme of taxation under GST. What will be the % of total GST payable by him under the composition scheme?

- (a) 0.5% CGST & 0.5% SGST
- (b) 2.5% CGST & 2.5% UTGST
- (c) 5% IGST
- (d) 5% UTGST

Ans. (a) 0.5% CGST & 0.5% SGST

6. Can a registered person opt for composition scheme only for one out of his 3 business verticals having same Permanent Account Number?

- (a) Yes
- (b) No
- (c) Yes, subject to prior approval of the Central Government
- (d) Yes, subject to prior approval of the concerned State Government

Ans. (b) No

7. Can the composition scheme be availed if the registered person effects interstate supplies?

- (a) Yes
- (b) No
- (c) Yes, subject to prior approval of the Central Government
- (d) Yes, subject to prior approval of the concerned State Government

Ans. (b) No

8. Can a registered person under Composition Scheme claim input tax credit?

- (a) Yes
- (b) No
- (c) Input tax credit on inward supply of goods only can be claimed
- (d) Input tax credit on inward supply of services only can be claimed

Ans. (b) No.

9. Can a registered person opting for composition scheme collect tax on his outward supplies?

- (a) Yes

- (b) No
- (c) Yes, if the amount of tax is prominently indicated in the invoice issued by him
- (d) Yes, only on such goods as may be notified by the Central Government

Ans. (b) No

10. Which of the following will be excluded from the computation of 'aggregate turnover'?

- (a) Value of Taxable supplies
- (b) Value of Exempt Supplies
- (c) Non-taxable supplies
- (d) Value of inward supplies on which tax is paid on reverse charge basis [after considering NN38 and NN 32]

Ans. (d) Value of inward supplies on which tax is paid on reverse charge basis [after considering NN38 and NN 32]

Chapter 5

Inter and Intra State Supply

Learning Objective

In this chapter, the concepts of inter and intra State supply of goods as well as services have been discussed. Since inter State or intra State supply depends upon location of the supplier and place of supply, this chapter defines the location of supplier and place of supply in different circumstances, including imports, exports and supplies in territorial waters.

Coverage

- I. What is intra State supply
- II. What is inter State supply
- III. Import and Export of Goods and Services
- IV. Transacting with Special Economic Zone
- V. Residuary Supplies not being intra State supplies
- VI. What is location of supplier of goods
- VII. What is location of recipient of services
- VIII. What is place of supply of goods
- IX. What is place of supply of services

Introduction

'Intra' means within a group and 'inter' means between two different groups. Depending on the nature of supply, the relevant taxes are to be charged. One needs to find whether they are making Inter or Intra State supply of goods and/or services. If it is inter-State supply i.e Delhi to Gujarat, then integrated tax (IGST) shall be charged. If supply is intra-State supply i.e Delhi to Delhi, then both central tax (CGST) and State tax (SGST) shall be charged.

Inter State Supply of Goods and/or Services- IGST to be charged

Intra State Supply of Goods and/or Services- CGST and SGST to be charged

Analysis/Illustrations/Charts

What is Intra State supply?

Intra State supply is defined in section 8 of IGST Act. Where **location of supplier** and place of supply are in the same State or same Union Territory, supply shall be treated as intra State supply.

However, supply of services to or by a Special Economic Zone (SEZ) developer/ unit even if it is in the same State or union territory, shall not be treated as intra State supply of service.

Example:

1. If both the location of the supplier and place of supply are in the State of Maharashtra, such supply shall be treated as an intra-State supply. Further, CGST and SGST shall be charged on such supply.
2. If both the location of the supplier and the place of supply are in the Union territory of Chandigarh, then such supply shall be treated as an intra-State supply.

Intra State supply amongst Establishments Treated as establishments of Distinct Persons

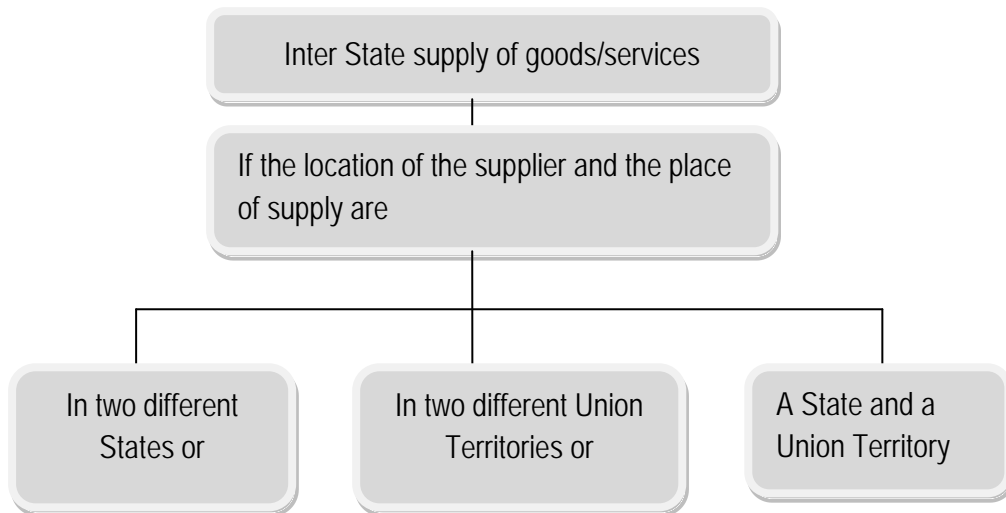
Where a person has an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons. A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Example: Where Mr. A has an establishment registered at Hauz Khas at New Delhi and also another establishment, being a different business vertical registered in Cannaught Place at New Delhi, they will be treated as establishment of distinct persons. Supply of goods from Hauz khas to Cannaught Place, which are both situated at New Delhi, shall be treated as supply to a distinct person and hence shall be treated as intra State supply of goods.

What is inter- State supply?

Within India

As per section 7 of IGST Act, 2017 where the location of the supplier and the place of supply are in two different States or two different Union territories or in a State and a Union territory shall be treated as inter-State supply of goods.



Inter-State supply amongst Establishments Treated as establishments of Distinct Persons

A person has an establishment in a State or Union territory and any other establishment outside that State or Union territory, then such establishments shall be treated as establishments of distinct persons. 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.

Example: Mr. A has an establishment in New Delhi and also an establishment in Maharashtra. Supply of goods/services from New Delhi to Maharashtra establishment of Mr. A shall be treated as supply to distinct person and hence treated as inter-State supply of goods/services.

Import and Export of Goods and Services

Import of Goods

Import of goods means bringing goods into India from a place outside India [Section 2(10) of IGST Act]. As per section 7(2) of IGST Act, supply of goods imported into the territory of India till they cross customs frontiers of India shall be treated as supply of goods in course of inter State trade or commerce i.e. inter State supply.



Import of service

“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

As per section 7(4) of IGST Act, supply of services imported into the territory of India shall be treated as supply of services in course of inter-State trade or commerce i.e. inter-State supply.

Import of services amongst Establishments Treated as establishments of Distinct Persons

Where a person has, an establishment in India and any other establishment outside India, then such establishments shall be treated as establishments of distinct persons. 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.

Example: Where Mr. A has an establishment in New Delhi and also an establishment in Dubai. Supply of services from Dubai to New Delhi establishment of Mr. A shall be treated as supply to distinct person and hence import of service. However, unlike imports, where the supplier of service and the recipient of service are merely establishments of a distinct person, it is not treated as export of service.

Export of Goods

Export of goods means taking goods out of India to a place outside India [Section 2(5) of IGST Act]. As per section 7(5) (a) of IGST Act, supply of goods, when location of the supplier is in India and place of supply is outside India, shall be treated as supply of goods in the course of inter State trade or commerce i.e. inter State supply.



Import and Export of goods amongst Establishments treated as establishments of Distinct Persons

Where a person has an establishment in India and any other establishment outside India, then such establishments shall be treated as establishments of distinct persons. 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.

Example: Mr. A has an establishment in New Delhi and also an establishment in Dubai. Supply of goods from New Delhi to Dubai establishment of Mr. A shall be treated as supply to distinct person and hence export of goods.

Export of services

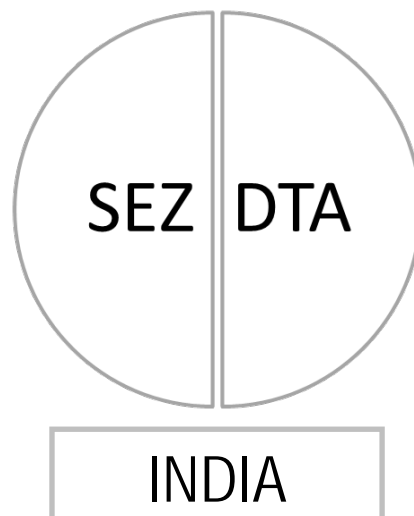
Export of services" means the supply of any service when,—

- (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; 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;

As per section 7(5) (a) of IGST Act, supply of services, when location of supplier is in India and place of supply is outside India, shall be treated as supply of services in course of inter-State trade or commerce i.e. inter-State supply

Transacting within Special Economic Zone

Special Economic Zone (SEZ) is an area within the country where business and trade laws are different from the rest of the country especially with reference to taxation, customs and labor regulations in order to promote foreign direct investment in the country. The remaining area of India in the context of special economic zone is called **domestic tariff area (DTA)**. If services are provided to SEZ from the areas outside SEZ (DTA), it is called export and if services are moved from SEZ to area outside SEZ (DTA), it is called import.



- **SEZ Unit** is an entrepreneur in SEZ.
- **SEZ developer** is a person who is approved by Central Government to carry out development work of SEZ.

As per section 7(5) (b) of IGST Act, supply of services to SEZ unit or SEZ developer is treated as inter-State supply. Further as per section 7(5) (b) of IGST Act supply of services by SEZ Unit or SEZ Developer is also inter-State supply of services.

Residuary Supplies not being Intra State supplies

Supply of goods in taxable territory, which also does not fall under intra State supply and is also not classified elsewhere, shall be classified as Inter State supply.

From the above discussion, it becomes important to determine the location of the supplier of goods and the place of supply of goods.

What is the location of supplier of goods?

Location of the supplier of goods is not defined under IGST Act. Hence the registered place of business or fixed establishment or an establishment most directly concerned or usual place of residence cannot be regarded as location of supplier of goods unlike the definition for location

of supplier of services as defined under the IGST Act. Location of the supplier of goods shall therefore be governed by the location of goods under the control of the supplier.

Example: If the supplier registered at Delhi supplies goods to the buyer of Karnataka but the goods under his control are lying in Maharashtra, then the location of the supplier shall be at Maharashtra and not Delhi and the supplier shall have to obtain registration at Maharashtra.



What is location of recipient of services?

"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 the absence of such places, the location of the usual place of residence of the recipient; [S. 2(70)]

What is the place of supply of goods?

Place of supply of goods is determined as per section 10 and 11 of the IGST Act. Section 10 determines the place of supply of goods where supply takes place otherwise than by way of import and export. Section 11 determines the place of supply when the supplies take place by way of import or export.

Background Material on GST Law for Commerce Students

Section 10 further considers the place of supply in three different situations as under:

- (a) Where Supply involves movement of goods [Section 10(1)(a)]
- (b) Where supply does not involve movement of goods [Section 10(1)(c)]
- (c) Where goods are delivered on the direction of third person [Section 10(1)(b)]
- (d) Where the goods are assembled or installed at site [Section 10(1)(d)]
- (e) Where the goods are supplied on board a conveyance [Section 10(1)(e)]

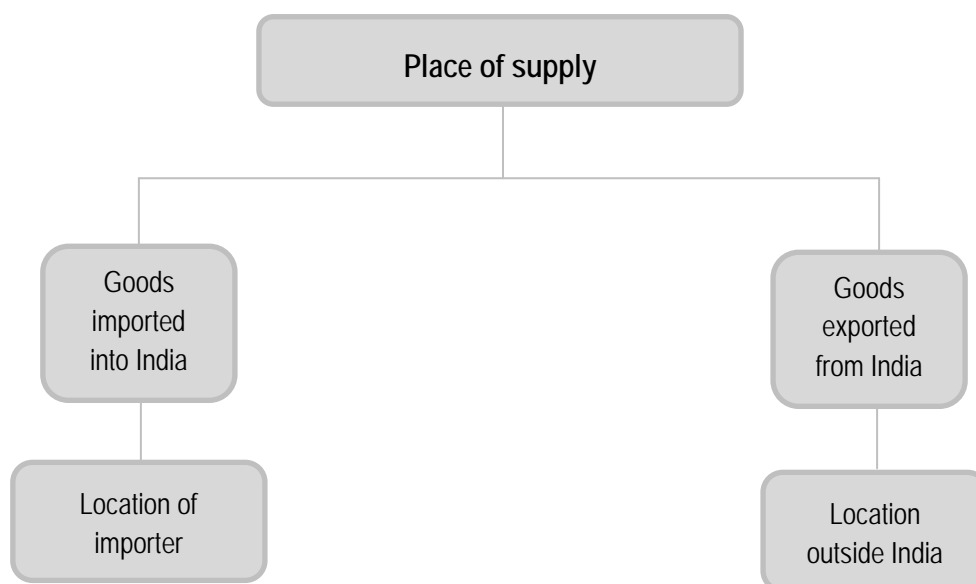
S.No.	Situation	Place of Supply	Example
1	Where the Supply involves movement of goods	<p>Where the supply involves movement of goods,</p> <ul style="list-style-type: none"> ➤ whether by the supplier or the recipient or by any other person, ➤ the place of supply of such goods shall be ➤ the location of the goods at the time at which the movement of goods terminates for delivery to the recipient; 	<p>If goods are moved by supplier of Calcutta to recipient of Bihar, the place of supply is Bihar and hence IGST shall be charged.</p> <p>If goods are moved by supplier in Calcutta to recipient in some other district of West Bengal, the location of supplier and place of supply is in west Bengal and hence CGST and SGST shall be charged.</p>
2	Where supply does not involve movement of goods	<p>Where the supply does not involve movement of goods,</p> <ul style="list-style-type: none"> ➤ 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 	<p>Pre-installed DG set at Bhopal of supplier at Delhi is sold to recipient of Bhopal. It is intra State sale and hence CGST and SGST shall be charged. Dealer at Delhi shall have to obtain registration in Bhopal</p>

3	Where goods are delivered on the direction of third person	<p>Where the goods are delivered by</p> <ul style="list-style-type: none"> ➤ 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; 	<p>Goods delivered by A in Ahmedabad to B in New Delhi at the direction of C in Punjab. Goods shall be deemed to have been received by C. The place of Supply of Goods shall be Punjab. IGST shall be charged. Further, the second supply will be by C in Punjab to B in New Delhi for which IGST shall be charged.</p>
4	Where the goods are assembled or installed at site	<p>where the goods are assembled or installed at site,</p> <ul style="list-style-type: none"> ➤ the place of supply shall be ➤ the place of such installation or assembly 	<p>Installation of weigh bridge at New Delhi by supplier of New Delhi for customer of Maharashtra. Place of supply is in New Delhi. CGST and SGST shall be charged</p>
5	Where the goods are supplied on board a conveyance	<p>Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,</p> <ul style="list-style-type: none"> ➤ the place of supply shall be 	<p>Supply of sun glasses at air craft commencing its journey from Bombay and terminating at New Delhi. Sun glasses loaded into the aircraft at stopover in Ahmedabad by supplier</p>

		➤ the location at which such goods are taken on board.	of Bombay. Place of supply shall be Ahmedabad. IGST shall be charged.
--	--	--	---

Section 11 determines the place of supply for imports and exports as under:

S.No.	Situation	Place of Supply
1	Import into India	Location of Importer
2	Export from India	Location outside India



Supplies in territorial waters [Section 9]

Where location of supplier or place of supply is in territorial waters, Location of supplier and place of supply are deemed to be in coastal State or coastal Union territory, where nearest point of appropriate baseline is located.

What is place of supply of services?

In respect of the following 12 categories of services, the place of supply is determined with reference to a proxy. Rest of the services are governed by a default provision (Section 12(2)) which says, if such services are made to a registered person then the place of supply shall be the location of such person and if made to an un-registered person, the location of service

shall be the location of the recipient where address on record exists and location of the supplier of the service in other cases.

Sec. No. of IGST Act	Nature of Supply of Service	Place of Supply	Example
12(3)(a)	<p>Directly in relation to:</p> <ol style="list-style-type: none"> 1. Immovable Property 2. Including Services provided by <ol style="list-style-type: none"> (a) Architects (b) Interior Decorators (c) Surveyors (d) Engineers and Other Related Experts or (e) Estate Agents 3. Services provided by way of grant of right to use immovable property 4. Carrying Out of Construction Work 5. Co-ordination of Construction Work 	<p>Location at which the immovable property or boat or vessel is located or intended to be located</p> <p>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.</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>It shall apply where the location of recipient is in India</p> </div> <p><i>Explanation.</i>—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.</p>	<ol style="list-style-type: none"> 1. X Ltd. of Chandigarh is constructing a hotel for Z Ltd. in New Delhi. Hence, the place of supply shall be the location of immovable property i.e. New Delhi. 2. Mr. X an architect of Chandigarh is providing his services to Z Ltd. for construction of their office building to be located in New Delhi. Hence, the place of supply shall be the location where the office building is intended to be located i.e. New Delhi.
12(3)(b)	<p>Lodging Accommodation by:</p> <ol style="list-style-type: none"> 1. Hotel 2. Inn 3. Guest House 4. Home Stay 5. Club or Campsite, by whatever name called 6. Including House Boat or any other Vessel 	<p>Location at which the immovable property or boat or vessel is located or intended to be located</p> <p>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.</p> <p><i>Explanation.</i>—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.</p>	<ol style="list-style-type: none"> 1. Mr. Z, an Engineer registered at New Delhi travels to Chandigarh for office work during which he stayed at hotel Taj. Hence, the place of supply for hotel Taj shall be the place where the hotel is located i.e. Chandigarh.

Background Material on GST Law for Commerce Students

12(3)(c)	Accommodation in any Immovable Property for organizing any: 1. Marriage 2. Reception 3. Matters Related there to 4. Official Functions 5. Social Functions 6. Cultural Functions 7. Religious Functions or 8. Business Functions 9. Including services in relation to such functions at such property		1. Mr. Z of Punjab booked a Marriage palace (located at Goa) for his sister's marriage. Hence, the place of supply shall be the place where marriage palace is actually located i.e. Goa.
12(3)(d)	Place of supply of any services ancillary to services referred to in clauses (a), (b) & (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 but if such location is outside India, then the place of supply shall be the location of the recipient.		
12(4)	1. Restaurant and catering services, 2. personal grooming, 3. fitness, 4. Beauty treatment 5. Health service Including (a) Cosmetic Surgery and (b) Plastic Surgery	Location where the services are actually performed	1. Mr. A of Punjab dines at restaurant located in Delhi. Therefore, the place of supply shall be Delhi i.e. the place where the services are actually performed.
12(5)	Training and performance appraisal	B2B: Location of such Registered Person B2C: Location where the services are actually performed	1. Mr. B registered at Punjab provided training to the employees of X Ltd. of New Delhi. Since, X Ltd. is a registered person, hence the place of supply shall

			<p>be New Delhi i.e. the location of X Ltd.</p> <p>2. Mr. B of Punjab provided training to the employees of X Ltd. (unregistered person) of New Delhi in Mumbai, Since the recipient is unregistered, the place of supply shall be Mumbai i.e. the location where the services are actually rendered.</p>
12(6)	<p>Admission to :</p> <ol style="list-style-type: none"> 1. Cultural Event 2. Artistic Event 3. Sporting Event 4. Scientific Event 5. Educational Event 6. Entertainment Event 7. Amusement Park 8. Any other place 9. Ancillary Services 	Place where the event is actually held or where the park or the other place is located	<p>1. A circus show is held by X Ltd. of Delhi in Punjab and admission fee is charged from the public who wants to see the show. Therefore, the place of supply for circus company is Punjab i.e. the place where the circus is actually held.</p>
12(7) (a)	<p>Organization of :</p> <ol style="list-style-type: none"> 1. Cultural Event 2. Artistic Event 3. Sporting Event 4. Scientific Event 5. Educational Event 6. Entertainment Event <p>Including Supply of Service in relation to:</p> <ol style="list-style-type: none"> 1. Conference 2. Fair 3. Exhibition 	<p>B2B: Location of such Registered Person</p> <p>B2C: Location 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</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>It shall apply where location of recipient is in India</p> </div> <p><i>Explanation.</i>—Where the</p>	<p>1. X Ltd. of Delhi, an event management company provided its services to M/s. Y Ltd registered at Karnataka for the conduct of an exhibition in Ludhiana, Punjab. The place of supply shall be Karnataka.</p> <p>2. If in above</p>

Background Material on GST Law for Commerce Students

	<p>4. Celebration or</p> <p>5. Similar Events</p>	<p>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.</p>	<p>example, Y Ltd. is an unregistered person, then the place of supply shall be Ludhiana, Punjab i.e. the location where the event is actually held.</p> <p>3. X Ltd. of Delhi, an event management company provided its services to M/s. Y Ltd of Karnataka, an un-registered person for the conduct of an exhibition in New York, USA. The place of supply shall be Karnataka i.e. the location of the un-registered recipient since the event is held outside India.</p>
12(7)(b)	<p>Services ancillary to organization of events or services referred in 12(7)(a)</p> <p>OR</p> <p>Providing of Sponsorship to such events</p>		<p>1. Z Ltd., a dance company registered at Delhi, for its show in Punjab engages Mr. Y, a choreographer registered in Punjab to organize the show. Mr. Y charges fee for the same. Place of supply for Mr. Y is Delhi.</p> <p>2. If in above case, Z Ltd. is not a registered person, then place of supply for Mr. Y shall be Punjab i.e. the place</p>

Inter and Intra State Supply

			where the show is actually held.
12(8)	Transportation of goods, including mails or courier to	B2B: Location of such Registered Person B2C: Location at which such goods are handed over for their transportation	1. X Ltd., a transport company registered in Punjab carries goods belonging to Y Ltd. registered at Delhi from Haryana to Rajasthan. Place of supply for X Ltd. shall be Delhi, since the recipient is registered. 2. In the above case, if Y Ltd. of Delhi is an unregistered person and goods are handed over in Haryana for being carried to Rajasthan, then the place of supply for X Ltd. shall be Haryana.
12(9)	Passenger Transportation services to	B2B: Location of such Registered Person B2C: Place where the passenger embarks on the conveyance for a continuous journey Return Journey is separate Journey <i>Explanation.</i> —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.	1. Mr. X registered at New Delhi booked an air ticket for official work in Mumbai. The place of supply shall be New Delhi, since the recipient of service is a registered person. 2. Mr. X an unregistered person of New Delhi booked an air ticket for a journey from Bangalore to Mumbai. Therefore, the place of supply

		<p>Where Point of Embark is not Known 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). [E.g. Circular Journey Tickets where fare is paid according to distance and not for distance between two stations]</p>	<p>shall be Bangalore i.e. the place where Mr. X embarked on the plane for a continuous journey.</p>
12(10)	<p>Services on board a Conveyance, Including</p> <ol style="list-style-type: none"> 1. a vessel, 2. an aircraft, 3. a train or 4. a motor vehicle, 	<p>Location of the first scheduled point of departure of that conveyance for the journey</p>	<p>X Ltd. an airline company provided catering service while on board to its customers in Pune-Bengaluru-Goa leg. Place of supply for X Ltd. shall be Pune i.e. first scheduled point of departure of the flight.</p>
12(11)	<p>Telecommunication Services including data transfer, broadcasting, cable and direct to home television services.</p> <p>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 [S. 2(110)]</p>		
12(11) (a)	<p>Services by way of</p> <ol style="list-style-type: none"> 1. Fixed telecommunication 	<p>Location where the telecommunication line, leased circuit or cable</p>	<p>Mr. Z of Chandigarh gets DTH installed at his home from X Ltd</p>

	<p>line, 2. Leased circuits, 3. Internet leased circuit, 4. cable or 5. dish antenna, <i>Explanation.</i>—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.</p>	<p>connection or dish antenna is installed for receipt of services;</p>	<p>of Mumbai. The place of supply is the location where DTH is installed i.e. Chandigarh.</p>
12(11) (b)	<p>Mobile connection for telecommunication and internet services provided on post-paid basis,</p>	<p>Location of billing address of the recipient of services on the record of the supplier of services</p>	<p>Mr. Z of Mumbai takes post-paid billing connection from X Ltd. of New Delhi. Place of supply shall be Mumbai i.e. the billing address of Mr. Z.</p>
12(11) (c)	<p>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</p>		

Background Material on GST Law for Commerce Students

12(11) (c)(i)	Through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher	Address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply	Mr. X of Delhi purchases a recharge card from a vendor in Bengaluru. The place of supply shall be Bengaluru i.e. address of the selling vendor.
12(11) (c)(ii)	By any person to the final subscriber,	Location where such prepayment is received or such vouchers are sold;	1. Mr. X of Patiala sold vouchers for recharge coupon to its customers. Hence the place of supply shall be Patiala.
12(11) 2 nd Proviso to Section 12 (11)	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.	1. Mr. X of Punjab paid his mobile bill online through his Debit card while travelling in Goa. Hence the place of supply shall be Punjab i.e. billing address of the recipient.
12(11) (d)	In other cases	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:	1. Mr. Z of Chandigarh gets recharge through digital means from Airtel registered at New Delhi. Address of Mr. Z i.e. Chandigarh is on record with Airtel. Thus, the place of supply is Chandigarh.
12(11) (d) Ist Proviso	where the address of the recipient as per the records of the supplier of	location of the supplier of services:	Mr. Z of Chandigarh gets recharge through digital

Inter and Intra State Supply

to Section 12(11)	services is not available		means from Y Ltd. at New Delhi. In case the address of Mr. Z is not on record with Y Ltd. Then, place of supply shall be the location of Y Ltd. i.e. New Delhi.
12(12)	Banking and other financial services Including Stock broking services	Location of the recipient of services on the records of the supplier Location of the supplier of services if the location of the recipient of services is not available in the records	1. Services provided by bank registered in Chandigarh to Mr. X, having Punjab as address on record, made ATM cash with draws in Chandigarh. Therefore, the place of supply shall be Punjab. 2. Services provided by Axis bank registered in Chandigarh to Mr. X, whose address is not available on the records of the bank, made ATM cash with draws in Chandigarh. Therefore, the place of supply shall be Chandigarh.
12(13)	Insurance services	B2B: Location of such Registered Person B2C: Location of the recipient of services on the records of the supplier	1. X Ltd., an insurance company registered in New Delhi provided car insurance service to Mr. Z, a registered person of Mumbai. Place of supply shall

Background Material on GST Law for Commerce Students

			<p>be Mumbai i.e. location of Mr. Z.</p> <p>2. X Ltd., an insurance company registered in New Delhi provided car insurance service to Mr. Z, an un-registered person of Mumbai. Place of supply shall be the address of Mr. Z on the records of X Ltd.</p>
12(14)	<p>Advertisement services to</p> <ol style="list-style-type: none"> 1. The Central Government 2. State Government 3. Statutory Body 4. Local Authority <p>Meant for the States or Union territories identified in the contract or agreement</p>	<p>The place of supply shall be taken as being in each of States or Union Territories identified in the contract or agreement.</p> <p>Value of Supply of Service Attributable to each State or UT</p> <p>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</p> <p>In the absence of such contract or agreement, on such other basis as may be prescribed.</p>	<p>Mr. Z in Chandigarh providing advertisement services to Haryana government for preparing some advertisement published in newspapers in Punjab. The place of supply for advertiser shall be Punjab.</p>

- (ii) For the rest of the services other than those specified above, a default provision has been provided in section 12(2) of IGST as under:

S.No.	Description of supply	Place of Supply
1	B2B	Location of such Registered Person

2	B2C	(i) Location of the recipient where the address on record exists, and (ii) Location of the supplier of services in other cases
---	-----	---

Place of supply of services in case of cross-border supplies: (Section 13)

(Where the location of the supplier of services or the location of the recipient of services is outside India)

- (i) In respect of the following categories of services, the place of supply is determined with reference to a proxy. Rest of the services are governed by a default provision.

S.No.	Nature of Supply	Place of Supply	Examples
13(3)	Services supplied in respect of goods (a) required to be made physically available by the recipient of the service to the supplier of service or any person acting on behalf of supplier of service	The location where the services are actually performed,	1. Mr. X of Chandigarh imports BMW car from Japan. After 6 months car stopped functioning. Engineer visited from Japan to repair the car. The place of supply of service is the location where the services are actually performed i.e. Chandigarh.
	Where such services are provided from a remote location by way of electronic means [First Proviso to Section 13(3)(a)] (Not applicable in case of goods that are temporarily imported into India for repairs and re-exported) [2 nd Proviso to Section 13(3)(a)]	The location where the goods are situated at the time of supply of service Hence in such cases place of supply shall be outside India and not the location of goods at the time of supply of service	2. An IT company located in France is receiving canned software related services from C Ltd, an Indian company registered at New Delhi by way of electronic means from their office located in New Delhi. Hence, the place of supply for C Ltd. shall be the place where goods are situated at the time of supply of service i.e. France

Background Material on GST Law for Commerce Students

13(3) (b)	Services supplied to an individual, represented as recipient or a person acting on behalf of recipient and requiring the physical presence of the recipient or person acting on behalf of recipient	The location where the services are actually performed	Mr. Y, a makeup artist registered in Bengaluru, Karnataka provided make up service to models of Mr. Z (of New Delhi) in Dubai for his event at Dubai. In this case, the place of supply for Mr. Y shall be Dubai i.e. where the services are actually performed.
13(4)	<p>Directly in relation to:</p> <ol style="list-style-type: none"> 1. Immovable Property 2. Including Services provided by <ol style="list-style-type: none"> (a) Architects (c) Interior Decorators (d) Experts (e) Estate Agents 3. Services provided by way of grant of right to use immovable property 4. Carrying Out of construction Work 5. Co-ordination of Construction Work 6. Supply of Accommodation by: <ol style="list-style-type: none"> (a) Hotel (b) Inn (c) Guest House (d) Club or Campsite, by whatever name called 	Location at which the immovable property located or Intended to be located	Mr. C, an architect registered at New Delhi provided consultancy services for the hotel to be constructed in New York. Hence, the place of supply shall be New York i.e. the location where the hotel is intended to be located.
13(5)	<p>Admission or Organization of :</p> <ol style="list-style-type: none"> 1. Cultural Event 2. Artistic Event 3. Sporting Event 4. Scientific Event 	The place where the event is actually held	A gymnastic team of Argentina visited Amritsar, Punjab for a stage show. In this case, the place of

Inter and Intra State Supply

	5. Educational Event 6. Entertainment Event 7. Conference 8. Fair 9. Exhibition 10. Celebration or 11. Similar Events 12. Services ancillary to Organization or Admission		supply shall be Amritsar, Punjab i.e. the location where the event is actually held.
13(6)	If the three types of services are supplied at more than one location i.e., (i) Goods & individual related [S. 13(3)] (ii) Immovable property-related [S. 13(4)] (iii) Event related [S. 13(5)]		
13(6)	At more than one location, including a location in the taxable territory	Its place of supply shall be the location in the taxable territory	A circus company provided services in 5 countries including India in the State of Punjab. Hence the place of supply shall be Punjab i.e. the place located in taxable territory.
13(7)	In more than one State or Union Territory, services provided under section 13(3) Goods & individual related, 13(4) Immovable property-related, 13(5) Event related	Its place of supply shall be taken as being in each State in proportion to the value of services separately collected or determined in terms of contract or agreement entered into in this regard. In the absence of such contract or agreement, on such other basis as may be prescribed.	A foreign circus company provided services in the 5 different States within India. Hence the place of supply shall be each such State in proportion to the value of services provided in each State
13(8) (a)	Services provided by banking company or financial institution	Location of the supplier of Service	A bank registered at Delhi debits service

Background Material on GST Law for Commerce Students

	or NBFC to account holders “ account ” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account; [Hence for current accounts and OD Accounts, location of recipient and not the location of supplier shall be the place of supply]		charges in the account of Mr. Joseph, residing outside India, maintaining account with the bank and having address of France on the records of the bank. The place of supply shall be New Delhi and not the country where Mr. Joseph resides
13(8) (b)	Intermediary Services “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; [S. 2(13)]	Location of the supplier of Service	R.L & Sons, an agency providing tour and travel services registered at Kanpur, U.P. They booked tickets on behalf of its Mr. A of UK, for visit to Colombo, Sri Lanka and charged his fee from Mr. A. Hence, the place of supply shall be Kanpur, U.P i.e. the location of R.L & Sons.
13(8) (c)	Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month	Location of the supplier of Service	Mr. Ravi of Punjab hires a yacht for 3 weeks from a ship company located in New York, USA. Hence, the place of supply shall be New York, USA i.e. the location of supplier of service.
13(9)	Transportation of goods (other than mail or courier)	The place of destination of the goods	X Ltd., a transport company, New Delhi, transports a consignment of goods

			from Ludhiana, Punjab to New York, USA. The place of supply is the location of destination of such goods i.e. New York, USA.
13(10)	Passenger transportation	Place where the passenger embarks on the conveyance for a continuous journey (Section 2(3) of IGST Act says, "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.)	Mr. Peter, a foreigner booked a ticket from an airline located in Ludhiana, Punjab for a continuous journey from Ludhiana to Thailand. Hence the place of supply is Ludhiana, Punjab i.e. the place where passenger embarked on the conveyance for a continuous journey.
13(11)	Services on-board a Conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board	The first scheduled point of departure of that conveyance for the journey	Mr. Peter, a foreigner boarded a plane (Amritsar-Thailand-Amritsar leg) and demanded a cup of coffee while on board. Hence the place of supply is Amritsar,

Background Material on GST Law for Commerce Students

			Punjab i.e. the first scheduled point of departure of the plane.
13(12)	<p>Online information and database access or retrieval Services</p> <p><i>Explanation.</i>—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:—</p> <ul style="list-style-type: none"> (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 <p>The place of supply shall be the location of recipient of service</p>		
13(13)	<p>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.</p>		

For the rest of the services other than those specified above, a default provision has been provided in Section 13(2) as under:

S.No.	Description of Supply	Place of Supply
1.	Any	<p>Location of the recipient of service</p> <p>If the location of recipient is not available in the ordinary course of business, The location of the supplier of service</p>

Question Bank

FAQs

1. What is inter State and intra State supply of goods/services?
Ans. 1. Where the location of the supplier and the place of supply are in the same State or Union Territory, such supply shall be treated as an intra-state supply.
2. Where the location of the supplier and the place of supply are in two different States or two different Union territories or in a State and a Union territory shall be treated as inter-State supply of goods/services.
2. What is location of supplier of goods?
Ans. The term location of supplier of goods has not been defined in the IGST Act, 2017. This is not an oversight of the draughtsman but a deliberate intention of the lawmaker to leave it to the facts of each case to determine the 'location of supplier of goods'.
3. What is place of supply, where movement of goods is involved?
Ans. Where movement of goods is involved, then the place of supply of such goods shall be the location where movement of goods terminates for delivery to the recipient.
4. What is the place of supply in case of assembly or installation of goods at site?
Ans. The place of supply of goods in case of assembly or installation of goods will be the place of installation or assembly.
5. What is the place of supply in case of goods sold on aircraft?
Ans. The place of supply in case of goods taken onboard for consumption in aircraft, is the place or location at which such goods are taken on board.
6. What do you mean by import of goods into India?
Ans. Import of goods means bringing goods into India from a place outside India.
7. In case of import of goods into India what is the place of supply of goods?
Ans. The location of the importer is the place of supply of goods in case of import of goods into India. "Importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.
8. In case of export of goods from India, what is the location of supply of goods?
Ans. The place of supply of goods exported from India shall be the location outside India.
9. What is the place of supply of services?
Ans. In respect of services other than the specified services the place of supply of service would be as under:

- (a) Where the service is provided to registered person, place of supply shall be location of such person
- (b) Where the service is provided to a person other than registered person, place of supply shall be:
 - (i) location of the recipient where the address on record exists
 - (ii) location of the supplier of services in other cases

10. What is the place of supply of service in relation to an immovable property?

Ans. Services provided directly in relation to an immovable property, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction shall be the location at which the immovable property is situated. 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.

11. What is the place of supply of accommodation services? Give an example.

Ans. The location of the hotel, inn, guest house, home stay, club or campsite or a houseboat or vessel, shall be the place of supply of service in relation to such accommodation service.

Mr. X of Delhi stays in a hotel located at Bengaluru. Hence the place of supply shall be Bengaluru i.e. the place where the hotel is situated.

12. What will be the place of supply for restaurant and catering services?

Ans. The place of supply for restaurant and catering services shall be the location where the services are actually performed.

13. What will be the place of supply of training services?

Ans. When a training service is provided to a registered person, the location of such registered person shall be the place of supply of training services. In case the service is provided to a person other than a registered person, then the place of supply shall be the location where the services are actually performed.

14. What will be the place of supply of services for admission to sporting events?

Ans. Place of supply of services provided by way of admission to cultural, artistic, sporting, scientific, educational, or entertainment events 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.

15. What will be the place of supply for services in relation to organizing events?

Ans. Services in relation to organization of events when provided to a registered person shall be the location of such person. If the service is provided to a person not registered, then the place of supply shall be the place where event is actually held.

16. What will be the place of supply of sponsorship services?

Ans. Assigning of sponsorship to any of the cultural, artistic, sporting, scientific, educational or entertainment event shall be the location of the registered person (recipient).

If the event is organized for an unregistered person, then the assignment of sponsorship shall be the location 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.

17. What will be the place of supply of services in relation to a sporting event organized /held outside India?

Ans. If an event is held outside India, the place of supply shall be the location of the recipient.

18. What is the place of supply of services by way of transportation of goods?

Ans. Services by way of transportation of goods provided to a registered person shall be the location of registered person. Such services if provided to a person other than a registered person, then place of supply shall be the location at which such goods are handed over for their transportation.

19. What is the place of supply for services of passenger transportation?

Ans. Place of supply of passenger transportation services to a registered person shall be the location of such registered person. If such services are given to a person other than a registered person, then the place of supply of passenger transportation services shall be the place where the passenger embarks (begins) on the conveyance for a continuous journey.

20. What is the place of supply of services provided on board a conveyance such as aircraft?

Ans. Place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle will be the location of the first scheduled point of departure of that conveyance for the journey.

21. What is the place of supply for the telecommunication services by way of fixed telecommunication line?

Ans. In case of services by way of fixed telecommunication line, leased circuits, internet leased circuits, cable or dish antenna, shall be the location where such installation for receipt of such services is done.

22. What will be the place of supply of leased line services when the leased circuit is installed at more than one location/State?

Ans. If the leased circuit is installed in more than one state 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 States in proportion to the value of 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.

23. What will be the place of supply of banking services and other financial services, stock broking services?

Ans. The place of supply of banking and other financial services including stock broking services, shall be the location of the recipient of service as available on the records of the supplier of services. If the location of recipient of service is not on records of the supplier, the place of supply shall be the location of supplier of service.

24. What is Place of supply of insurance services?

Ans. Insurance services provided to a registered person shall be the location of such registered person. In case of insurance services provided to a person other than a registered person, place of supply shall be location of the recipient of services on record of the supplier of services.

MCQs

Q1. Which of the following is an inter-State supply?

- (a) Supplier of goods located in Delhi and place of supply of goods is to an SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods is to an SEZ located in Chandigarh
- (d) All the above

Ans. (d) *All the above*

Q 2. Which of the following is an intra-State supply?

- (a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods in Delhi
- (d) All the above

Ans. (c) *Supplier of goods located in Delhi and place of supply of goods in Delhi*

Q 3. Which of the following transaction is inter-State supply of goods involving movement of goods?

- (a) Location of supplier is in Bangalore and location of recipient is in Mumbai and goods are shipped to Kolkata

- (b) Location of supplier is in Bangalore and place of supply is Mumbai
- (c) Location of supplier and place of supply is Bangalore
- (d) None of the above

Ans. (a) Location of supplier is in Bangalore and location of recipient is in Mumbai and goods are shipped to Kolkata; *and (b) Location of supplier is in Bangalore and place of supply is Mumbai*

Q 4. Supply of goods in the course of import into the territory of India is

- (a) Intra-State supply
- (b) Inter-State supply
- (c) Export
- (d) Neither Export nor Import

Ans. (b) *Inter-State supply*

Q 5. Whether goods taken to warehouse from port or customs station exigible to IGST

- (a) Yes
- (b) No

Ans. (a) Yes

Q 6. IGST and GST Compensation Cess will payable at the time of removal from warehouse

- (a) True
- (b) False

Ans. (a) True

Q 7. Place of supply in case of installation of elevator is

- (a) Where the movement of elevator commences from the supplier's place
- (b) Where the delivery of elevator is taken
- (c) Where the installation of elevator is done
- (d) Where address of the recipient is mentioned in the invoice

Ans. (c) *Where the installation of elevator is done.*

Q 8. What is the location of supply in case of importation of goods?

- (a) Customs port where the goods are cleared
- (b) Location of the importer
- (c) Place where the goods are delivered after clearance from customs port
- (d) Owner of the goods

Ans. (b) *Location of importer*

Q9. Place of supply in case of installation of elevator is

- (a) Where the movement of elevator commences from the supplier's place
- (b) Where the delivery of elevator is taken
- (c) Where the installation of elevator is made
- (d) Where address of the recipient is mentioned in the invoice

Ans. (c) Where the installation of elevator is made.

Q10. Place of supply of food taken on board at Delhi for an aircraft departing from Delhi to Bangalore via Hyderabad is

- (a) Address of the aircraft carrier mentioned on the invoice of the supplier
- (b) Delhi
- (c) Jaipur
- (d) Hyderabad

Ans. (b) Delhi

Q11. A Real estate agent in Delhi charges brokerage fee from Company A located in Chandigarh for assistance in getting a commercial property in Kolkata. Which is the place of supply in this case?

- (a) Delhi
- (b) Chandigarh
- (c) Kolkata

Ans. (c) Kolkata

Q12. What is the place of supply of service where a restaurant provides catering service at the premise of the customer?

- (a) Address of the restaurant from where the food is supplied
- (b) Customer's premise where the catering service is provided
- (c) None of the above
- (d) All of the above

Ans. (b) Customer's premise where the catering service is provided.

Q13. Mr. X a resident from Pune conducts training for employees of P Ltd. being a registered person under GST based out in Chennai at a resort in Darjeeling. The place of supply in this case is

- (a) Chennai

- (b) Pune
- (c) Darjeeling

Ans. (a) Chennai

Q14. Place of supply of service for DTH by ABC Pvt. Ltd. located in Mumbai to customer in Patna is

- (a) Mumbai
- (b) *Patna*

Ans. (b) Patna

Q15. Mr. X of Hyderabad not having bank account takes a demand draft in Kolkata from ABC Bank for his visa purpose. The place of supply is

- (a) Hyderabad
- (b) Kolkata

Ans. (b) Kolkata

Q16. The provider of AMC service outside India has entered into an agreement with an aircraft company PQR located in India AMC. The service provider provides repair service to the aircraft when it was in India. The place of service in this case is

- (a) Outside India
- (b) India

Ans. (b) India

Q17. If XYZ Ltd a company based out of Bangalore, awards online maintenance contract of its servers located in Mumbai office to Y INC, a company based in USA, and as per the terms of the online maintenance Y INC shall be required to perform regular maintenance from USA using Internet, then the place of supply is

- (a) Bangalore
- (b) Mumbai
- (c) USA

Ans. (b) Mumbai

Q18. Mr. Y residing in Ahmedabad appoints an architect in Delhi to provide Indian traditional home design for his proposed construction at Los Angeles, the place of supply of service is

- (a) Los Angeles
- (b) Ahmedabad

(c) Delhi

Ans. (a) Los Angeles

Q19. If NM shipping Co. located in Chennai charges ocean freight charges for transport of goods to California for a customer located in Bangalore, the place of supply of service will be

(a) Chennai

(b) California

(c) Bangalore

Ans. (b) California

Chapter 6

Time of Supply

Learning objective

This chapter deals with identifying the time at which tax becomes payable, in respect of supply of goods and services.

Coverage

- I. Important Concepts
- II. What is Time of Supply?
- III. Time of supply of Goods
- IV. Time of supply of goods in case of Reverse charge
- V. Time of supply in case of Vouchers
- VI. Time of supply in Residual case
- VII. Time of supply in case of Interest, Late fee or Penalty for delayed payment of consideration (similar for Goods and Services)
- VIII. Time of supply of Services
- IX. Issuing of invoice in case of supply of services as per section 31(2) of CGST Act?
- X. Time of supply of services covered under Reverse charge:
- XI. Time of supply in case of supply by Associated Enterprise
- XII. Time of supply in case of change in Rate of Tax

Introduction

Tax will be payable on supply in GST but the time at which such tax needs to be paid is determined on the basis on Time of supply. There are various stage involved in one particular supply like raising of Purchase order, finalizing Agreement to sell, removal of goods or providing service, delivery of goods, posting of entry in books of account, receipt of consideration etc. At which point tax is to be paid is determined by the time of supply. In the earlier service tax regime, this concept was known as "Point of Taxation".

In GST law, since tax is payable on "supply," not much of a distinction is observed between "goods" and "services." But because the time of supply and the place of supply are different for goods vis-a-vis services, it is important to identify whether what is being determined is the Time of supply of Goods or the Time of supply of services.

Analysis/Illustrations/Charts

Important Concepts

Levy of Tax

Section 9 of CGST Act say that

- there shall be levy of tax on supply of goods or services
- on value determined and
- at such rate as may be notified and
- collected in the manner prescribed
- and shall be payable by the taxable person.

As per levy prescribed under section 9, tax is payable by taxable person but when will the liability to pay arise shall be determined by the Time of supply.

Associate Enterprises

As per Section 2(12), Associate enterprises shall have the same meaning as assigned to it in section 92A of the income tax Act, 1962. This definition is important because Time of supply of services covered under reverse charge is different from the normal provision in case of transaction with associate enterprise.

Reverse charge

As per section 2(98), Reverse charge means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9 of CGST Act or under sub-section (3) or sub-section (4) of section 5 of IGST Act. Generally tax is payable by the supplier and is called forward charge. But under certain scenario, tax is payable by recipient and is called reverse charge. This concept is important here because Time of supply in case of supply covered under reverse charge is different than normal provision.

Voucher

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. E.g. shopping vouchers, gift vouchers, Restaurant vouchers etc. may be issued by supplier but because the redemption of such vouchers happens later, it's important to identify the time of supply of such vouchers.

What is Time of Supply?

- There is levy of Tax on supply as per section 9 of CGST Act, but such tax needs to be paid as per provision of time of supply as contained in section 12 and section 13 of CGST Act.
- Section 14 of CGST Act decides time of supply in case there is **change in rate** of tax on supply of goods or services.
- In general Time of Supply means the point when Liability to pay tax arises. E.g. There is agreement between service provider and service recipient to supply professional service on which tax is to be payable, but when this tax is to be payable is decided as per provision of Time of Supply.
- Time of Supply is different for goods and service, even Time of supply provision are different for supply covered under forward charge and supply covered under reverse charge.
- In this chapter, we will cover when tax is payable in case of goods or services, when tax is payable on forward charge and reverse charge, what is provision of time of supply in case of supply of vouchers and some miscellaneous provision relevant for time of supply.

Time of supply of Goods

Section 12 of CGST Act which defines time of supply of goods, says that time of supply of goods shall be earlier of following date as mentioned in (i) and (ii):

- The date of issue of invoice by supplier or Last date on which supplier is liable to issue invoice as per provision of section 31(1) of CGST Act. Or**
- The date on which the supplier receives the payment with respect to the supply**

Out of two, earlier will be time of supply of goods which triggers tax liability. The relevance of the two time period is discussed below.

1. Provision requiring raising of invoice: Section 31(1)

First condition to time of supply is **issue of invoice** provided invoice is issued as per provision of section 31(1). Section 31(1) of the CGST Act states that invoice can be issued **before or at the time of supply**.

1.1 In case movement of goods is necessary:

If supply involves movement of goods then invoice shall be issued before or at the time of removal of such goods to recipient. Physical movement can be either by supplier or recipient.

1.2 In case movement of goods is not necessary:

If any other cases, invoice shall be issued at the time of delivery of goods or making available thereof to the recipient. Some goods are non-movable in nature like the built up of heavy

machinery, and their supply does not involve movement of goods. In this case, the Invoice is issued at the time of making available such goods to the recipient after the completion of built up of such machinery.

This is last date on which supplier must have to issue invoice to abide by provision of issuance of invoice requirement but if supplier has raised an invoice before aforesaid date then that date will be consider for time of supply.

Examples:

1. Mr. X supplies goods to Mr. Y. The movement of goods takes place on 15th July 2018. In this case, Mr. X is to raise invoice on or before 15th July 2018 and that date will be the time of supply for him.
2. Suppose Mr. X raises the Invoice on 10th July 2018, then 10th July will be the time of supply for him.
3. Suppose Mr. X raises the invoice on 20th July 2018, but the movement of goods takes place on 15th July. He should have raised the invoice on or before 15th July 2018, so 15th July 2018 will be the time of supply in this case.
4. Suppose Mr. X constructed a boiler at the location of Mr. Y, so there is no movement of goods. The invoice will be raised at the time of making available the boiler to Mr. Y.
5. Mr. X received advance from Mr. Y on 20th July 2018 against a supply to be made on 10th August 2018. In this case, the time of supply will be 20th July 2018.

2. The date on which the supplier receives the payment with respect to the supply

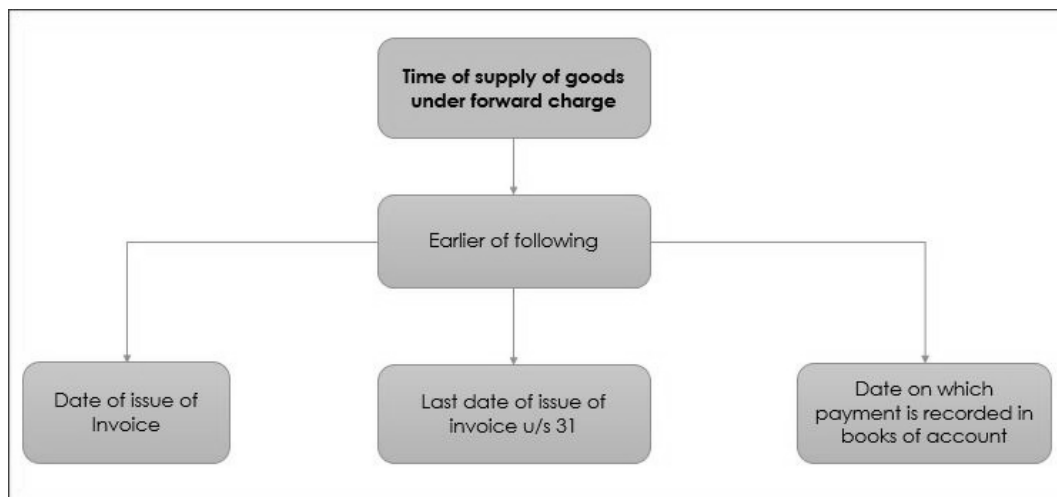
What is meant by date of receipt of payment?

As per Explanation (ii) to section 13(2), '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.

Conclusion:

According to the above explanation, the time of supply of goods shall be earlier of the following three:

- Date of issue of invoice or
- last date on which invoice needs to be issued as per section 31(1) or
- date of receipt of payment by the supplier, whichever is earlier.



Time of supply of goods in case of Reverse charge

There are certain goods on which tax is to be paid by the recipient as defined in section 9(3) of CGST Act. This mechanism is called Reverse charge mechanism. Time of supply of goods is to be viewed from recipient's point of view unlike earlier provision which is decided from the supplier's point of view. How the recipient of goods will decide the time when liability to pay tax shall arise is covered under the reverse charge.

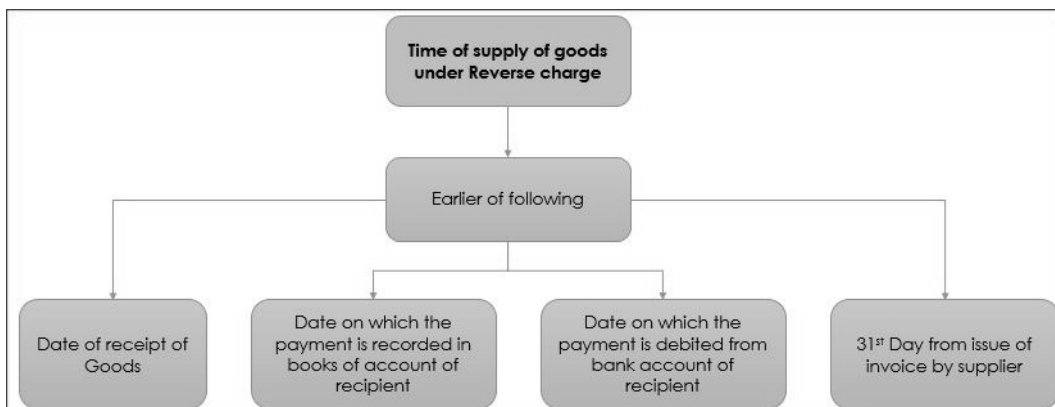
Section 12(3) says that Time of supply in such case shall be earlier of following:

- (a) The date of receipt of such goods or
- (b) the date of payment as entered in the books of account of the recipient or
- (c) the date on which the payment is debited in his bank account, whichever is earlier or
- (d) 31st day from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier :

Hence, recipient should pay tax at the time when he has received the goods or he has made payment to supplier even by book entry or on lapse of 30 days from date of invoice/any other document by supplier whichever is earlier.

Further, if it is not possible to determine the time of supply through even with the mechanism given above, then the time of supply will be the date on which goods are recorded in the books of account of the recipient.

Chart:



Time of supply in case of Vouchers (Similar for Goods and Services)

As per 2 (118) of CGST Act, “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.

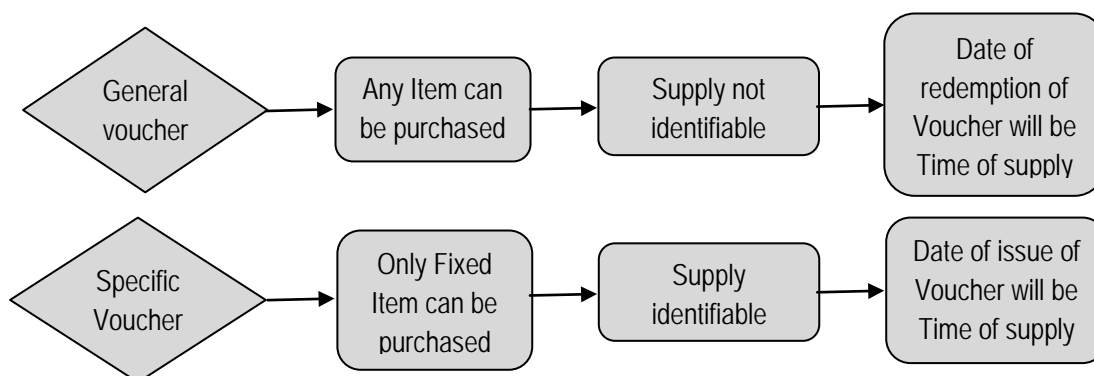
Vouchers are instrument which can be exchanged for payment. Voucher has specific value which can be exchanged with specific supply by supplier. Time of supply of voucher is as follows:

- (a) if supply is identifiable at the time of supply then date of issue of voucher shall be time of supply.
- (b) if supply is not identifiable at the time of supply then date of redemption of voucher shall be time of supply

Example: e.g. Croma is providing a voucher which can be used only against specific supply say purchase of Mobile phone, then this is a case where supply is identifiable at the time of supply by Croma hence date of issue of voucher by Croma is the time of supply of such voucher.

In another case, online recharge website is providing a voucher of Rs.1000 which can be redeem in shopping mall to purchase any item worth Rs.1000. In this case

Supply is not identifiable until and unless such vouchers gets redeemed. Hence the time of supply in such a case will be the time at which such vouchers get redeemed.



Time of supply in Residual case (Similar for goods and services)

In case any transaction is not covered by the above discussed provisions then the time of supply shall be determined as below:

1. If GST Returns are required to be filed then due date of filing periodical return
2. In any other case, the date on which GST is paid.

Time of supply in case of Interest, Late fee or Penalty for delayed payment of consideration (similar for Goods and Services)

It is a business practice to levy interest if consideration is not paid by the recipient within the stipulated time. Such interest or late fee or penalty, with whatever name it is called, is the additional consideration flowing from the recipient to the supplier (due to incidence of certain event.) The time of supply of in such cases will be the date on which the supplier receives such additional value.

Example:

Mr. X supplies goods worth Rs 50,000 on April-18, 2018 to Mr. Y on credit for 3 months. Since Mr. Y is unable to make payment within the due date, Mr.X recovers interest on delayed payment of Rs.1000 on 31st August 2018. For Rs.1000, the time of supply will be 31st August 2018.

Time of supply of Services

Provision relating to time of supply is provided in section 13 of CGST Act, which must be read alongwith section 31 of CGST Act and Rule 47 of CGST Rules for better clarity.

Time of supply of services shall be:

1. The date of issue of invoice by supplier or date of receipt of payment (to the extent the

payment covers the services) if invoice is issued within time as per provision of section 31(2) of CGST Act or

2. The date of provision of service or date of receipt of payment (to the extent the payment covers the services) if invoice is not issued within time as per provision of section 31(2) of CGST Act.

If these two methods are not applicable then the time of supply will be the date on which the recipient of service shows receipt of the service in his books of account.

To the extent the payment covers the service means if part consideration is paid in advance or invoice is issued for part payment only then the time of supply will not be applicable for full supply. The time of supply shall be deemed to have been made to the extent it is covered by the invoice or the part payment.

When invoice is to be issued in case of supply of services as per section 31(2) of CGST Act?

As per Rule 47 of CGST Rules, Invoice must be issued

- Within 30 days from date of supply of services and
- within 45 days in case supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company.

1. Cancellation of supply

In case cancellation of supply of service before completion of supply, invoice should be issued at the time of cancellation of supply to the extent of the supply made before such cancellation.

2. Continuous supply of Services

"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, by notification, specify. E.g. commercial construction contract.

In case of continuous supply of services, the invoice should be issued:

- On or before the due date of payment or
- At the time of receipt of payment
- On or before the date of completion of the where payment is linked to the completion of event.

3. For Special category of companies

In the case of insurance / banking / telecom companies / financial institutions include NBFC making taxable supply between distinct persons as specified in section 25, Invoice may be issued before or at the time of recording such supply in the books of account or before the expiry of the quarter during which the supply was made.

4. Excess payment up to Rs.1000

In case payment is received up to Rs.1000 in excess of the invoice value, supplier can choose to take the related invoice date as the time of supply in relation to this excess value. E.g. if supplier received Rs. 20,000 against invoice value of Rs.19500 then supplier may adjust excess received Rs.500 in next invoice and time of supply shall be decided accordingly for such excess amount.

Time of supply of services covered under Reverse charge

As discussed earlier that time of supply of goods covered under reverse charge is different than time of supply of goods covered under forward charge (Normal case), same is the case with time of supply of service under Reverse charge also. Time of supply of services covered under Reverse charge shall be earlier of below:

1. Date of payment as shown by the recipient in his books or,
2. Date on which payment is debited in his bank Account or,
3. Date immediately following sixty days from the date of issue of invoice or any other document, by the supplier.

If it is not possible to determine the time of supply by the dates given above, then the time of supply will be the date of entry of the service in the books of account of the recipient.

Example:

If Mr.X paid Rs. 15000 to advocate toward inward supply of service on 15th August 2018. Date of invoice raised by advocate is 01st August 2018. In this case, Time of supply of service will be 15th August 2018.

But if in above example, Mr. X makes payment on 31st October 2018, then time of supply shall be 30th September 2018 being sixty days from date of invoice.

Time of supply in case supply by Associated Enterprise

Supply of services covered under reverse charge where supply is by associated enterprise located outside India, then for Recipient, time of supply of service will be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

Time of supply when there is change in Rate of Tax

Section 14 of CGST Act provides that even though provision of time of supply of goods and services are prescribed under section 12 and section 13, but when there is change in rate of tax, provision of section 14 will prevail.

As per this provision, three events to be looked in to.

1. Invoice raised
2. Payment received
3. Goods or services supplied

If any of above two events occurred before change in rate of tax then old rate of tax will apply and if any of above two events occurred after change in rate of tax then new rate of tax apply.

The provisions are tabulated in a summary form:

Invoice Raised	Payment Received	Goods or Services Supplied	New Rate or Old Rate?
Before	Before	After	Old Rate
Before	After	After	New Rate
Before	After	Before	Old Rate
After	After	Before	New Rate
After	Before	After	New Rate
After	Before	Before	Old Rate

Question Bank

FAQs

1. How are the provisions relating to 'time of supply' relevant under GST Law?

Ans. The provisions relating to time of supply of goods / services are relevant in ascertaining the time to remit the taxes on a particular transaction involving supply of goods /services under the GST Law. The CGST Act, 2017 provides separate provisions for time of supply of goods and services viz., Section 12 for time of supply of goods.

2. What will be the time of supply of goods, generally in case of registered supplier?

Ans. Generally, in case of registered supplier in terms of Section 12 of the CGST Act, 2017, the time of supply of goods shall be the earliest of the following:

- (a) Date of issue of invoice; or
- (b) Due date of issue of invoice

3. What will be the date of payment to ascertain the time of supply of goods, in case of taxpayer under composition scheme?

Ans. In terms of the Explanation 2 appended to Section 12, the date of payment shall be the earliest of the following dates:

- (a) Date on which payment is entered in books of accounts of the supplier; or
- (b) Date on which payment is credited to the bank account.

4. What will be the time of supply in case of supply of vouchers?

Ans. In terms of Section 12(4) of the CGST Act, 2017, time of supply of vouchers shall be the earliest of the following:

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

5. What would be the time of supply where composite supply involves supply of goods as principal supply?

Ans. The general provisions relating to time of supply of goods will be applicable where composite supply involves goods as principal supply. Accordingly, the time of supply of such composite supply shall be the earliest of the following:

- (a) Date of issue of invoice; or
- (b) Due date of issue of invoice

6. What will be the Time of supply in case of supply of goods through e-commerce entities?

Ans. The CGST Act, 2017 does not provide separate provisions for ascertaining time of supply of goods through/by e-commerce entities. Accordingly, the same provisions as to time of supply of goods (supplier other than the one who has opted for composition levy) discussed above will be applicable whether a supplier makes supply through e-commerce entity or the e-commerce entity himself makes the supply.

7. What will be the Time of supply in case of addition in value by way of interest, late fee or penalty?

Ans. In terms of Section 12(6) of the CGST Act, 2017, the date on which the supplier receives interest, penalty or late fee which forms part of value will be the time of supply.

8. What would generally be the date of payment for ascertaining time of supply of services?

Ans. The 'date of payment' referred in provisions relating to time of supply of services shall be the earliest of the following:

- (a) date when the payment entry in relation to supply of services is recorded in books of accounts of the supplier; or
 - (b) date on which the payment is credited to supplier's bank account.
9. Whether the date of completion of service would be relevant for determining time of supply?
- Ans.** Yes, if the Invoice is not issued within 30 days of supply of service.
10. What would be the time of supply in case of works contract?
- Ans.** In terms of entry (a) to clause 6 of schedule II, the works contract in relation to immovable property under the GST regime should be treated as supply of service. Accordingly, the same provisions as applicable to determine time of supply of services discussed above will apply to works contracts.
11. What would be the time of supply where composite supply involves supply of services as principal supply?
- Ans.** The same provisions relating to time of supply of services discussed above are applicable where composite supply involves services as principal supply.

MCQs

1. What is the time of supply of goods, in case of forward charge?
- (a) Date of issue of invoice
 - (b) Due date of issue of invoice
 - (c) Date of receipt of consideration by the supplier
 - (d) Earlier of (a) & (b)
- Ans.** (d) Earlier of (a) & (b)
2. What is time of supply of goods liable to tax under the reverse charge mechanism?
- (a) Date of receipt of goods
 - (b) Date on which the payment is made
 - (c) Date immediately following 30 days from the date of issue of invoice by the supplier
 - (d) Earlier of (a) or (b) or (c)
- Ans.** (d) Earlier of (a) or (b) or (c)
3. What is the time of supply of vouchers when the supply with respect to the voucher is identifiable?
- (a) Date of issue of voucher

- (b) Date of redemption of the voucher
- (c) Earlier of (a) & (b)
- (d) (a) & (b) whichever is later

Ans. (a) Date of issue of voucher

4. What is the time of supply of vouchers when the supply with respect to the voucher is not identifiable?

- (a) Date of issue of voucher
- (b) Date of redemption of voucher
- (c) Earlier of (a) & (b)
- (d) (a) & (b) whichever is later

Ans. (b) Date of redemption of voucher

5. What is date of receipt of payment?

- (a) Date of entry in the books
- (b) Date of payment credited into bank account
- (c) Earlier of (a) and (b)
- (d) Date of filing of return

Ans. (c) Earlier of (a) and (b)

6. What is the time of supply of service if the invoice is issued within 30 days from the date of provision of service?

- (a) Date of issue of invoice
- (b) Date on which the supplier receives payment
- (c) Date of provision of service
- (d) Earlier of (a) & (b)

Ans. (d) Earlier of (a) & (b)

7. What is the time of supply of service for the supply of taxable services up to ₹1000 in excess of the amount indicated in the taxable invoice?

- (a) At the option of the supplier – Invoice date or Date of receipt of consideration
- (b) Date of issue of invoice
- (c) Date of receipt of consideration.
- (d) Date of entry in books of account

Ans. (a) At the option of the supplier – Invoice date or Date of receipt of consideration

8. What is the time of supply of service in case of reverse charge mechanism?
- (a) Date of payment as entered in the books of account of the recipient
 - (b) Date immediately following 60 days from the date of issue of invoice
 - (c) Date of invoice
 - (d) Earlier of (a) & (b)

Ans. (d) Earlier of (a) & (b)

Chapter 7

Value of Supply

Learning objective

- To know the meaning of value of taxable supply when supply made to unrelated person and price is sole consideration
- To know value of supply as mentioned in valuation rules when supply is made to related person
- To know value of supply as mentioned in valuation rules when price is not sole consideration
- To know how and when valuation rules will be applicable
- To identify various inclusion / exclusion in value of supply
- To ascertain when discount would be included / not included in value of supply

Coverage

- I. Basic Valuation Provision
- II. Related Person
- III. Consideration
- IV. Agent
- V. Market Value
- VI. What shall be included in Transaction Value?
- VII. What shall not be included in Transaction Value?
- VIII. What if Supplier and Recipient are related or price is not sole consideration?
- IX. Valuation Rules
- X. Value of supply of goods or services where the consideration is not wholly in money (Rule 27)
- XI. Value of supply of goods or services or both between distinct or related persons, other than through an agent (Rule 28)
- XII. Value of supply of goods made or received through an agent (Rule 29)
- XIII. Value of supply of goods or services or both based on cost (Rule 30)
- XIV. Residual method for determination of value of supply of goods or services or both (Rule 31)

- XV. Value of supply in case of lottery, betting, gambling and horse racing (Rule 31A)
- XVI. Determination of value in respect of certain supplies (Rule 32)
- XVII. Purchase or sale of foreign currency, including money changing
- XVIII. Determination of value of service provided by Air travel Agent for Air ticket booking
- XIX. The value of supply of services in relation to life insurance business
- XX. Person dealing in buying and selling of second hand goods
- XXI. Purchase value of supply of goods repossessed from a defaulting borrower
- XXII. Special provision relating to determination of value of redeemable vouchers/stamps/coupons/tokens
- XXIII. Special provisions relating to determination of value of services provided by notified service providers between distinct persons
- XXIV. Value of supply of services in case of pure agent
- XXV. Rate of exchange of currency other than Indian rupees for determination of value
- XXVI. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

Introduction

Provisions relating to Value of supply are contained in section 15 of CGST Act read with CGST Rules (Chapter-IV Rule-27 to Rule-35). Valuation provision is common for goods and services.

To arrive at tax amount that needs to be charged / levied on particular supply, value of supply needs to be determined first and on that value, GST rate would be applied.

Section 15 says 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 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.

Valuation is the identification of all those circumstances and assessment of steps to reverse or rectify the effect of contractual or other arrangements that may suppress or understate the value of the transaction and accordingly identification of underlying correct value for particular transaction.

Analysis/Illustrations/Charts

Basic Valuation provision: Section 15 (1)

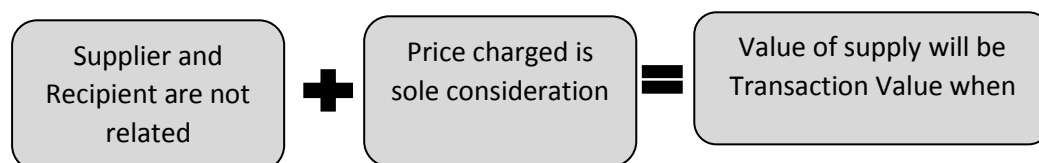
Value of supply will be **transaction value** which is price actually paid or payable provided the:

- (a) Supplier and recipient should not be related person and

(b) Price charged must be the sole consideration

As per valuation provision, transaction value should be taken for the purpose of valuation under GST and "Transaction value" has been explained in the section as the price actually paid or payable for the supply of goods and/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.

From this, it can be gathered that there should be a **clear nexus between the supply of goods or services and the amount received** by the supplier of goods or services. If no linkage can be established between the price paid or payable and the supply of goods/services, the inclusion of the price within the valuation may be examined. In that case, Applicable Valuation rules provides the mechanism to identify value of supply.



Related person

Related person is also defined in the Act which says that:

- (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 recognized 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 person; or
 - (viii) they are members of the same family;

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.

Hence, if supplier and recipient are not related parties and price charged is sole consideration that means no other benefit is flowing from recipient to supplier other than price charged in supply then the value (actually paid or payable price for that supply) shall be the Transaction Value.

Consideration

“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.

Agent

- “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.

Market Value

- “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;

What shall be included in Transaction Value?

As per section 15(1), Transaction value also include the following component.

- (a) **Any taxes**, duties, cesses, fees and charges levied under any law for the time being in force **other than GST** Act if charged separately by supplier. Hence other than CGST + SGST + IGST + Compensation cess, all other taxes, duties, cess or fee shall be included in transaction value.
- (b) Any amount that **supplier is liable to pay, but instead of supplier, recipient incur such amount** and this has not been included in price charged by supplier. This is third

party payment made by recipient on behalf of supplier, such expenses needs to be added in transaction value.

In normal circumstances, the supplier will have to incur certain expense and is required to pay such amount to third party. He would include such expenses in final price charged to customer but in some cases customer makes payment to such third party directly hence supplier doesn't include such amount in his bill, still it would form part of transaction value.

- (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. This is additional expenses over and above price of goods or services that supplier is incurring on behalf of recipient that needs to be added in transaction value.

E.g. Packing charges will be charged to customer and will form part of transaction value. Installation and testing charge at recipient location will be added being amount charged for something done by supplier in respect of supply at the time of making the supply.

- (d) **Interest or late fee or penalty for delayed payment of any consideration** for any supply. Any additional consideration charged by supplier from recipient on default or late payment off consideration in form of interest or penalty should be added in transaction value.

E.g. Mr. X charged Rs.15000 as interest for delayed payment of consideration beyond due date from Mr.Y. in this case, Interest will form part of transaction value but it needs to be noted that time of supply in such case will be when the supplier receives such additional consideration.

- (e) **Subsidies** directly linked to the price excluding subsidies **provided by** the Central Government and State Governments. On inclusion of subsidies provided by Central or state Government, transaction value will reduce. If subsidies are provided by somebody other than by Central or state government then Transaction value will not be reduced. Such subsidy is added to the value of supply of the supplier who receives the subsidy.

What shall not be included in Transaction value?

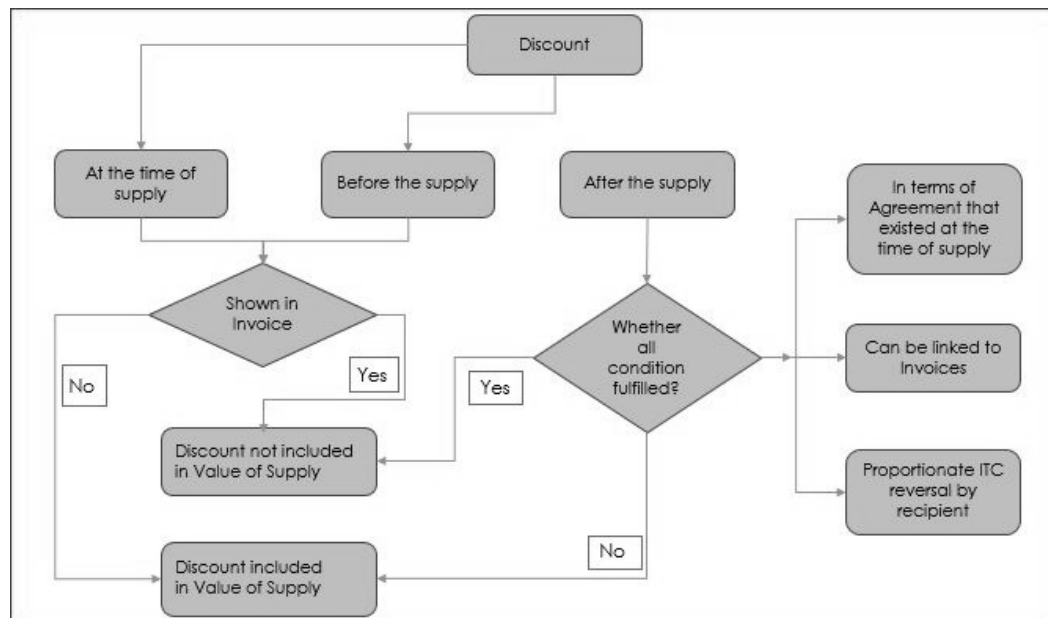
Transaction value shall not include Discount which is given before or at the time of supply if such discount is provided in Invoice itself.

When discount is not provided in invoice or when discount is offered after effecting supply, then also it will be not included in transaction value provided;

- a. There is agreement in force at or before supply to grant such discount and such discount can be specifically linked to relevant invoice and

b. Recipient of goods or service has reversed input tax credit attributable to such discount.

Treatment of discount in value of supply is given by way of chart as below:



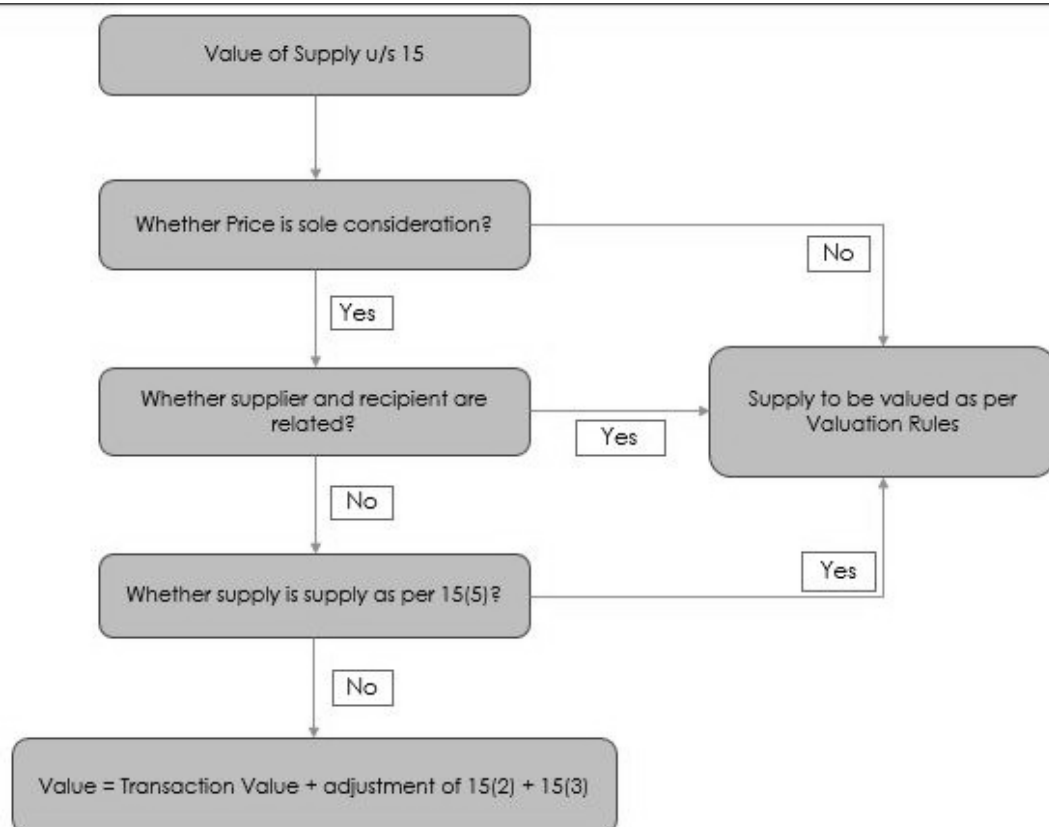
Important points to note:

- Discount given in invoice is always deducted from value of supply provided and GST will be calculated on net taxable value.
- Post supply discount can not be included in value of supply only on fulfilment of certain condition:
- Agreement should be there as on date of supply that some post supply discount may be awarded based on certain condition. Common example of such kind of discount is Annual turnover discount (ATD). ATD would be provided after supply on achievement of certain predefined sales target.
- Discount shall be linked with corresponding invoice or invoices. Example, if 5% discount comes to Rs.5000 then all invoices on which discount of Rs.5000 is calculated shall be available. It should not be an adhoc discount.
- At the time of raising sales invoice to customer, customer (recipient) might have claimed ITC on entire sales invoice. Now on such post supply discount, recipient will have to reverse the proportionate ITC calculated on such discount.

GST Credit note needs to be raised as per section 34 for such eligible post supply discount.

What if Supplier and Recipient are related or price is not sole consideration?

We have already seen that where Supplier and Recipient are not related person and price is sole consideration, then Transaction value (alongwith some inclusion factored) shall be the Value of supply. But when supplier and Recipient are related or even price is not sole consideration, then Value of supply shall be determined based on the **Valuation Rules**.



Valuation Rules

1. Value of supply of goods or services where the consideration is not wholly in money (Rule 27)

In such case the value of supply shall be

- (a) Open Market value of such supply
- (b) If open market value is not available then consideration in money plus money equivalent of the non-money consideration if such amount known at the time of supply

- (c) If by the above two method, the value cannot be determined, then the value of supply will be the value of supply of goods or services or both of like kind and quality.
- (d) If by above three method, value can not be determined then value will be consideration in money plus 10% Mark up as per Rule 30 or by other reasonable means as per rule 31 of CGST Rules.

“Open Market Value” means

- the full value in money, excluding IGST / CGST / SGST / UTGST/ 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.

“Like kind and quality” means

- any other supply of goods or services or both
- made under similar circumstances
- 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.

Example:

Mobile is supplied at the price of Rs.10,000 against exchange of old mobile valued Rs.2,500. Taxable value of Mobile will be Rs.12,500.

Where Customized handbag is made for which open market value is not available and also like kind and quality bag is also not available then value should be worked out by adding the cost of customization to acquisition cost and adding thereto 10% Markup.

2. Value of supply of goods or services or both between distinct or related persons, other than through an agent (Rule 28)

Relationship may influence the price and hence there is separate valuation rules in case of transaction between related person.

Value of supply in case of supply between distinct person as specified in sections 25(4) and 25(5) of CGST Act or related person as mentioned above, other than where supply is made through an agent, shall be:

- Open market value of such supply
- if the open market value is not available then value of supply of goods or services of like kind and quality will be the value;

- If by above two method, value can not be determined then value will be 110% of cost as per Rule 30 or by other reasonable means as per rule 31 of CGST Rules.

Since this Rule deals with transaction between related person and distinct persons, we will see meaning of the same.

Persons shall be deemed to be **related** if –

- such persons are officers or directors of one another's businesses;
- such persons are legally recognized partners in business;
- such persons are employer and employee;
- 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;
- one of them directly or indirectly controls the other;
- both of them are directly or indirectly controlled by a third person;
- together they directly or indirectly control a third person; or
- they are members of the same family;

Distinct person means 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 person for the purpose of this act. (Section 25(4) of CGST Act)

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 purpose of this act. (Section 25(5) of CGST Act). In nutshell, distinct person means different registration / establishment of the same entity.

As per paragraph 2 of Schedule-I of CGST Act, supply between related person or between distinct persons as specified in section 25 when made in the course or furtherance of business is treated as supply even if made without consideration. Hence to value such kind of transaction, this Rule 28 is applicable. However, transaction made through agent is not covered by this rule.

When recipient is eligible to take full input tax credit on goods supplied by supplier then value declared in invoice itself shall be deemed to be open market value of goods or services because its revenue neutral transaction.

Optional mechanism if goods are sold as such by recipient

Where an option is provided to supplier in case goods are intended to be supplied as such by the recipient then value shall be 90% of price charged by recipient on supply of like kind and quality goods to its non-related customer. This is not mandatory.

Example:

Mr.A hold 25% share of ABC Ltd. Mr.A and ABC Ltd shall be deemed to be related.

Mr. R and Mr. H are partners in Partnership firm RH & Associate. Mr.R and Mr.H are deemed to be related.

3. Value of supply of goods made or received through an agent (Rule 29)

When supply is made through an agent then value of supply shall be:

- Open market value of the goods being supplied or
- At the option of supplier, value shall be 90% of price charged by recipient on supply of like kind and quality goods to its non-related customer when goods are being further supplied by recipient.
- When value can not be determined as per above two situation then value of supply shall be 110% of cost as per Rule 30 or by other reasonable means as per rule 31 of CGST Rules.

Example:

Principal supplies chemical to its Agent. Agent in turn supply such chemical at Rs.600 per kg. Another independent supplier supply this chemical at Rs.550 per kg in open market. Hence Open market value of such chemical will be Rs.500 per kg. Principal has the option to adopt open market value as Rs.500 per kg or 90% of Agent's selling price that is 540 per Kg.

4. Value of supply of goods or services or both based on cost (Rule 30)

Where value cannot be determined as per above rules then value of supply shall be 110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

For service provider, it's very difficult to determine the cost of provision of service as per this rule, so service provider can go to Rule 31 relating to residual method (discussed below) to determine the value of supply ignoring this rule.

5. Residual method for determination of value of supply of goods or services or both (Rule 31)

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30 of CGST Rules as discussed above then the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 of CGST Act and

the provisions of this Chapter. This is residual method to determine value only when above valuation rules can not be adopted.

6. Value of supply in case of lottery, betting, gambling and horse racing (Rule 31A)

- Value of supply of Lottery run by state government shall be higher of following:
 - 100/112 of face value of ticket
 - Price as notified in official gazette by organizing state
- Value of supply of Lottery authorized by state government shall be higher of following:
 - 100/128 of face value of ticket
 - Price as notified in official gazette by organizing state
- 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 totalizator.

7. Determination of value in respect of certain supplies (Rule 32)

7.1 Purchase or sale of foreign currency, including money changing.

Such person have two Options to value its transaction.

Option A

There may be two type of currency exchange transaction involved by such person, one will be transaction where one of the currency being exchanged is India rupees and another transaction where none of the currency being exchanged is Indian rupees.

Where one of the currency being exchanged is India rupees then:

The value of supply shall be the difference between buying ate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total unit of foreign currency.

In case RBI reference rate is not available then value of supply shall be 1% of the gross amount of Indian rupees provided / received by the person changing money.

Where none of the currency being exchanged is India rupees then:

The value of supply shall be 1% of lesser of the two amounts the person changing the money would have received by converting any of these two currency in Indian rupees at RBI reference rate.

Example:

1. Eastern money changer converted US \$1000 @ Rs. 65 = Rs.6500 on 08th December 2018. RBI rate as on that date is Rs. 64. Value of supply will be Rs.1000 (Rs.65 –

Background Material on GST Law for Commerce Students

Rs.64)*\$100.

Now supposing in the above example, RBI rate is not available then value of supply will be 1% of Rs.6500 i.e. Rs.65.

2. Eastern money changer converted US \$ 800 in to UK £ 500. RBI reference rate at the time for US \$ is Rs.65 per US dollar and for UK £ is Rs.80 per UK pound. In this case, neither of the currency exchanged is Indian Rupees.

In this case, value of taxable services will be 1% of lower of following.

(a) US \$ converted into Indian rupees = \$800 * Rs.65 = Rs.52,000

(b) UK £ converted into Indian rupees = £500 * Rs.80 = Rs.40,000

Value of taxable services = 1% of 40,000 = Rs.400

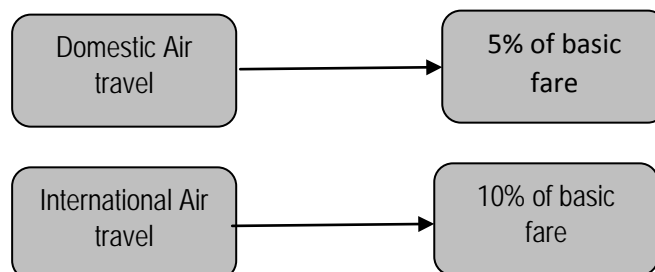
Option B

Currency exchanged	Value of Supply shall be
Up to Rs.1,00,000	1% of the gross amount of currency exchanged or Rs.250 Whichever is higher
More than Rs.1,00,000 but up to Rs.10,00,000	Rs.1000 + 0.50% of the gross amount of currency exchanged
More than Rs.10,00,000	Rs.5500 + 0.10% of the gross amount of currency exchanged or Rs.60,000 Whichever is higher

Supplier may exercise any of the above two option to value its transaction but once exercised, he can not withdraw it during the financial year.

7.2 Determination of value of service provided by Air travel Agent for Air ticket booking

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 5% of the basic fare in the case of domestic bookings, and at the rate of 10% of the basic fare in the case of international bookings of passage for travel by air.



Basic fare means Air fare on which commission is normally paid to the air travel agent by the airlines.

7.3. The value of supply of services in relation to life insurance business

Policy with dual benefit of risk coverage and investment:

Value shall be Gross premium charged less amount allocated for investment / saving if such allocation is intimated to the policy holder at the time of collection of premium.

Single Premium policy:

Value shall be 10% of the single premium charged from the policy holder where allocation for investment /savings is not intimated to the policy holder.

Other cases:

Value shall be 25% of the premium charged from the policy holder in the 1st year and 12.5% of premium charged for subsequent year.

Policy with only Risk cover:

Value will be entire premium charged from policy holder.

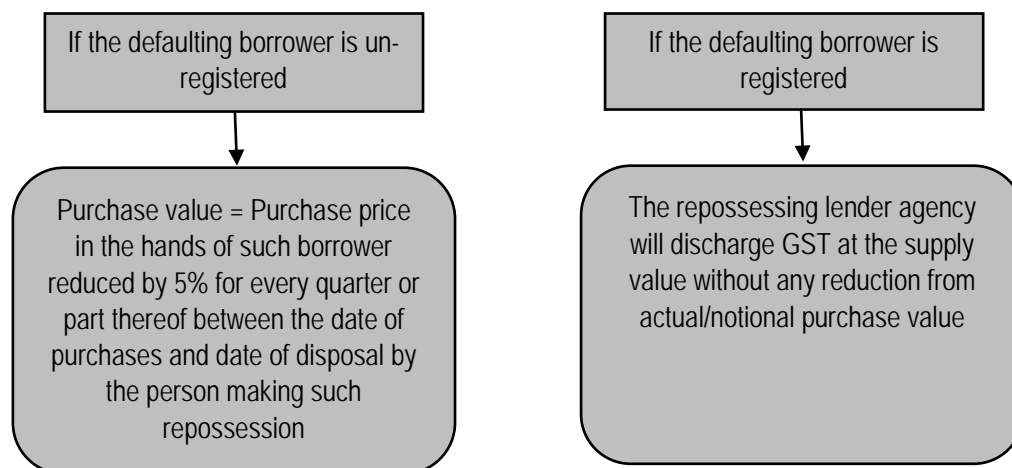
7.4. Person dealing in buying and selling of second hand goods

Normally GST is charged on transaction value of goods but in case of a person who deals in buying and selling of second hand goods, GST is payable only on Margin money earned that is difference between selling price and purchase price by such dealer. If there is no margin, then no GST is charged on such supply.

It may be noted that person who purchase second hand goods after payment of tax to supplier of such goods are governed by this valuation rules only when they do not avail ITC on such input supply. If they avail ITC then such supply is governed by normal GST valuation provision.

7.5. Purchase value of supply of goods repossessed from a defaulting borrower:

There may be a situation where goods taken on loan are repossessed by the lender in the event of default in payment of loan. The Purchased value of such repossessed goods are depend on status of defaulting borrower, which is summarized below:



7.6. Special provision relating to determination of value of redeemable vouchers/stamps/coupons/tokens

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

7.7. Special provisions relating to determination of value of services provided by notified service providers between distinct persons

Value of taxable services provided by notified class of service providers without consideration between distinct persons as referred to in para 2 of schedule – I of CGST Act is deemed to be Nil if Input tax credit is available.

7.8. Value of supply of services in case of pure agent

At the time of making supply to recipient, pure agents receive and incur certain expenses on behalf of recipient and claim reimbursement of the same at actual. Pure agent concept was also there in service tax regime but some conditions have been changed in GST.

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

If supplier incurred some expenses or cost as a capacity of pure agent then the same will be **excluded from value of supply** if following condition are satisfied.

- the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorization by such recipient;
- 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
- 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.

Generally, CHA are acting as pure agent who recover port charges, custom duty, transportation charges etc. paid by him on behalf of importer. Various expenses like freight, godown charges etc. incurred by C&F agents and later recovered from Principal.

Example:

ABC Pvt Ltd hires company secretary Mr.C to incorporate a new company. Alongwith his professional charges, Mr. C also recovers registration fee, stamp charges and Various ROC payment from ABC Pvt Ltd.

In this case Mr. C acts as pure agent respect of payment of various fees to ROC on behalf of company and hence recovery of various fees on actual basis paid to ROC will not form part of the value of services supplied by Mr.C to ABC Pvt Ltd.

7.9 Rate of exchange of currency other than Indian rupees for determination of value

For Goods: Relevant rate of exchange for determining the value of taxable goods is the rate notified by CBIC under section 14 of the custom Act, 1962 prevalent at the time of supply of said goods. Rate of exchange of currency shall be as per Custom rate to value goods.

For services: Relevant rate of exchange for determining the value of taxable service is the rate determined as per GAAP, prevalent on the date of time of supply of said service. Unlike Goods, there is no specific provision to convert rate of exchange of currency for services.

7.10. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

Where supply is inclusive of tax then by reverse working tax amount shall be identified. E.g. where value of supply inclusive of tax is Rs.100 and GST Rate is 18% then total taxable value shall be Rs.84.75 (Rs.100 (inclusive value) / 118% (100 + GST rate)), tax there on will be Rs. 15.25 [Taxable value (Rs.84.75) * 18% (GST Rate)]

Questions

FAQs

1. Is there any specific valuation mechanism provided for composite supplies and mixed supplies?
Ans. No, section 15 and the rules prescribed under this Section are common for supply of goods and supply of services. The provisions of valuation and the rules would apply to composite supplies and mixed supplies equally.
2. Are the valuation provisions similar for both inter-State and intra-State supplies?
Ans. Yes, Section 15 is common for all supplies.
3. Will the Section 15 read with Chapter IV of the CGST Rules, 2017 apply to IGST payable on import of goods?
Ans. No. As per Proviso to Sec. 5(1) of IGST Act, Customs Law will be applicable for valuation of imported goods.
4. Will the Customs Valuation apply to IGST payable on import of services?
Ans. No. Customs Law is applicable only for valuation of imported goods. Section 15 read with Chapter IV of the CGST Rules, 2017 will apply for valuation of import of services.
5. Is contract price not sufficient to determine valuation of supply?
Ans. Contract price can be referred to as 'transaction value' and that is the basis for computing tax. However, the transaction will not be accepted as the value of supply where the supply is between related persons, or where the consideration payable is not wholly in money.
6. Is reference to the CGST Rules required in all cases?
Ans. No. Reference to the CGST Rules, 2017 is required only when the supply is between related persons (including different registrations of the same PAN and principal-agent supplies), or where the consideration payable is not wholly in money. Q
7. What is to be done if there are certain factors affecting price but same cannot be quantified?
Ans. Where transaction value is partly, or not wholly in money, the same cannot be accepted. The value of supply should be determined under the CGST Rules, 2017.
8. Can the value of supplies be a deemed value?
Ans. Section 15(5) of the CGST Act, 2017 empowers the Government to prescribe the value of certain supplies which may or may not be linked to the transaction value.

9. Will GST be applicable on any interest charged for payment after the credit period?

Ans. Interest, Penalty or Late fee charged from the customer for delayed payment of any supply shall not be separate stand-alone supply rather it shall be included in the value of original supply. However, the law provides that the GST liability on such values can be paid only on receiving such additional amounts.

10. In certain cases, the selling price of the final product is less since subsidy is received from Government. Are subsidies received from Government required to be included in the transaction value?

Ans. Subsidies received by the supplier, from Central / State Governments are not required to be included in the transaction value of supplies effected by him, even if the subsidies are directly linked to the supplies made by him.

11. Are subsidies received from Private Enterprises on procurement of eco-friendly capital goods required to be included in the transaction value?

Ans. Subsidies directly linked to the price of the supply are to be included in the transaction value, where such subsidies are not provided by the Central/ State Governments.

Where it can be established that the price of the supply is not directly linked to the subsidy given on capital goods, the same is not required to be included.

12. Will the out-of-pocket expenses charged by professionals to claim reimbursement of expenses incurred by them for rendering services to their clients be included in the transaction value?

Ans. Yes. Any expenses incurred by the supplier relating to supply until the services are delivered, and which are charged to the recipient, will have to be included in the transaction value.

MCQs

1. The value of supply of goods and services shall be the

- (a) Transaction value
- (b) MRP
- (c) Market Value
- (d) None of above

Ans. (a) Transaction value

2. The value of supply should include

- (a) Any non-GST taxes, duties, cesses, fees charged by supplier separately

- (b) Interest, late fee or penalty for delayed payment of any consideration for any supply of goods or services
- (c) Subsidies directly linked to the price except subsidies provided by the Central and State Government
- (d) All of the above

Ans. (d) All of the above

3. When can the transaction value be rejected for computation of value of supply
- (a) When the buyer and seller are related and price is not the sole consideration
 - (b) When the buyer and seller are related or price is not the sole consideration
 - (c) It can never be rejected
 - (d) When the goods are sold at very low margins

Ans. (b) When the buyer and seller are related or price is not the sole consideration

4. What deductions are allowed from the transaction value
- (a) Discounts offered to customers, subject to conditions
 - (b) Packing Charges, subject to conditions
 - (c) Amount paid by customer on behalf of the supplier, subject to conditions
 - (d) Freight charges incurred by the supplier for CIF terms of supply, subject to conditions

Ans. (a) Discounts offered to customers, subject to conditions

5. If the goods are supplied to related persons then how should the taxable person ascertain the value of supplies?
- (a) Seek the help of the GST officer
 - (b) Use the arm's length price as required under the Income Tax law
 - (c) Identify the prices at which goods are sold by the unrelated person to his customer
 - (d) As per Rule 28 of the CGST Rules

Ans. (d) As per Rule 28 of the CGST Rules

6. Rule 30 of the CGST Rules inter alia provides value of supply of goods or services or both based on cost shall be% of cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services

- (a) 100
- (b) 10
- (c) 110
- (d) 120

Ans. (c) 110

7. As per Rule 31 of the CGST Rules, residual method for determination of value of supply of goods or services or both will apply when:

- (a) Value of supply cannot be determined under Rules 27 to 30
- (b) Value of supply determined is more than the open market value of goods
- (c) Value of supply determined is more than the Value of supply of like kind and quality
- (d) All of the above

Ans. (a) Value of supply cannot be determined under Rules 27 to 30

8. In the case of supply of services, the supplier may opt for Rule 31 ignoring Rule 30 of the CGST Rules?

- (a) True
- (b) False

Ans. (a) True

9. In terms of Rule 32(7) of the CGST Rules, 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 CGST Act between distinct persons as referred to in section 25, where ITC is available, shall be deemed to be

- (a) ₹ 10,000/-
- (b) Arm's length price as required under the Income Tax law
- (c) NIL
- (d) As per the contract between the supplier and recipient

Ans. (c) NIL

10. Mr. Santa located in Nashik purchases 10,000 Hero ink pens worth ₹4,00,000 from Lekhana Wholesalers located in Mumbai. Mr. Mohan's wife is an employee in Lekhana Wholesalers. The price of each Hero pen in the open market is ₹52. The supplier

additionally charges ₹5,000 for delivering the goods to the recipient's place of business.
The value of such supply will be :

- (a) ₹ 5,20,000
- (b) ₹ 5,25,000
- (c) ₹ 4,00,000
- (d) ₹ 4,05,000

Ans. (d) ₹ 4,05,000

11. What will be the value of supply if Giriyas supply Sony television set for ₹ 85000 along with the exchange of an old TV and if the price of the Sony television set without exchange is ₹ 1,00,000, the open market value of the Sony television set is:

- (a) ₹ 85,000
- (b) ₹ 1,00,000
- (c) ₹ 15,000
- (d) ₹ 1,15,000

Ans. (b) ₹ 1,00,000

Chapter 8

Input Tax Credit

Learning Objective

To understand the meaning of the term Input Tax Credit (ITC), eligibility conditions to claim ITC, its apportionment and reversal.

Coverage

- I. Important terms
- II. Entitlement to take credit of input tax
- III. Conditions for entitlement to take credit
- IV. Consequences of non- payment by the recipient of supplies
- V. Depreciation on tax component
- VI. Maximum time period for taking ITC
- VII. Blocked credits
- VIII. Apportionment of credits
- IX. ITC on use of goods or services for business as well as non-business purposes [S.17(1)]
- X. Use of goods or services for taxable and exempt supplies [S.17(2)]
- XI. Option to avail 50% of ITC for banking companies[17(4)]
- XII. Compulsory and timely registration
- XIII. Voluntary registration
- XIV. Switch from composition scheme
- XV. Proportionate reduction on capital goods in case of switch from the composition scheme
- XVI. Exempted supply becoming taxable supply
- XVII. Manner of claiming credit in special circumstances
- XVIII. Expiry of ITC for invoices beyond one year
- XIX. Transfer of unutilized ITC in case of change in constitution
- XX. Reversal of ITC on switch to the composition scheme/Exemption
- XXI. Manner of reversal of credit under special circumstances
- XXII. Cross distribution of the CGST and IGST by ISD

XXIII. Conditions of distribution of credit

XXIV. Meaning of relevant period

XXV. Meaning of recipient of credit

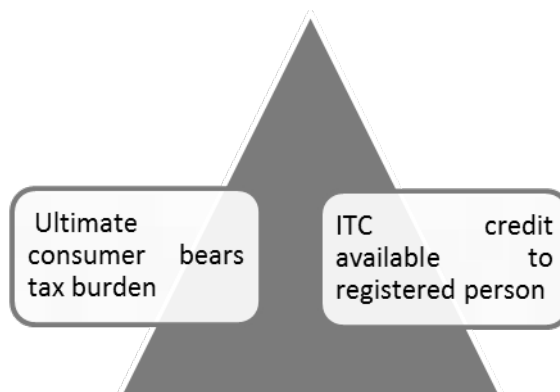
XXVI. Meaning of turnover

XXVII. Manner of recovery of credit distributed in excess

3. Introduction

Before the advent of the GST, credit of input taxes paid by the taxpayer at the time of purchase or receipt of service was not completely available at the time of supply of finished goods or output service. It was because the earlier State taxes (e.g. VAT) were levied by the State government whereas central taxes (Excise duty, service tax) were levied by central government. Credit of state tax could not be utilized to discharge output liability of central tax dues and vice versa. This resulted in the cascading effect of taxes, which led to the pushing up of cost of production.

GST, however aims at removal of such cascading effect and allow seamless flow of input tax credit. The basic principal of GST is that it is value added tax, where in tax is paid only on the value addition in every transaction. Business entities in this chain are only pass through entities and do not bear tax incidence. Further GST is a destination based consumption tax, and hence tax levied in one State travels along with goods and services to the state where the place of supply is situated.

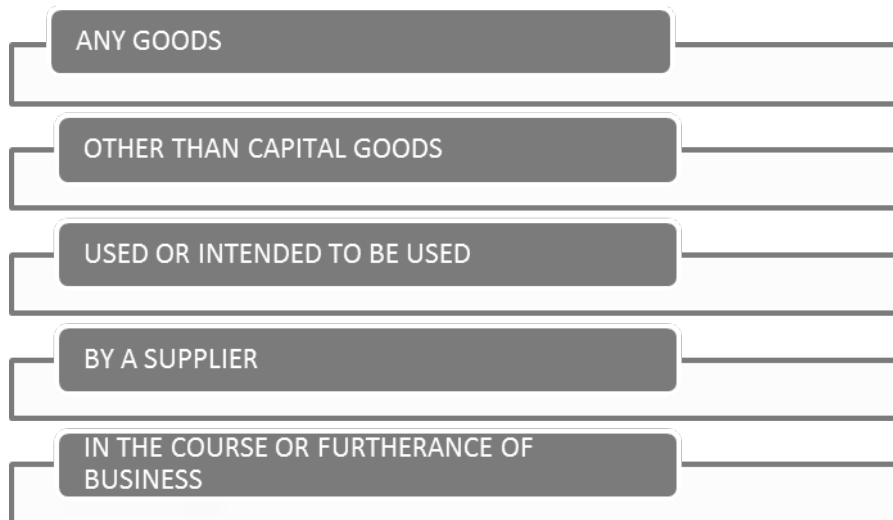


4. Important terms

Some of the important definitions relevant for input tax credit are discussed below.

a. Inputs [S.2 (59)]

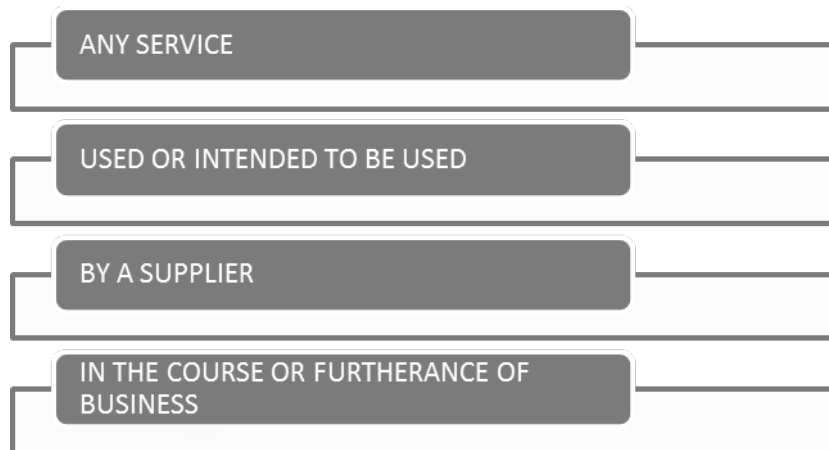
"input" means

**Comments:**

1. Only goods shall qualify as inputs. It means that immovables shall not qualify as inputs.
2. Since securities are neither goods nor services, they do not qualify as input.
3. Capital Goods have specifically been excluded from inputs. Hence all items capitalized in books of accounts including intangible capital goods shall not qualify as inputs.
4. The actual use by supplier is not necessary for being input. Even if it is lying in stock and is intended to be used as input in future it shall qualify as input.
5. Further use in the course or furtherance of business is necessary to qualify as input. Non business use of input shall disqualify it for availment of ITC.
6. It is not necessary that inputs should have one to one relationship with supplies. For example if a person is doing business of trading in goods as well as to render services, then ITC of purchase of goods can also be utilized for payment of output tax on supply of services and vice versa. [An authorized car dealer also providing post sale service can use ITC of car purchase against output tax on supply of services]

b. Input Service [S.2 (60)]

"input service" means



Comments:

The meaning of the term “service” under the GST law is quite comprehensive and to include everything that is not goods barring securities and monies that do not amount to activity relating to the use of money or conversion of money.

c. Input Tax [S. 2 (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; (Reverse Charge under the CGST)
- (c) the tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act; (Reverse Charge under the IGST)
- (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 (Reverse Charge under the SGST)
- (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, (Reverse Charge under the UTGST)

but does not include the tax paid under the composition levy;

- X, a registered dealer purchases goods worth Rs. 1, 12,000 (including GST of Rs. 12000). Hence the amount of tax i.e. Rs.12, 000 paid by X shall become input tax for him.

Comments:

1. Credit of Input tax is available only to a registered person unlike earlier laws, where in unregistered person could also avail ITC, in certain circumstances. A person who is not

registered therefore cannot claim credit of input tax for the period during which his registration was not effective.

2. Tax paid under CGST, SGST, IGST and UTGST qualifies as ITC. Compensation cess paid for receipt of supplies does not qualify as ITC for payment of CGST, IGST, SGST and UTGST.

Compensation cess qualifies as ITC for payment of compensation cess payable on output supplies only.

3. On imports earlier SAD and CVD was being charged which has been subsumed in GST and hence there is specific inclusion of Integrated tax (IGST) charged on imports in the definition of Input tax credit.
4. ITC is available for tax payable under reverse charge under CGST, IGST and UTGST. Similar provisions are there in state tax laws also for SGST.
5. ITC for tax paid under composition levy is not available to the recipient of supply.

d. Input Tax Credit

As per S.2 (63) "input tax credit" means credit of 'input tax'

5. Eligibility & conditions for taking ITC

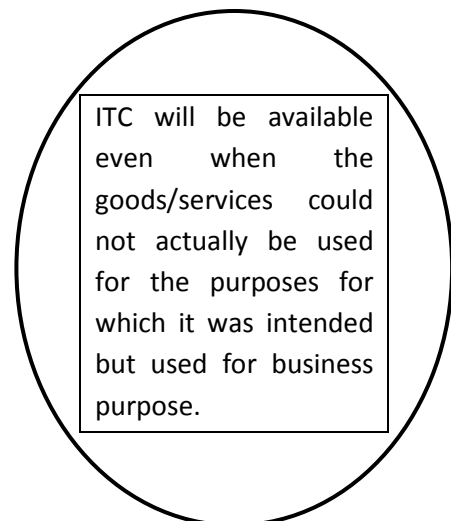
a. Entitlement to take credit of Input Tax [S. 16 (1)]

- 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.

Comments:

ITC is available only to registered person. The same intent is conveyed by the definition of input tax.



Conditions and restrictions for availing ITC are prescribed in Rules. For example, the invoice on the basis of which credit of input tax is claimed should contain all the requisite information mentioned under the law.

1. The distinction between “credit of input tax” and “credit of tax on inputs” is important. Since the law allows credit of input tax (which include capital goods also), the ITC is available both against inputs as well as capital goods.
2. Further credit of input tax is allowed in the manner specified in section 49.
3. The entitled amount of ITC shall be credited to the electronic credit ledger

ITC cannot be used for discharging tax liability of reverse charge basis [Section 49 read with section 41]

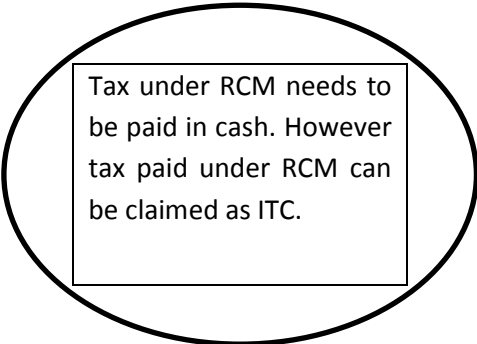
As per section 49 (2), The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.

As per Section 41 (1) Every registered person shall, subject to such conditions and restrictions as may be 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.

As per section 41 (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.

As per S.2 (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**;

Comments: Since ITC can be used for payment of output tax only and definition of output tax specifically excludes tax payable on reverse charge basis, hence ITC cannot be used for payment of tax payable on reverse charge basis. However once the tax payable on reverse charge basis has been paid it qualifies as input tax



Tax under RCM needs to be paid in cash. However tax paid under RCM can be claimed as ITC.

Example-1 Mr. X, a registered person has the following details for the month of Nov, 2018. Calculate his tax liability.

Outward Tax Payable

SGST- 75000

CGST-75000

Tax payable under RCM-15500

Input Tax credit available

SGST-125000

CGST-125000

Solution Unutilized ITC cannot in any case be used for the payment of tax liability under RCM. In this case, Mr. X's liability of Rs.75, 000/- each in SGST/CGST will be set off from available ITC balance. However, he has to pay Rs.15, 500/- in cash (as tax payable under RCM) as ITC cannot be utilized for payment of RCM liability. After payment of tax payable under RCM i.e. Rs. 15500/-, it shall also qualify as ITC and total unutilized ITC shall be $(125000+125000+15500-75000-75000) = \text{Rs } 115500/-$

Manner of Utilization of Input Tax Credit u/s 49(5)

	Input Tax Credit of	Order of Utilization towards output tax
(a)	Integrated goods and service tax (IGST)	1. Integrated Goods and Service Tax (IGST) 2. Balance towards CGST 3. Still if there is credit balance , towards SGST
(b)	Central Goods and Service Tax (CGST)	1. CGST 2. Balance credit towards IGST
(c)	State Goods and Service Tax	1. SGST 2. Balance credit towards IGST
(d)	Union territory Goods and Service Tax [UTGST]	1. UTGST 2. Balance towards IGST
Utilization prohibited		
(g)	CGST	Shall not be utilized for the payment of SGST/UTGST
(h)	SGST/UTGST	Shall not be utilized for the payment of CGST

Illustration

Mr. X, a supplier of goods, pays GST under regular scheme. Mr. X is not eligible for any threshold exemption. He has made the following outward taxable supplies in a tax period:

Particulars	(₹)
Intra-State supply of goods	8,00,000
Inter-State supply of goods	3,00,000

He has also furnished the following information in respect of purchases made by him in that tax period:

Particulars	(₹)
Intra-State purchases of goods	3,00,000
Inter-State purchases of goods	50,000

Mr. X has following ITCs with him at the beginning of the tax period:

Particulars	(₹)
CGST	30,000
SGST	30,000
IGST	70,000

Note:

- (i) Rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.
- (ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.
- (iii) All the conditions necessary for availing the ITC have been fulfilled.

Compute the net GST payable by Mr. X during the tax period. Make suitable assumptions as required.

Answer

Computation of GST payable by Mr. X on outward supplies

S.No.	Particulars	(₹)	GST (₹)
(i)	Intra-State supply of goods		
	CGST @ 9% on ₹ 8,00,000	72,000	
	SGST @ 9% on ₹ 8,00,000	72,000	1,44,000
(ii)	Inter-State supply of goods		
	IGST @ 18% on ₹ 3,00,000		54,000
	Total GST payable		1,98,000

Computation of total ITC

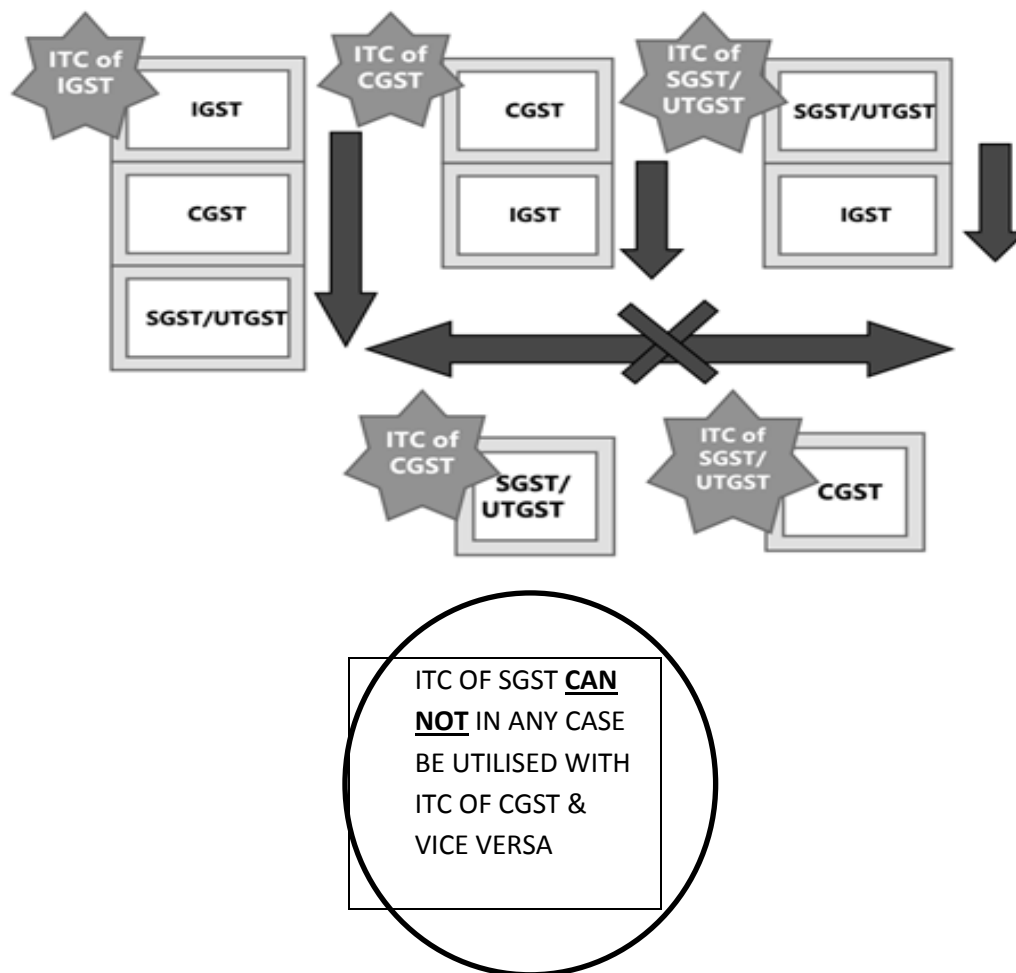
Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	30,000	30,000	70,000
Add: ITC on Intra-State purchases of goods valuing ₹ 3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods valuing ₹ 50,000	Nil	Nil	9,000
Total ITC	57,000	57,000	79,000

Computation of Net GST payable in cash

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
GST payable	72,000	72,000	54,000
Less: ITC	(57,000)-CGST	(57,000)-SGST	(54,000)-IGST
	(15,000)-IGST	(10,000) – IGST	
Net GST payable	Nil	5,000	Nil

Note : ITC of IGST has been used to pay IGST, CGST and SGST in that order.

Chart showing the order of utilization of ITC



The Form of Electronic Credit Ledger

As per Rule 86(1), the electronic credit ledger shall be maintained in **FORM GST PMT-02** for each registered person. Further, every claim of input tax credit under the Act shall be credited to the electronic credit ledger.

Format of Electronic Credit Ledger

Electronic Credit Ledger

Select Period

From: 01/11/2017 To: 30/11/2017 GO

Viewing Electronic Credit ledger details from 01/11/2017 to 30/11/2017

Sr. No.	Date	Reference No.	Tax Period, if any	Description	Transaction Type (Debit/Credit)	Credit / Debit (₹)			
						Integrated Tax (₹)	Central Tax	State Tax	CESS
1	-	-	-	Opening Balance	-	-	-	-	-
2	20/11/2017	AA3310174157884	Oct-17	ITC accrued through - Inputs	Credit	18,000	7,000	10,000	0.00
3	20/11/2017	DI3311170241666	Oct-17	Other than reverse charge	Debit	18,000	7,000	10,000	0.00
4	-	-	-	Closing Balance	-	-	-	-	-

BACK SAVE AS PDF SAVE AS EXCEL

b. Conditions for Entitlement to take Credit [S. 16(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,–



5b.1 Condition of Possession of Prescribed Invoice

(l) the 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;

As per Rule 36(1), ITC can be availed on the basis of following documents:

1. Invoice Issued by the supplier.
2. Invoice issued by the recipient, in case of tax liability on reverse charge basis, subject to payment of tax on reverse charge basis.
3. Debit note issued by the supplier.
4. Bill of Entry for assessment of IGST on imports.
5. Input service distributor invoice.

Mr. X, a registered dealer received advance against services worth Rs.1, 12,000/-(including GST of Rs.12, 000). Mr X can issue invoice within 30 days. In this case, Mr. Y, who made payment of advance to Mr X, is not eligible to claim ITC till the issue of invoice, as the condition of possession of documentary evidence for claiming ITC has not been satisfied.

Further as per Rule 36(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 (Invoice Rules) are contained in the said document,
- and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person.

Mr. X, a registered dealer purchased goods worth Rs.1, 12,000/-(including GST of Rs.12, 000) and received the invoice along with the goods. However, the supplier has not mentioned his GST number in such invoice. In this case, Mr. X is not eligible to claim ITC on such goods, as the invoice must contain the recipient's GST number, to enable him to claim ITC on such goods.

Further as per Rule 36(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.

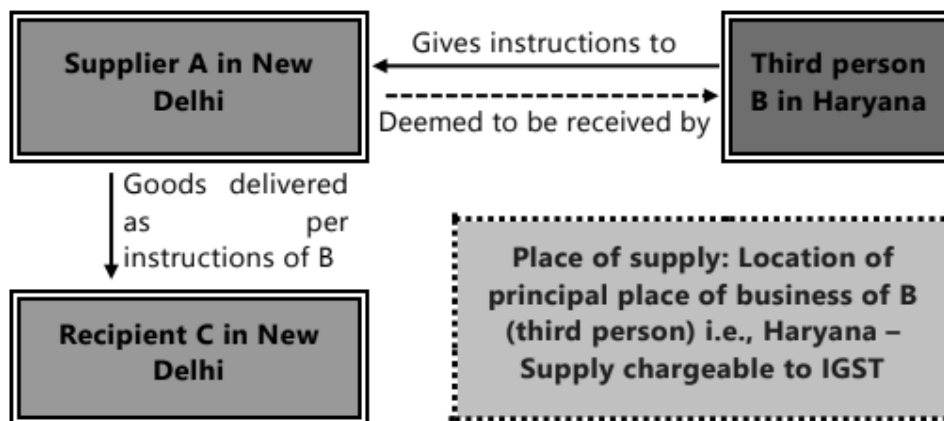
Mr. X has been issued notice u/s 74 for the offence of issuing invoice, without actually supplying such goods in which he is levied with a total tax of Rs.3, 37,500/-. Since, Mr. X has paid such tax in pursuance of an order where the demand has been confirmed on account of fraud by him Mr Y, who purchased the goods cannot claim ITC.

5b.2 Condition of Receipt of Goods or Services

Further as per section 16 (1) (b), no ITC shall be allowed to a registered person unless he has received the goods or services or both.

5.2.1 Deemed Receipt of Goods sent to the recipient on direction of the registered person [Bill to Ship to]

- It shall be **deemed** that the third person has received the goods
- where the goods are delivered by the supplier to a recipient or any other person
- **on the direction of such 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 goods or otherwise



5.2.2 Goods Received in lots [First proviso to S. 16(2)]

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

Mr. X orders 10 printers which are in short supply. The supplier of the printers raises a bill for the entire amount in November and collects GST from Mr. X on the total amount. 5 printers are delivered in the month of November and 5 printers are received in December. X can take the ITC only on receipt of the last lot of printers i.e. in December.

Comments:

Along with invoice or any other prescribed documents, goods or service should have been received, to claim input tax credit. Receipt of goods, unlike receipt of service, can easily be identified due to its nature. Generally, receipt of tax invoice of services is tantamount to receipt of services.

5b.3 Condition of Actual tax payment

Further as per section 16 (1) (c), no ITC shall be allowed to a registered person unless

- subject to the provisions of section 41,
- the tax charged in respect of such supply has been actually paid to the Government,
- either in cash or through utilization of input tax credit admissible in respect of the said supply;

Mr. A made supplies in the month of August, 2018 of Rs.50, 000/- to Mr. B and collected GST of Rs. 2,500/- from him. However, Mr. A failed to pay tax to the account of govt. Accordingly, Mr. B will not be entitled to claim ITC of Rs.2, 500.

5b.4 Condition of furnishing return

Further as per section 16(1) (d), no ITC shall be allowed to a registered person unless he has furnished the return under section 39

Mr. A has for the month of August 2018 out output tax of Rs. 10000 and input tax of Rs. 8000. Mr. A can not avail input tax of Rs. 8000/- without filing of return.

5c Consequences of non-payment by the recipient of supply [2nd proviso to S. 16(2)]

- 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 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

Details of non-payment to be furnished by the recipient in GSTR-2

As per Rule 37,

- A registered person, who has availed 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 **one hundred and eighty days** from the date of **issue of invoice** by the supplier

- shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of in GSTR-2
- for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice:
- The amount of ITC for which details are furnished shall be added to the outputs tax liability for the month in which the detail is furnished.
- Interest is payable from the date when credit is availed till the date when amount added to output tax liability is paid.

Mr. X made supplies of Rs.1, 05,000/- including GST of Rs.5, 000/- to Mr. Y on 01st Aug 2017 and Mr. Y received the goods on the same day. Mr. Y did not make payment. Since the payment was not made within the due date i.e. 28th Jan 2018 (date on which 180 days from issue of invoice expires). GST of Rs.5, 000/- will be added to the output tax liability of Mr. Y along with interest payable on such tax amount.

Proportionate Disallowance in case of part payment

As per Rule 37, In case of part payment of value of supply along with tax payable, details to be furnished in GSTR-2 shall be **proportionate** to the **amount not paid to the supplier**.

Mr. X made supplies of Rs.1, 05,000/- including GST of Rs.5, 000/- to Mr. Y on 01st Aug 2017 and Mr. Y received the goods on the same day. Mr. Y made payment of Rs.52, 500/- only till date. Since the payment was made only to the extent of 50% of total amount within the due date i.e. 28th Jan 2018 (date on which 180 days from issue of invoice expires). Hence, the tax amount of Rs.2, 500/- (i.e. 50% of the total ITC) will be added to the output tax liability of Mr. Y along with interest payable on such tax amount.

Supplies without Consideration

Schedule-I of the CGST Act deals with activities without consideration to be treated as supplies which inter alia includes:

- (1) Supply in course or furtherance of business to other establishments of same person, treated as a distinct person
- (2) Supply to related persons in course or furtherance of business

In such cases even if no amount is paid to the supplier still as per Rule 37, the value of consideration shall be deemed to have been paid.

If a taxable person has establishments in Delhi and Haryana and makes taxable supplies from both the establishments, then supplies from Delhi establishment to Haryana establishment or from Haryana establishment to Delhi establishment shall be treated as supply between distinct persons, though both the establishments belong to the same person. Even if such supply is without consideration, still it shall be taxable as per definition of supply under the law, being supply between distinct persons. Further no ITC shall be added back to the output tax liability on account of failure of distinct person to make payment.

Re-availment of ITC on payment [3rd proviso to S. 16(2)]

- The recipient shall be entitled to avail 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.

- Mr. X made supplies of Rs.1, 05,000/- including GST of Rs.5, 000/- to Mr. Y on 01st Aug 2017 and Mr. Y received the goods on the same day. Mr. Y made payment for such supplies on 01st Mar 2018. Since the payment is made after due date i.e. 28th Jan 2018 (date on which 180 days from issue of invoice expires). The GST of Rs.5, 000/- will be added to the output tax liability of Y along with Interest payable on such tax amount.
- In above example Mr. Y can reclaim such ITC when he makes payment against such supplies. Hence in the return for the month of March, 2018 ITC of Rs.5, 000/- can be re-claimed by Mr. Y. Mr Y shall however be liable to pay interest.

No time limit for re-availment of credit

As per Rule 37(4), Time limits under section 16(4) [due date of furnishing of the return under section 39 for the month of September following the end of financial year or furnishing of the relevant annual return, whichever is earlier shall not apply.

5d. Depreciation on tax component [S. 16(3)]

- Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961,
- the input tax credit on the said tax component **shall not be allowed**.

M/s. X Ltd purchased machinery for Rs.1, 00,000/- on which it paid GST of Rs.12, 000/-. X Ltd capitalized machinery in the books of accounts with the total value (including GST amount of Rs.12, 000) of 1, 12,000/- and claimed depreciation on total value including the tax component. Because of this, X Ltd cannot claim ITC on such machinery.

Comments:

On tax components, either ITC can be claimed or depreciation can be claimed.

5e. Maximum Time Period for taking ITC [S. 16(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

It may be noted that the return for the month of **September** is to be filed by **20th October** and annual return of a financial year is to be filed by **31st December** of the **succeeding financial year**. So, the upper time limit for taking ITC is **20th October** of the next financial year **or** the date of filing of annual return, **whichever is earlier**. The underlying reasoning for this restriction is that no change in return is permitted after September of next financial year. If annual return is filed before the month of September, then no change can be made after filing of annual return.

6. Apportionment of Credit & Blocked Credits

6a. Blocked Credits

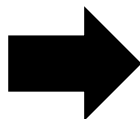
- Notwithstanding anything contained in sub-section (1) of section 16 and
- Subsection (1) of section 18,
- input tax credit shall not be available in respect of the following, namely:—

ITC on Motor Vehicles [S. 17(5) (a)]

- (a) motor vehicles and other conveyances

Except when they are used—

- (i) for making the following taxable supplies, namely:—
- (A) further supply of such vehicles or conveyances; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving, flying, navigating such vehicles or conveyances;
- (ii) for transportation of goods



- A driving school is allowed ITC on cars purchased for use in imparting training for driving.
- A cab service is allowed ITC on cars purchased for use as cabs.

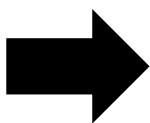
ITC on Supply of Specified Goods or Services [S. 17(5)(b)]

- (b) the following supply of goods or services or both—
- (i)

- food and beverages,
- outdoor catering,
- beauty treatment,
- health services,
- cosmetic and plastic surgery

Except where an inward supply of goods or services or both of a particular category is used by a registered person for making

- an outward taxable supply of the same category of goods or services or both
- or as an element of a taxable composite or mixed supply;



- A caterer gets the food & beverages supplied by a vendor. He is allowed ITC of the tax paid by him (on food & beverages) supplied by the vendor.
- X Ltd. Purchased eatables of Rs.5, 250/- (including GST of Rs.250/-) for consumption of employees of the factory. ITC not available on such eatables.
- A Ltd. is engaged in inward & outward supply of eatables. In this case, ITC is available to M/s. A Ltd.

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

- Ravi joined health club on payment of Rs.5, 900 (including GST of Rs.900/-). ITC not available to Ravi.

(iii) **rent-a-cab, life insurance and health insurance except where—**

- (A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or
 - (B) such inward supply of goods or services or both of a particular category is used by a registered person for making
- an outward taxable supply of the same category of goods or services or both or
 - as part of a taxable composite or mixed supply; and

- X Ltd has taken insurance policy for its employees which is mandatory for the company under the relevant law. ITC is allowable on such a policy.

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

ITC on Works Contract Service [S. 17(5)(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;

Plant and Machinery Defined [Explanation below S. 17]*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.

ITC on Goods/Services for Construction [S. 17(5) (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.

Meaning of Construction [S.17 (5)(e)]

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 capitalization, to the said immovable property

If repair services are not capitalized, then ITC on repair services is eligible.

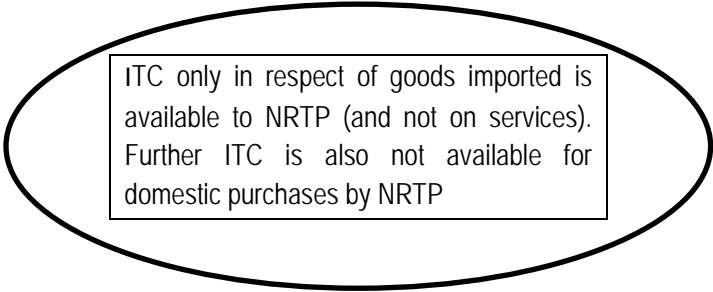
ITC on Composition Scheme Supply [S. 17(5) (e)]

(v) Goods or services or both on which tax has been paid under section 10;

X Ltd receives inward supplies from M/s. Ravi General Store (Composition dealer). Hence, ITC not available on inward supplies received by X Ltd. from M/s. Ravi Medical Store. So the composition dealer shall not charge tax on its bill of supply.

ITC on Domestic Supplies of Non-Resident Taxable Person [NRTP] [S. 17(5) (f)]

(v) Goods or services or both received by a non-resident taxable person except on goods imported by him.



ITC only in respect of goods imported is available to NRTP (and not on services). Further ITC is also not available for domestic purchases by NRTP

Mr. X, a non-resident taxable person receives goods as inward supplies from Mr. Philips (USA) and Mr. Raju (India). Mr. X shall be allowed ITC only in respect of IGST paid on goods imported from Mr. Philips (USA) and not on tax paid on goods received from Mr. Raju (India).

ITC on Use for Personal Consumption [S. 17(5)(g)]

(vii) Goods or services or both used for **personal consumption**;

Mr. X purchased a laptop for his personal use. Hence ITC will not be available on such laptop.

ITC on Goods Lost, Destroyed, Stolen, Written off, Gift, Free Samples [S. 17(5)(h)]

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

Mr. X gifted 5 jeans out of his stock to his friend Mr. Y. ITC cannot be claimed on such 5 jeans gifted by Mr. X to his friend.

ITC on Short paid/Not Paid Tax and Tax paid on detention, seizure [S. 17(5)(i)]

(i) Any tax paid in accordance with the provisions of sections 74, 129 and 130.

Rule 36 (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.

Rule 53 (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 display the words "INPUT TAX CREDIT NOT ADMISSIBLE".

6b. Apportionment of credits

6b.1 ITC on Use of goods or services for business as well non- business purposes [S. 17(1)]

- Where the goods or services or both are used by the registered person
- Partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

A registered person purchases 10 laptops for business purposes, but one of the laptops is used by the proprietor of the firm for his personal use. ITC will not be available on this laptop because it is used by him for personal use. 6b.2 Use of goods or services for taxable and exempt supplies [S. 17(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.

Out of 20 packing bags purchased by a registered person engaged in taxable supply of goods, 5 are used for storing unbranded rice. ITC on these 5 packing bags cannot be availed but ITC on bags used for branded rice (taxable goods) can be availed

Calculation of Exempt Supply [S. 17(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.

Rules for determining the Value of Exempt Supplies [Explanation (2) to Chapter V on ITC Rules]

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 1% of the sale value of such security.

However value of exempt supplies shall for the reversal of ITC shall exclude:



Manner of Attributing Eligible Input Tax Credit for business purpose and taxable supplies [S. 17(6)]

Rule 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,-

T=	Total ITC on Inputs and Input Services for tax period
T1	ITC exclusively for non-business purpose
T2	ITC exclusively for effecting exempt supplies
T3	Prohibitive ITC u/s 17(5)
C1	ITC to be credited to electronic credit ledger = T-(T1+ T2+ T3)
T4	ITC used exclusively for taxable supplies including zero rated supplies

'T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2.

As per proviso to Rule 42(1):

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 'T1' and 'T2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T4'.

C2	Common Credit = C1-T4
D1	ITC attributable to exempt supplies $D1 = [C2 \times (E/F)]$ '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; <i>Explanation:</i> 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 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule; [i.e. Excise Duty and VAT]
D2	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 = 5% of C2
C3	Eligible ITC = C2 -(D1+D2)

As per clause (m) of Rule 42, the amount equal to aggregate of 'D1' and 'D2' shall be added to the output tax liability of the registered person:

Comments: It is because C1 has only to be credited to the electronic credit ledger. ITC exclusively used for taxable supplies including zero rated supplies is included in C1. C2 is calculated only for statistical purposes to cull out D1 and D2. By booking of D1 and D2 as output tax liability, only eligible ITC shall be availed. Section 49 (2) read with section 16(1) also allows credit of eligible ITC only.

Final ITC Calculation for Inputs and Input Services [Rule 42(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

(a) Where final D1 and D2 exceeds aggregate of D1 and D2

- 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

(b) Where aggregates of D1 and D2 is lesser than final D1 and D2

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

Illustration:

Total input tax involved on inputs and input services in a tax period	T	10,00,000
Input Tax attributable to inputs and input services intended to be used exclusively for purposes other than business	T1	1,00,000
Input Tax attributable to inputs and input services intended to be used exclusively for effecting exempt supplies	T2	2,00,000
Input Tax in respect of inputs on which credit is not available under sub-section (5) of section 17	T3	50,000
Input tax credit credited to the electronic credit ledger of registered person $[C1 = T - T1 - T2 - T3]$	C1	6,50,000
Input tax credit attributable to inputs and input services used exclusively in or in relation to taxable supplies including zero rated supplies,	T4	3,00,000
Common Credit $[C2 = C1 - T4]$	C2	3,50,000
Aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period	E	25,00,000
Total turnover of the registered person during the tax period	F	1,00,00,000
Input tax credit attributable towards exempt supplies $[C2 \times (E/F)]$	D1	87,500
Credit attributable to non-Business purposes if common inputs and input services are used partly for business and partly for non-business purposes $[5\% \text{ of } C2]$	D2	17,500
Eligible input tax credit attributed to the purposes of business and for effecting taxable supplies including zero rated supplies $[C2 - (D1 + D2)]$	C3	2,45,000

Rule 43: Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases

- Subject to the provisions of sub-section (3) of section 16, (not claiming ITC on depreciation component)
- 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,-

Capital Goods exclusively for non-business purpose

- (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;**

Mr. X, a registered person purchases a laptop for his personal purposes. ITC on such laptop shall not be available to him, as it is exclusively for non-business purposes.

Capital Goods exclusively for other than exempted supplies

- (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;**

Mr. X, a registered person purchases a machine for Rs.1, 12, 000/- (including GST of Rs.12, 000) which is used for business operations, whose details are as follows: Total supplies: 10,00,000/- which includes Zero rated supplies: 5,00,000/- and Taxable supplies: 5,00,000/-. Therefore, Mr. X is eligible to claim ITC both in respect of taxable as well as zero rated sales. Hence ITC of Rs.12, 000 shall be available to him.

Capital Goods used partly for non-business/exempt and partly for non-exempt supplies

- (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:

Capital Goods used earlier exclusively for exempt supplies/non business purpose, later used for taxable as well as exempt/non business purpose

Provided that where any capital goods used earlier exclusively for non-business purpose or exempt supplies are subsequently used partly for non-business purpose or exempt supplies, 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;

Aggregation of Common Credit T_c

- (d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'T_c', shall be the common credit in respect of capital goods for a tax period:

Capital Goods earlier used exclusively for other than exempted supplies subsequently used partly for exempted supplies

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_c'

Calculation of Monthly Common Credit on Capital Goods i.e. T_m

- (e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as 'T_m' and calculated as-

$$T_m = T_c \div 60$$

Aggregation of Monthly Common Credit on Capital Goods having remaining useful lives [i.e. T_r]

- (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_r' and shall be the aggregate of 'T_m' for all such capital goods;

Calculation of Common Credit Attributable towards exempt supplies

- (g) the amount of common credit attributable towards exempted supplies, be denoted as 'T_e', 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 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule

(2) The amount Te shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

Option to avail 50% of ITC for Banking Companies [S. 17(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.

Option by banking company not to be withdrawn during year [1st Proviso to S. 17(4)]

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Full Credit for Inter Bank Supplies [2nd Proviso to Section 17(4)]

Provided further that the restriction of fifty percent shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

Pune branch of XYZ bank provided some services to its Mumbai branch for a consideration of Rs.11, 800 (including GST of Rs.1800). Since the services are provided by one registered person (Pune branch of XYZ bank) to another registered person (Mumbai branch of XYZ bank), which are having the same PAN, the Mumbai branch is eligible to claim 100% ITC on such services provided by the Pune branch. Hence, the condition for claim of 50% of eligible ITC shall not be applicable under such situation.

Rule 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;
- (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.

7. Entitlement to take Input Tax Credits in Special Circumstances [Section 18]

Compulsory and Timely Registration [S.18 (1) (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.

Mr. X becomes liable to pay tax on 1st July and has obtained registration on 18th July. Mr. X is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock on 30th June.

Voluntary Registration [S.18 (1)(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;

Mr. A applies for voluntary registration on 10th July and obtains registration on 25th July. Mr. A is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock on 24th July. However he **can not** take ITC on **capital goods**.

Switch from Composition Scheme [S.18 (1) (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:

Proportionate Reduction on capital goods in case of Switch from Composition Scheme [proviso to S. 18(1)(c)]

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

X, a registered taxable person, paid tax at composition rate upto 30th August. However, w.e.f. 31st August, X becomes liable to pay tax under the regular scheme. Mr.B will be eligible for ITC on **inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods** as on 30th August. ITC on capital goods will be taken by reducing original ITC by **5% per quarter** from the date of the invoice.

Exempted Supply becoming taxable Supply [S. 18(1)(d)]

- where an exempt supply of goods or services or both by a registered person
- becomes a taxable supply,
- such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods
- held in stock relatable to such exempt supply
- and on capital goods
- exclusively used for such exempt supply
- on the day immediately preceding the date from which such supply becomes taxable.
- Proportionate Reduction on capital goods
- Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed

Example: Mr. Z becomes liable to pay tax on 1st August and has obtained registration on 15th August. Mr. Z is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. Mr. Z cannot take ITC on capital goods.

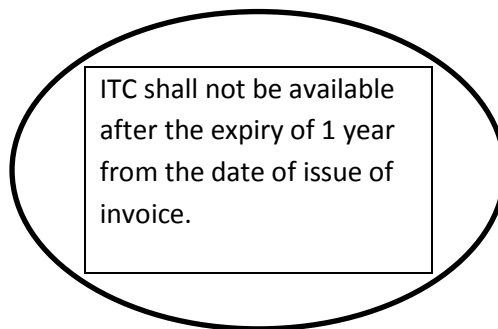
Rule 40 Manner of claiming credit in special circumstances.-

(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)

- (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 his becoming eligible to avail the input tax credit under sub-section (1) of section 18 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;
- (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;
- (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 [www.gst.gov.in]

Expiry of ITC for Invoices beyond one year [S. 18(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.

**Comments:**

When a taxpayer gets compulsorily registered, as per section 18(1), he is eligible to claim ITC in respect of inputs lying in stock as discussed above but such goods must not be more than 1 year old.

Transfer of unutilized ITC in case of change in constitution [S. 18(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

Rule 41. Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.

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.

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.

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.

The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

Reversal of ITC on Switch to Composition Scheme/ Exemption [S. 18(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:

Balance ITC to lapse

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger **shall lapse**.

Comments:

There may be a situation where goods becomes wholly exempt from tax or taxpayer opts to pay tax under composition scheme then in such case he has to calculate ITC **held in stock** and **inputs contained in semi-finished goods held in stock** which needs to be reversed by way of debit from Electronic credit ledger or paid by way of cash if sufficient ITC is not available. Any balance in his electronic credit ledger after the above reversal shall lapse.

8. Reversal of ITC on Cancellation of Registration [S.29 (5)/(6)]

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**.

The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

Rule 44: Manner of reversal of credit under special circumstances.-

- 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 [Switch to Composition/Exemption]
- sub-section (5) of section 29,[Cancellation of Registration]
- be determined in the following manner, namely,-
 - (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 on this 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 integrated tax and central 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, subsection (5) of section 29, as the case may be.

- (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 subrule (1) and the amount shall be determined separately for input tax credit of IGST and CGST:

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.

Rules to determine credit and amount payable for ITC [S. 18(5)]

- The amount of credit under sub-section (1) [R.40]
- the amount payable under sub-section (4) [R.44]
- shall be calculated in such manner as may be prescribed.

9. Treatment of ITC on Supply of Capital Goods

- 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

Rule 40(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.

As per Rule 44(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) [i.e. R. 44(1)(b)] and the amount shall be determined separately for input tax credit of IGST and CGST:

Comments:

As per Rule 44(1) (b), 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

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.

Payment on Transaction Value for Supply of Specified Capital Goods

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

10. ITC Distribution by Input service Distributor [S.20]**10.1 Cross Distribution of CGST and IGST by ISD**

- 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

10.2 Conditions of Distribution of Credit

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.

10.3 Meaning of the Relevant Period [Explanation (a) to S. 20]

Where Turnover for preceding year is available

- 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

Where Turnover for preceding year is not available

- 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

10.4 Meaning of Recipient of Credit [Explanation (b) to S. 20]

- 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;

10.5 Meaning of Turnover [Explanation (c) to S. 20]

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

10.6 Manner of Recovery of Credit distributed in Excess [S.21]

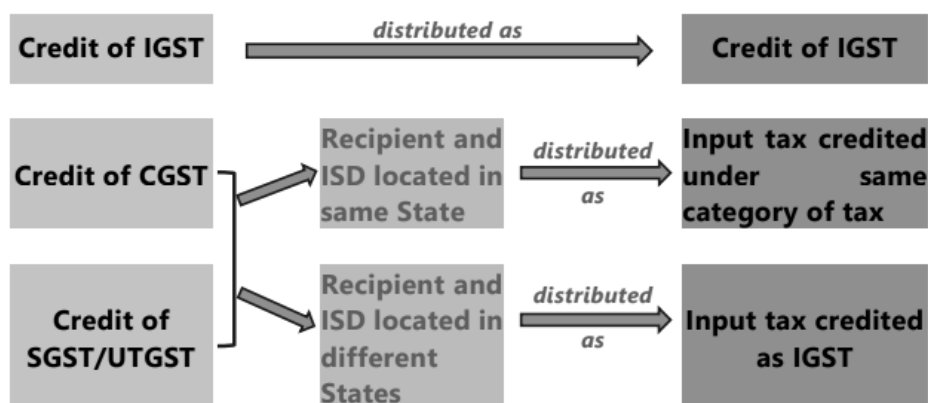
- Where the Input Service Distributor distributes the credit in contravention
- of the provisions contained in section 20
- resulting in excess distribution of credit to one or more recipients of credit,

- 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.

Example: The Corporate office of ABC Ltd., is at Bangalore, with its business locations of selling and servicing of goods at Bangalore, Chennai, Mumbai and Kolkata. Software license and maintenance is used at all the locations, but invoice for these services (indicating CGST and SGST) are received at Corporate Office. Since the software is used at all the four locations, the ITC of entire services cannot be claimed at Bangalore. The same has to be distributed to all the four locations. For that reason, the Bangalore Corporate office has to act as ISD to distribute the credit.

If the corporate office of ABC Ltd, an ISD situated in Bangalore, receives invoices indicating ₹ 4 lakh of CGST, ₹ 4 lakh of SGST and ₹ 7 lakh of IGST, it can distribute the ITC of CGST, SGST as well as IGST of ₹ 15 lakh amongst its locations at Bangalore, Chennai, Mumbai and Kolkata through an ISD invoice containing the amount of credit distributed.

DISTRIBUTION OF ITC BY AN ISD



Question Bank

FAQs

1. Whether capital goods can be considered as inputs?
Ans. No, 'Inputs' are defined under Section 2(59) of the CGST Act to mean any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business.
2. What is Input Tax credit?

Ans. "Input tax" in terms of section 2(62) 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:

- integrated goods and service tax charged on import of goods
- tax payable on reverse charge basis under IGST Act/SGST Act/CGST Act/UTGST Act.
- but excludes tax paid under composition levy

3. What are the conditions to be fulfilled for entitlement of input tax credit?

Ans. The conditions to be fulfilled for entitlement of input tax credit are as follows:

- He is in possession of tax invoice/ debit note issued by a registered supplier or any other tax paying documents;
- He has received the goods and /or services or both;
- The tax charged on such supply is paid to the Government by the supplier (by way of cash or by utilizing input tax credit)
- He has furnished a valid return.

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

Ans. Yes. Input tax credit will be available in full with respect to inputs and capital goods, subject to fulfillment of the prescribed conditions under Section 16(2) of the CGST Act.

Even in the case of supply of goods in lots/ installments, the credit would be available in full on the receipt of the last lot/ installment.

5. One of the conditions to claim credit is that the receiver is in possession of tax invoice or debit note or any other tax paying documents. What are the tax paying documents?

Ans. Following are the tax paying documents:

- An invoice issued by supplier of goods or services or both;
- An invoice raised by the recipient in case of inward supplies from unregistered persons or reverse charge mechanism supplies, subject to payment of tax;
- A debit note issued by a supplier of goods or services or both;
- 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;
- An Input Service Distributor (ISD) Invoice or ISD Credit Note or any other document issued by an Input Service Distributor for distribution of credit.

6. What is the time limit within which the recipient of supply is liable to pay the value of supply with taxes to the supplier of services/goods to avail the input tax credit?

Ans. The time limit prescribed is One hundred and eighty days (180 days) from the date of issue of invoice by the supplier of services/goods. If the recipient fails to pay the value of supply (with tax) within 180 days, such input tax credit would be payable by the recipient along with applicable interest.

7. In case the amount is paid partly to the supplier of service, whether full taxes can be adjusted first? If no, then whether it has to be calculated proportionately?

Ans. No, there is no provision under the GST law to allocate part payment of the invoice towards the taxes first so that the input tax credit can be allowed. The entire value of supply (with tax) is to be paid within 180 days from the date of issue of invoice. Therefore, as long as the entire payment is made within 180 days, the recipient would be entitled to claim the credit in full.

8. One of the conditions to claim credit is that the receiver has received the goods. Is there any provision for deemed receipt of goods in case of transfer of document of title before or during the movement of goods?

Ans. Yes. Explanation to Section 16(2)(b) of the CGST Act provides for deemed receipt of goods where the goods are delivered by the supplier to the recipient or any other person on the direction of the recipient, whether acting as agent or otherwise, before or during movement of goods.

9. Whether the registered person can avail the benefits of input tax credit and depreciation on the tax component of capital goods and plant and machinery?

Ans. No, Section 16(3) provides that input tax credit will not be allowed on the tax component of cost of capital goods/ plant and machinery, if the depreciation on the said tax component is claimed under the provision of Income Tax Act, 1961 by the taxable person. Therefore, the registered person has an option to either claim depreciation (under the Income Tax Act, 1961) or claim credit under the GST law, on the said tax component.

10. What is the maximum time limit to claim the Input tax credit?

Ans. The maximum time limit for claim the Input tax credit is earlier of following two events:

(a) Due Date of filing of the return under Section 39 of the Act for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains, i.e. 20th October;

or

(b) Furnishing of the annual return. In terms of Section 44, the due date of Filing annual return is 31st December following the end of the financial year.

11. If certain goods/ services are used partly for business and partly for non-business purposes, will the credits be allowed in full or proportionately?

Ans. The credit on goods/ services used partly for business and partly for non-business purposes will be allowed proportionately to the extent it is attributable for business purposes.

12. Credit attributable to exempt supplies is not available to a registered person. What are the supplies that are included in exempt supplies?

Ans. 'Exempt Supplies' for this purpose means all supplies other than taxable and zero-rated supplies and specifically includes the following:

- Supplies liable to tax under reverse charge mechanism;
- Transactions in securities;
- Sale of land;
- Sale of building.

13. Will compliance of the provisions regarding restriction of credits relatable to exempt supplies be mandatory to a Banking Company/ Financial Institution engaged in accepting deposits or extending loans or?

Ans. No, a Banking Company/ Financial Institution engaged in supplying services by way of accepting deposits, extending loans or advances has the following options:

- Comply with the provisions of Section 17(2) regarding restriction of credits relatable to exempt supplies in the manner prescribed; or
- Avail 50% of the eligible input tax credit every month on inputs, capital goods and input services and the remaining 50% shall not be available.

The option exercised cannot be withdrawn in the same year. The restriction of 50% will not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

14. Whether the option of availing 50% ITC can be withdrawn by Banking Company in between the financial year?

Ans. No. The option once exercised by the Banking Company/ Financial Institution cannot be withdrawn during the remaining part of the financial year.

MCQs

1. Are capital goods included in the definition of Inputs?

- (a) Yes

- (b) No
- (c) Only some capital goods
- (d) None of the above

Ans. (b) No

2. Is it mandatory to capitalize the capital goods in books of Accounts?

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

Ans. (a) Yes

3. Can credit on capital goods be taken immediately after receiving them?

- (a) Yes
- (b) No
- (c) After usage of such capital goods
- (d) After capitalizing in books of Accounts

Ans. (a) Yes

4. The term "used in the course or furtherance of business" means?

- (a) It should be directly co-related to output supply
- (b) It is planned to use in the course of business
- (c) It is used in the course of business
- (d) It is used in the course of business for making outward supply

Ans. (c) It is used in the course of business

5. Under section 16(2) of CGST Act how many conditions are to be fulfilled for the entitlement of credit?

- (a) All the conditions
- (b) Any two conditions
- (c) Conditions not specified
- (d) None of the above

Ans. (a) All the conditions

6. Whether credit on inputs should be availed on the basis of receipt of documents or receipt of goods.

- (a) Receipt of goods
- (b) Receipt of Documents
- (c) Both
- (d) Either receipt of documents or Receipt of goods

Ans. (c) Both

7. In case supplier has deposited the taxes but the receiver has not received the documents, is receiver entitled to avail credit?

- (a) Yes, it will be auto populated in recipient monthly returns
- (b) No as one of the conditions of 16(2) is not fulfilled
- (c) Yes, if the receiver can prove later that documents are received subsequently
- (d) None of the above

Ans. (b) No as one of the conditions of 16(2) is not fulfilled

8. Input tax credit on capital goods and Inputs can be availed in one installment or in multiple installments?

- (a) In thirty-six installments
- (b) In twelve installments
- (c) In one installment
- (d) In six installments

Ans. (c) In one installment

9. The tax paying documents in section 16(2) is

- (a) Bill of entry, Invoice raised on RCM supplies, etc.
- (b) Acknowledged copy of tax paid to department
- (c) Supply invoice by the recipient
- (d) Any of the above

Ans. (a) Bill of entry, Invoice raised on RCM supplies, etc.

10. The time limit to pay the value of supply with taxes to avail the input tax credit?

- (a) Three months
- (b) Six Months
- (c) One hundred and eighty days
- (d) Till the date of filing of Annual Return

Ans. (c) One hundred and eighty days

11. What is the time limit for taking input tax credit by a registered taxable person?
- (a) No time limit
 - (b) 1 year from the date of invoice
 - (c) 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
 - (d) 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.
- Ans.** (d) 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.
12. Can the recipient avail the Input tax credit for the part payment of the amount to the supplier within one hundred and eighty days?
- (a) Yes, on full tax amount and partly value amount
 - (b) No, he can't until full amount is paid to supplier
 - (c) Yes, but proportionately to the extent of value and tax paid
 - (d) Not applicable is eligible to claim refund in respect of exports of goods
- Ans.** (c) Yes, but proportionately to the extent of value and tax paid
13. Whether credit can be availed without actual receipt of goods where goods are transferred through transfer of document of title before or during the movement of goods?
- (a) Yes
 - (b) No
 - (c) Yes, in specific instances
 - (d) Can be availed only after transfer of document of title after movement of goods
- Ans.** (c) Yes, in specific instances
14. Whether input tax credit on the tax component of capital goods and Plant and Machinery is permissible on which depreciation has already been charged?
- (a) Yes
 - (b) No

- (c) Input tax credit is eligible if depreciation on tax component is not availed
- (d) None of the above

Ans. (c) Input tax credit is eligible if depreciation on tax component is not availed

15. What is the maximum time limit to claim the Input tax credit?

- (a) Till the date of filing annual return
- (b) Due date of September month which is following the financial year
- (c) Earliest of (a) or (b)
- (d) (a) or (b)

Ans. (c) Earliest of (a) or (b)

Chapter 9

Tax Invoice, Accounts and Records

Learning Objective

This chapter discusses the concepts of Tax Invoice and its types, its particulars, role of invoice in the transportation of goods, Accounts and Other Records, and Period of retention of accounts.

Coverage

- I. Types of Invoices
- II. Tax Invoice (Section 31)
- III. Time limit for issuance of invoice in the case of goods
- IV. Time limit for issuance of invoice in the case of services
- V. Manner in which invoice is issued
- VI. Consolidated Tax Invoice
- VII. Invoice-cum bill of supply
- VIII. Bill of supply
- IX. Receipt Voucher
- X. Refund Voucher
- XI. Payment Vouchers
- XII. Particulars common to documents mentioned below
- XIII. Particulars specific to documents
- XIV. Particulars of Invoices in Special Cases [Rule 54]
- XV. Transportation of goods without invoice
- XVI. Prohibition of Unauthorized Collection of Tax [Section 32]
- XVII. Amount of Tax to be indicated in Tax Invoice and Other Documents [Section 33]
- XVIII. Credit and Debit Notes [Section 34]
- XIX. Supplementary Invoice
- XX. Accounts and Other Records [Section 35]
- XXI. Period of retention of accounts [Section 36]

Introduction

Invoicing is a very crucial for ensuring tax compliance under indirect taxation system. Invoice matching mechanism introduced in the GST regime acts as evidence for the value and taxes to be paid. Various invoices/documents are issued under the GST law. These include Tax invoice, Payment voucher, Refund voucher, Receipt voucher, Supplementary invoice, Bill of supply, Credit note, and Debit note.

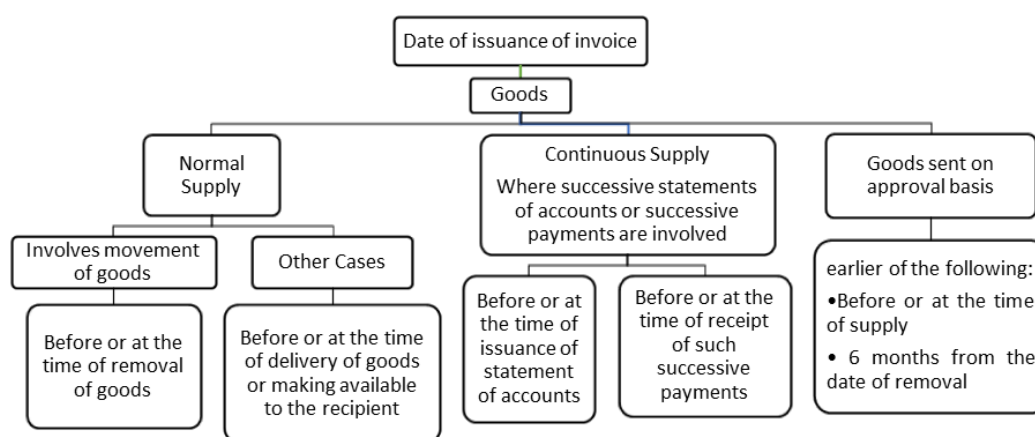
Analysis/Illustrations/Charts

I. Tax Invoice

Every registered person is required to issue a tax invoice in case of supply of goods or services.

Time limit for issuance of invoice in the case of Goods

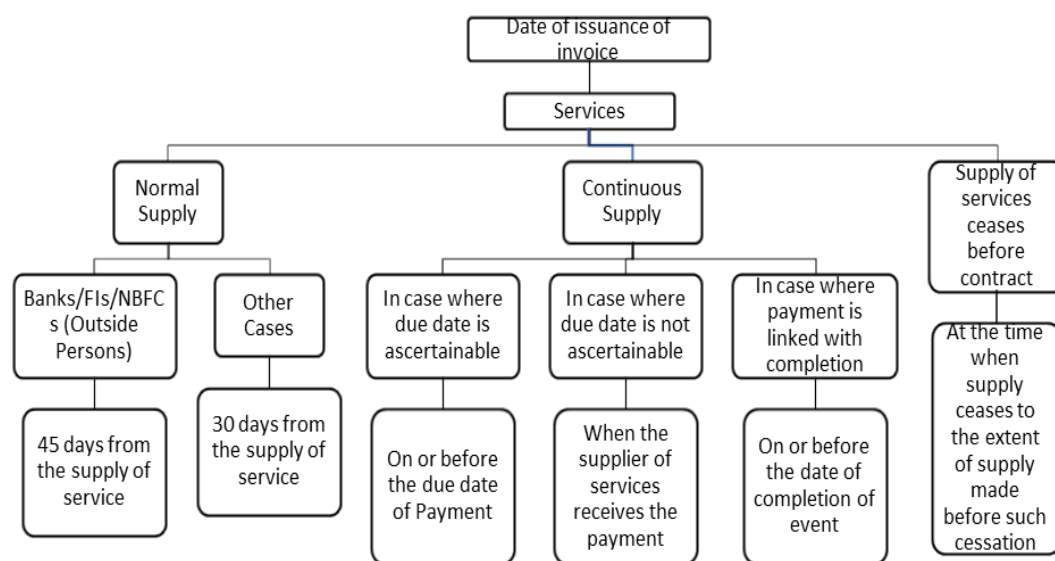
- In case there is movement of goods, then invoice is issued before or at the time of removal of goods.
- If no movement of goods is involved, then invoice is issued before or at the time of delivery of goods or making them available to the recipient.
- In case of continuous supply of goods, where successive statements of accounts and successive payments are involved, then invoice is issued before or at the time each such statement is issued or each such payment is received.
- If goods are sent on approval basis, then invoice is issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.



Time limit for issuance of invoice in case of Services

- Invoice is to be issued within a period of 30 days/ 45 days (in case of Bank/FIs/NBFCs) from the date of supply of services.

- (b) In case where supply of services ceases before the completion of supply, then invoice is issued at the time of cessation of services.
- (c) In case of continuous supply of services, if due date of payment is ascertainable then invoice is issued on or before the due date of payment. If due date of payment is not ascertainable, then invoice is issued before or at the time when the supplier receives the payment. When the payment is linked to the completion of an event, the invoice is issued on or before the date of completion of that event.



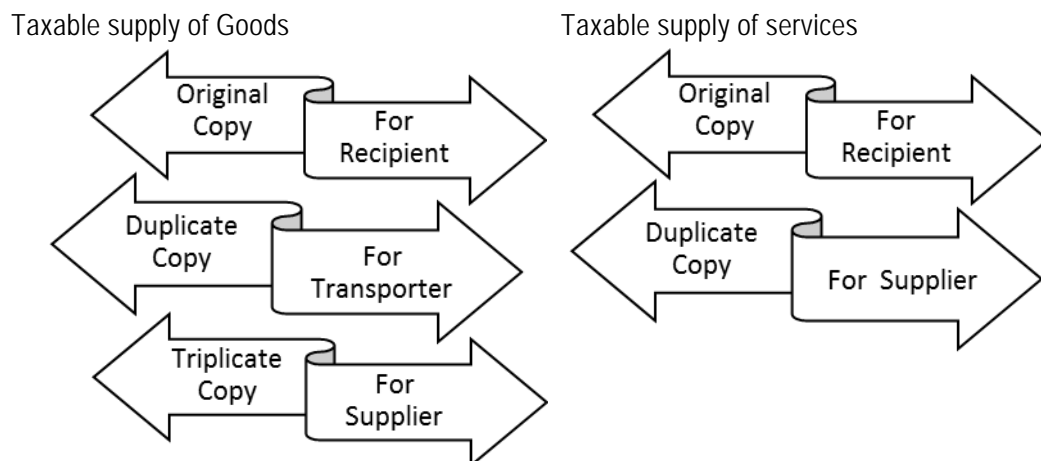
Manner of issue of invoice

In case of taxable supply of goods, the invoice should be issued in Triplicate:

- The original copy is for recipient.
- The duplicate copy is for transporter.
- The triplicate copy is for supplier.

In case of taxable supply of services, the invoice should be issued in Duplicate:

- The original copy is for recipient.
- The duplicate copy is for supplier.



Invoice from unregistered persons

If the registered person is liable to pay tax under reverse charge mechanism and such supply is from unregistered person, then the recipient is required to issue an invoice from unregistered person.

Consolidated Tax Invoice

A consolidated tax invoice can be issued in the following cases:

- (i) A registered person who is liable to pay tax under Reverse Charge Mechanism may issue a consolidated invoice at the end of a month.
- (ii) A registered person should issue a consolidate tax invoice for all the supplies at the close of each day, if the value is less than Rs.200 and the recipient is unregistered or does not require such invoice.
- (iii) Banking company/insurer/financial institution/NBFC can issue a consolidated tax invoice at the end of the month.

Invoice-cum bill of supply

A single invoice-cum-bill of supply is issued in when a registered person is supplying taxable as well as exempted goods or services.

Bill of supply

Bill of supply is issued when a registered person:

- Supplies exempted goods or services or both or
- Pays tax under the Composition Scheme.

II. Receipt Voucher

A receipt voucher is issued when a registered person receives the advance payment for supply of goods or services or both. When at the time of receipt of advance, rate of tax is not determinable then tax is 18%. When nature of supply is not determinable, then it would be considered as inter-state supply.

III. Refund Voucher

Refund voucher should be issued when a registered person receives advance payment, no supply has been made and no tax invoice is issued.

IV. Payment Vouchers

Payment voucher should be issued to unregistered person by a registered person who is liable to pay under Reverse Charge Mechanism at the time of making payment.

V. Particulars common to all documents mentioned below

- Name, address and GSTIN of the supplier and the recipient
- Serial Number ≤ 16 characters (Alphabets/Numbers/Special characters "-" and "/")
- Date of issue
- Description of goods and services
- Signature or digital signature of the supplier/ authorized representative

Document	Particulars specific to documents
Normal Tax Invoice	<ul style="list-style-type: none"> • HSN code of goods / SAC code of services • Name, address of unregistered recipient and address of delivery (if value of invoice \geq Rs. 50,000 or on request of recipient where value of invoice $>$ Rs. 50,000) • Place of supply and in the absence of place of supply address of delivery • Total Value and Taxable value of goods or services or both including discounts • Quantity and unit for goods • Rate and amount of taxes • Whether the tax is payable on reverse charge basis
Bill of Supply	<ul style="list-style-type: none"> • HSN code of goods / SAC code of services • Total value of goods or services or both considering discounts
Receipt	<ul style="list-style-type: none"> • Amount of advance taken

Voucher	<ul style="list-style-type: none">• Rate and amount of taxes• Place of supply• Whether the tax is payable on reverse charge basis
Refund Voucher	<ul style="list-style-type: none">• Number and date of receipt voucher issued• Amount of refund made• Rate and amount of taxes• Whether the tax is payable on reverse charge basis
Payment Voucher	<ul style="list-style-type: none">• Amount paid• Rate and amount of taxes• Place of supply
Revised Tax Invoice	<ul style="list-style-type: none">• The word "Revised Invoice" indicated prominently• Name and address of the recipient and the address of delivery• Serial number and date of the corresponding tax invoice/bill of supply• Value of taxable supply of goods or services, rate and amount of taxes
Debit Note / Credit Note	<ul style="list-style-type: none">• Name and address of the recipient and the address of delivery• Serial number and date of the corresponding tax invoice/bill of supply• Value of taxable supply of goods or services, rate and amount of tax credited/debited to the recipient

VI. Particulars of Invoices in Special Cases

- (a) **Invoice for Export of goods or services:** Following particulars are required to be mentioned in invoice along with the tax invoice particulars:
- name and address of the recipient
 - address of delivery
 - name of the country of destination
 - Specific words "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS - ON PAYMENT OF INTEGRATED TAX / UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX" should be mentioned in the invoice.
- (b) **Input Service Distributor Invoice/Credit Note:** This document is to have the following particulars:
- Name, address and GSTIN of ISD and the recipient to whom the credit is distributed

- Serial Number ≤ 16 characters (Alphabets/Numbers/Special characters "-" and "/")
- Date of issue
- Amount of the credit distributed
- Signature or digital signature of the ISD/ authorized representative

The following additional details is required to be mentioned when the credit of common input services is transferred to another ISD with same PAN and State Code-

- GSTIN of supplier of common service and original invoice number whose credit is sought to be transferred to the ISD
- Taxable value, rate of the credit to be transferred

(c) **Invoice by Goods Transport Agency providing transportation of goods service by road in a goods carriage:** Following particulars are required to be mentioned in invoice along with tax invoice particulars:

- Gross weight of the consignment
- Name of the consigner and the consignee
- Registration number of goods carriages in which the goods are transported
- Details of goods transported
- Place of origin and destination
- GSTIN of the person liable for paying tax

(d) **Invoice for passenger transportation service:** Tax invoice particulars except the address of the recipient of service or serial number would be sufficient for ticket.

VII. Transportation of goods without issue of invoice

(1) A delivery Challan is to be issued instead of an Invoice if movement is for any of the following purposes-

- In case of supply of liquid gas, when the quantity at the time of removal is not known
- Transportation of goods for job work
- Transportation of goods for reasons other than by way of supply
- Such other supplies as may be notified by the board

Tax invoice should be issued after delivery of goods. If the goods are transported in a semi knocked down (SKD) or completely knocked down (CKD) condition invoice should be issued before dispatch of the first consignment. For each consignment, a delivery challan should be issued along with invoice.

- (2) In case of transportation of goods without issue of invoice, delivery challan should be prepared in triplicate and should contain the following particulars
- Date and number of the delivery challan
 - Name, address and GSTIN of the registered consigner and registered consignee
 - HSN code of goods / SAC code of services
 - Quantity (provisional, where the exact quantity being supplied is not known)
 - Taxable value, tax rate and tax amount
 - Place of supply
 - Signature
- (3) E-way bill should contain the details of delivery challan.

VIII. Prohibition of Unauthorized Collection of Tax

- If an unregistered person supplies goods or services or both, then he should not collect any tax.
- A registered person should collect tax in accordance with the provisions of this Act or the rules.

IX. Amount of Tax to be indicated in Tax Invoice and Other Documents

Amount of tax is to be indicated in all the documents relating to assessment, tax invoice and other like documents.

X. Credit and Debit Notes

The supplier is required to issue credit note in the following cases:

- When the supplier has mistakenly declared the higher value or higher tax than the actual value or actual tax of the goods or services provided.
- When the quantity received by the recipient is less than what has been declared in the tax invoice.
- When the quality of goods or services or both supplied is not as per the requirement of the recipient.

Tax liability of the supplier will decrease if the credit note is issued.

Details of Credit Note to be declared in the Return: The last date for the issuance of the credit note is the earlier of:

- (i) September following the end of the financial year in which such supply was made,

OR

- (ii) The date of furnishing of the relevant annual return

If the incidence of tax and interest has been passed, then no reduction in output tax liability is permitted. It should ideally be declared in the return for the month in which it has been issued.

The supplier is required to issue debit note in the following cases:

- When the supplier has mistakenly declared the lower value and lower tax than the actual value or actual tax of the goods or services provided.
- When the quantity declared in the tax invoice is less than the quantity received by the recipient.

Tax liability of the supplier will increase if the debit note is issued.

Details of Debit Note to be declared in Return

Debit note should be declared in the return for the month in which it has been issued.

XI. Supplementary Invoice

If there is any price revision after the contract is entered into, then supplementary invoice or debit note has been issued in respect of outward supply within 30 days from such price revision.

XII. Accounts and Other Records

1. Every registered person should keep and maintain the following true and correct accounts at his principal place or any additional place of business as declared in the registration certificate. These include the following -
 - Production and manufacture of goods (monthly accounts showing quantitative details)
 - Inward or outward supply of goods or services or both (including quantitative details)
 - Stock of goods received and supplied by him (including 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)
 - Input tax credit availed and claimed
 - Output tax payable and paid
 - Goods or services imported or exported
 - Supplies attracting payment of tax on reverse charge and tax thereon
 - Advances received, paid and adjustments made thereto
 - TDS/TCS (not to be maintained by composite dealer)

Background Material on GST Law for Commerce Students

- Register of tax invoice, credit notes, debit notes, delivery challan issued or received (not to be maintained by composite dealer)
 - Particulars of names and complete addresses of suppliers from whom goods or services has been received
 - Particulars of names and complete addresses of recipient of goods or services
 - complete address of the premises where goods are stored, including goods stored during transit along with the particulars of the stock stored therein
2. Accounts and other particulars can be kept and maintained in electronic form but these should be authenticated by a digital signature. Proper back up and easy restoration should be maintained.
 3. No overwriting or erasing is allowed. Incorrect entries, it should be scored out and correct entry should be recorded. If records are maintained electronically, a log of every entry edited or deleted should be maintained.
 4. Books of account should be serially numbered.
 5. If any taxable goods are found at any place other than registered places without any valid documents or the goods or services are not recorded, then the proper officer should determine the amount of tax payable on such goods.
 6. The owner or operator of warehouse or godown or any other place used for storage of goods should maintain records of consignor, consignee and books of accounts (including dispatch, movement, receipt and disposal of such goods).
 7. The transporter should maintain records of the
 - consignor
 - consignee
 - goods transported
 - goods delivered
 - goods stored in transit
 8. Identification of item-wise and owner wise goods should be maintained. Further, proper officer on demand can do the physical verification and inspection.
 9. The agent should maintain accounts regarding the particulars
 - for receiving supply of goods or services on behalf of principal- an authorization from each principal
 - description, value and quantity of goods or services received or supplied
 - details of accounts
 - tax paid on receipts or supply of goods or services

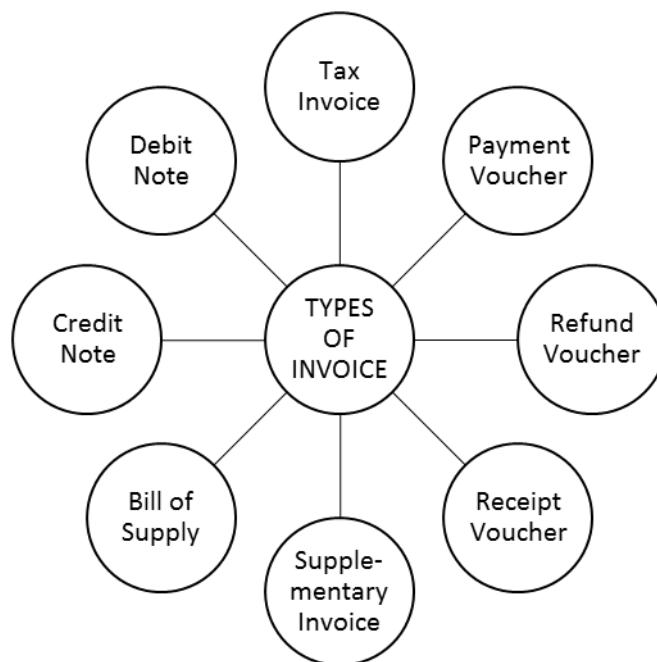
10. In case of works contract accounts should contain the-
- names and addresses of the person
 - description, value and quantity of goods or services received or utilized
 - details of payment received
 - names and addresses of suppliers

XIII. Period of retention of accounts

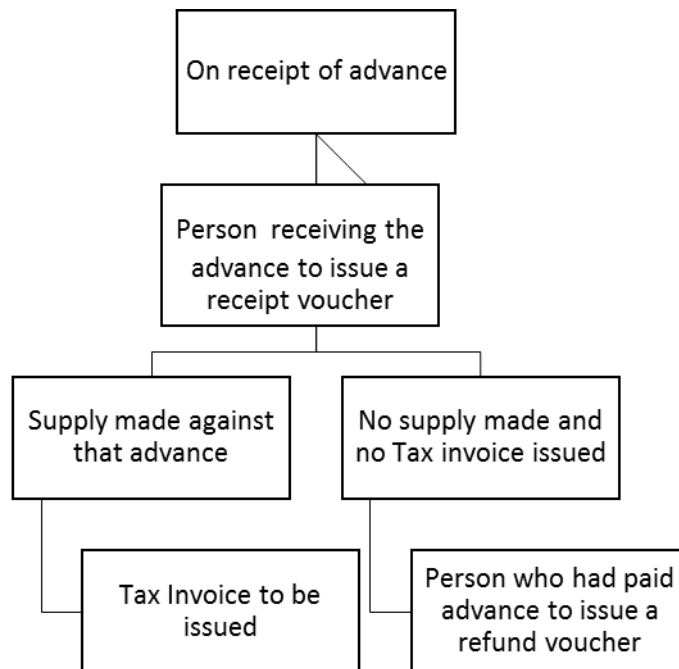
Books of accounts or other records is to be kept, maintained and retain by every registered person for a period of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

In case of an appeal or revision or investigation or any other proceedings then period of retention would be later of period specified above or 1 year after final disposal of such appeal or revision or proceedings or investigation.

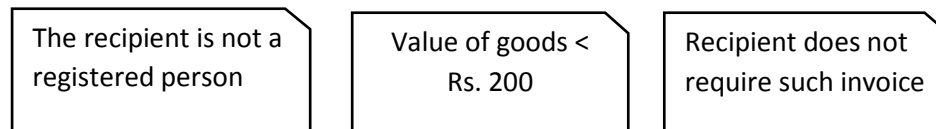
Different Types of Invoices



Advance payment against supply



No requirement of tax invoice



Illustrations

Illustration 1: X removes the goods on 15th July 2018 for delivery to Y. Goods get delivered to Y on 20th July 2018. The payment is received on 25th July 2018. What is the last date for issuance of invoice?

Ans: The last date of issue of invoice in case of supply of goods is the date of removal of goods i.e. 15th July 2018.

Illustration 2: X provides consultancy services worth Rs. 20000 to Y for which the completion date is 10th May 2018. What is the last date of issue of invoice?

Ans: The last date of issue of invoice is 30 days from the date of completion of service. Hence, the last date would be 9th June 2018.

Question Bank

FAQs

1. How many copies of invoices should be issued?
Ans. In case of goods- 3 copies of invoices and in case of services- 2 copies of invoices are issued
2. Is there any additional information required if the outward supply is under reverse charge?
Ans. In case of GST payable under reverse charge, it should be additionally mentioned on the invoice that tax is to be paid on reverse charge.
3. Is it mandatory to maintain invoice serial number?
Ans. Yes, serial number of invoices must be maintained strictly.
4. When is there need for issuing a consolidated invoice?
Ans. If the value is less than Rs. 200, consolidated invoice should be issued at the end of the day.
5. What is the time period within which tax invoice for supply of goods must be issued?
Ans. Tax invoice for goods should be issued at the time of removal of goods (in case of movement) and at the time of delivery of goods (in case of no movement).
6. What is the time period within which tax invoice for supply of service must be issued?
Ans. Tax invoice for services should be issued within 30 days of supply of service. In case of banking company and NBFC, invoice can be issued within 45 days.
7. Which invoice is to be issued when there is price revision in contract?
Ans. Supplementary invoice is to be issued in case of price revision.
8. Is there any need to disclose the details of credit note in the return?
Ans. There is need for only those credit notes which are issued under the GST law. Any financial/accounting credit notes on which GST is not charged are not to be disclosed.
9. Is it mandatory to maintain records physically?
Ans. No, it is not mandatory to maintain records physically. Records can be maintained in electronic form as well.

MCQs

1. A bill of supply is issued in the case of-
 - (a) Supplies to an unregistered supplier
 - (b) Supplies under reverse charge

- (c) Exempted supplies
- (d) None of the above

Ans. (c) Exempted supplies

2. In case of services, Tax invoice should be issued-

- (a) Within 30 days from the date of supply of service
- (b) Within 15 days from the date of supply of service
- (c) Within 2 months from the date of supply of service
- (d) None of the above

Ans. (a) Within 30 days from the date of supply of service

3. In case goods are sent on sale or approval basis, invoice is to be issued-

- (a) While sending the goods
- (b) When recipient accepts the goods
- (c) When recipient accepts the goods or six months from the date of supply, whichever is earlier
- (d) None of the above

Ans. (c) When recipient accepts the goods or six months from the date of supply, whichever is earlier

4. Last date to issue credit note is

- (a) On or before 30th September, following the end of the financial year
- (b) Date of filing the annual return
- (c) Earlier of (a) or (b)
- (d) None of the above

Ans. (c) Earlier of (a) or (b)

5. Books of accounts are to be maintained at

- (a) Only the Principal place of business as per registration certificate
- (b) All the additional places of business
- (c) Both (a) and (b)
- (d) Only at the Corporate office

Ans. (c) Both (a) and (b)

6. Time limit to keep and maintain books of account and other records when counted from the due date of furnishing the annual return for that year is-
- (a) 32 months
 - (b) 72 months
 - (c) 5 years
 - (d) 18 months

Ans. (b) 72 months

Chapter 10

Returns

Learning Objective

This chapter deals with the process of filing returns, which provide a mechanism for communicating data to the government. Further, it also deals with the various kinds of returns that are to be submitted by different kinds of taxpayers.

Coverage

- I. Returns under the GST Law
- II. Furnishing Details of Outward Supplies
- III. Furnishing Details of Inward Supplies
- IV. Mandatory Furnishing of Returns
- V. Rectification of Errors/Omissions
- VI. First Return
- VII. Annual Return
- VIII. Final Return
- IX. Notice to return defaulters
- X. Levy of Late Fees

Introduction

Every registered person is required to file a return. A registered person has to file returns either on monthly or quarterly basis. An Input Service Distributor (ISD) has to file monthly returns showing details of credit distributed during a particular month. A person required to deduct tax (TDS) and a person required to collect tax (TCS) has to file monthly returns showing the amount deducted/collected. A non-resident taxable person has to file returns for the period of activity in India.

Analysis /Illustration/Charts

I. Returns under the GST Law

FORM	PARTICULARS	DUE DATE	APPLICABLE TO
GSTR-3B	Monthly summary return	20 th of the next month	All registered persons (other than Input Service Distributor (ISD) and a person liable to deduct TDS and person liable to collect tax at source)
GSTR-1	Outward Supplies	10 th of the next month	Normal / Regular Taxpayer
GSTR-2	Inward Supplies	15 th of the next month	Normal / Regular Taxpayer
GSTR-3	Monthly return	20 th of the next month	Normal / Regular Taxpayer
GSTR-4	Return by compounding tax payers	18 th of the month succeeding the quarter	Composition taxpayer
GSTR-5	Return by non-resident tax payers [foreigners]	20 th of the next month or within 7 days after expiry of registration, whichever is earlier	Non-Resident taxpayer
GSTR-5A	Monthly Return by Online information and database access or retrieval services (supply to a person other than a registered person i.e., online non-taxable recipient)	20 th of the next month	Online information and database access or retrieval services
GSTR-6	Monthly Return by input service distributors	13 th of the next month	Input Service Distributor
GSTR-7	Monthly Return for TDS	10 th of the next month	Tax Deductor
GSTR-8	Monthly Return (Statement) for Collection of Tax at Source	10 th of the next month	E-Commerce Operator

- Commissioner/Commissioner of the State GST/Commissioner of the UTGST may extend the due date of filing of return for a class of taxable persons by issuing notification.
- For the person who required to file GSTR-3, GSTR-4, GSTR-5 and GSTR-7 the due date of payment of tax would be the due date of filing such return.

II. Furnishing Details of Outward Supplies

In Form GSTR -1 details of outward supplies of both goods and services are required to be furnished. Every registered taxable and casual taxable person has to furnish details of outward supplies except for Input service distributor, non-resident taxable person, composition taxpayer, tax deductor, E-commerce operator (Tax Collector) and supplier of OIDAR service to a non- taxable online recipient.



Within 10th day of the succeeding month, GSTR-1 containing details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies is to be filed. Commissioner/Commissioner of state GST/Commissioner of UTGST can extend the due date of filing GSTR-1 for a class of taxable persons by way of notification.

GSTR-1 cannot be filed from 11th day to 15th day of the month succeeding the tax period.

Maximum time limit for amendments-

- Date of filing of monthly return for the month of September following the end of the financial year to which such details pertain [i.e., 20th October of the next financial year]
- Date of filing of the relevant annual return

whichever is earlier.

III. Furnishing Details of Inward Supplies

Form GSTR-2 contains details of inward supplies of both goods and services and credit and debit notes. All registered persons except for Input service distributor, non-resident taxable person, Composition taxpayer, tax deductor, E- Commerce Operator (Tax collector), Supplier of OIDAR service are required to furnish this statement of inward supplies in Form GSTR 2.

In Form GSTR-1, the supplier uploads the details and the recipient can match the same with his inward supply. In Part 'A' of Form 2A, details which are uploaded by the supplier are made available to the recipient. Part 'B' of Form GSTR-2A provides details of TDS and TCS. In

GSTR-2, recipient can accept, reject, modify, add or mark it pending the said details and can also complete the GSTR-2 using the same details.

The recipient can make any modification, deletion to details made available in Form GSTR-2A. He can also make any addition to Form GSTR-2. After making whatever changes the recipient likes, the supplier can either accept or reject them in Form GSTR-1A. After accepting or rejecting, the supplier would amend Form GSTR-1, and accordingly the effect of accepting or rejecting would impact the supplier's output tax liability.

For a particular month, GSTR-2 is filed on or after 11th day but on or before the 15th day of the immediately succeeding month. Commissioner/Commissioner of State GST/Commissioner of UTGST may extend GSTR-2 for a class of taxable persons by issuing notification.

IV. Mandatory Furnishing of Returns

If there are no transactions effected in any tax period a the registered person (including SEZ unit or developer), then too he is to file a "NIL RETURN".

V. Rectification of Errors/Omissions

- After filing the returns, if we discover any errors or omissions then the same can be rectified in the return for the month or quarter in which such error or omissions are noticed. Tax along with interest are required to be paid if any errors or omissions are noticed. If errors or omissions are discovered due to scrutiny, audit, inspection, enforcement activities by tax authorities, then the same should not be permitted.

Time limit for rectifying the error or omission has to be earlier of the following –

- Date of filing of monthly return for the month of September following the end of the financial year to which such details pertain [i.e., 20th October of next financial year]
- Date of filing of the relevant annual return

If any registered person has not filed any return of a previous tax period, then he should not be allowed to file the return of the current tax period.

VI. First Return

A person needs to show outward supplies for the period he person becomes liable for registration to the date when he is granted registration in his first return to be filed after the grant of registration.

VII. Annual Return

A person is required to file an annual return by 31st December of next Financial year. Except for casual taxable person, non-resident person, input service distributors and persons authorized to deduct or collect tax at source u/s 51 or 52, every registered taxable person is required to file an annual return under the law.

Along with the Annual Return, a copy of audited annual accounts and a reconciliation statement, duly certified, in prescribed form must be furnished electronically through the common portal by every registered person whose accounts are audited as per CGST Act.

VIII. Final Return

Any person who is required to furnish return and whose registration has been cancelled should furnish a final return within 3 months from the date of cancellation or date of order of cancellation, whichever is later.

IX. Notice to return defaulters

Notice should be issued to the registered person who has not furnished Normal return or Annual return or Final return, requiring him to furnish such return within 15 days.

X. Levy of Late Fees

For late filing of return, late fee is as specified below:

Returns	Late filing fees
All returns except annual return	Rs. 25/day in case of Normal Return and Rs. 10/day in case of NIL Return, subject to a maximum of Rs. 5000
Annual Return	Rs. 100/day up to a maximum of 0.25% of the turnover of the state

Question Bank

FAQs

Q1. Who needs to file a Return under the GST regime?

Ans. Every registered person has to file a return under the GST.

2. Is it mandatory to file a return in case there is no transaction effected in any tax period?

Ans. Yes, it is mandatory to file a return even if there is no transaction effected in any tax period.

3. Which type of taxpayers need to file an annual return?

Ans. All registered persons other than Input Service Distributors, casual taxable person/non-resident taxable person, persons under composition scheme, TDS/TCS deductors are required to file an annual return.

4. What data is to be furnished by a person in his first return under the GST regime?

Ans. A person needs to show the outward supplies for the period when he becomes liable for registration to the date when he is granted registration in his first return which he needs to file after the grant of registration

5. Who needs to file a Final Return under the GST regime?

Ans. Any person who is required to furnish return and whose registration has been cancelled has to file a final return within 3 months from the date of cancellation or date of order of cancellation, whichever is later.

6. What are the consequences of not filing the return other than annual return within the due date?

Ans. A registered person who files return beyond the due date would have to pay late fees of Rs. 25/day in case of Normal Return and Rs.10/day in case of NIL Return, subject to maximum Rs.5,000.

7. What are the consequences of not filing the annual return within the due date?

Ans. A registered person who files annual return after the due date has to pay late fees of Rs.100/day upto a maximum of 0.25% of the turnover of the state.

8. What is the time limit for rectification of error or omission?

Ans. Time limit for rectification of error or omission will be earlier of the following-

- (a) Due Date of filing of the monthly return for the month of September following the end of the financial year to which such details pertain
- (b) Date of filing of the relevant annual return

9. What is the due date of filing an annual return?

Ans. Due date of filing an annual return is 31st December of next Financial year.

10. Are annual return and final return the same?

Ans. No, the two are not same. Annual Return is to be filed by every registered person paying tax as a normal taxpayer. Final Return has to be filed only by those registered persons who have applied for the cancellation of registration.

MCQs

1. Time limit for furnishing the details of outward supplies in FORM GSTR 1 in case of registered persons having aggregate turnover of more than 1.5 crore rupees in preceding financial year or the current financial year is -

- (a) 10th of the succeeding month
- (b) 20th of the succeeding month
- (c) 15th of the succeeding month
- (d) 11th of the succeeding month

Ans. (d) 11th of the succeeding month

2. Time limit for furnishing the details of outward supplies in FORM GSTR 1 in case of registered persons having aggregate turnover of upto 1.5 crore rupees in preceding financial year or the current financial year is -

- (a) 10th of the succeeding Quarter
- (b) 20th of the succeeding Quarter
- (c) 15th of the succeeding Quarter
- (d) 30th/31st of the succeeding Quarter

Ans. (d) 30th/31st of the succeeding Quarter

3. The annual return should be filed by the registered taxable person in form-

- (a) GSTR 7
- (b) GSTR 9
- (c) GSTR 10
- (d) GSTR 9A

Ans. (b) GSTR 9

4. Due Date for filing Final return by the registered taxable person is

- (a) within 3 months from the date of cancellation
- (b) Date of order of cancellation
- (c) earlier of the (a) or (b)
- (d) Later of the (a) or (b)

Ans. (d) Later of the (a) or (b)

5. Due date of filing the annual return for every financial year by every registered taxable person

- (a) 31st July following the end of the financial year
- (b) 30th September following the end of the financial year
- (c) 31st December following the end of the financial year
- (d) 30th November following the end of the financial year

Ans. (c) 31st December following the end of the financial year

Chapter 11

Payment of Tax

Learning Objective

This chapter discusses the concepts of Payment of Tax, Interest, Penalty and other amounts, Electronic Cash, Credit and Liability Ledger, TDS and TCS

Coverage

- I. Payment of Tax, Interest, Penalty and other amounts
- II. Order of discharge of tax, interest, penalty, fee or any other amount payable
- III. Presumption that incidence of tax is passed on
- IV. Electronic Cash Ledger
- V. Electronic Credit Ledger
- VI. Electronic Liability Ledger
- VII. Interest on Delayed Payment of Tax
- VIII. Tax deduction at source
- IX. Collection of Tax at Source

Introduction

In the GST regime, taxes to be paid for any intra-state supply are the Central GST (CGST) which forms part of the Central Government treasury and the State GST (SGST) which forms part of the State Government treasury. Integrated GST (IGST) which is paid for any inter-State supply is distributed among both the Central and the State Governments. Apart from the above, Tax deducted at source (TDS) and Tax collected at source (TCS), any other payments like interests, penalty, fees etc. are also required to be paid to the Government.

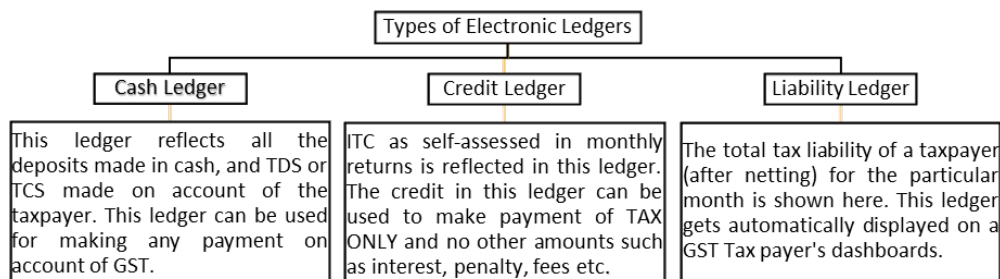
Analysis/Illustrations/Charts

I. Payment of Tax, Interest, Penalty and other amounts

The total tax liability of a tax payer is reflected in the electronic liability ledger. There are two types of ledger for making the payment of such liabilities- (a) Electronic Cash Ledger and (b) Electronic Credit Ledger.

- (a) Electronic Cash Ledger- for making payments of tax, interest, penalty or any other payment
- (b) Electronic Credit Ledger- for making payments of tax only (with certain restrictions)

If after payment of tax, interest, penalty, fee or any other amount, there is any balance in the electronic cash ledger that has to be refunded.



II. Order of discharge of tax, interest, penalty, fee or any other amount payable

The liability of a taxable person has to be discharged in the following order:

- Firstly, self -assessed tax and other dues for the previous tax periods.
- Secondly, self -assessed tax and other dues for the current period.
- After these two steps have been completed, any other amount payable including demand

III. Presumption that incidence of tax is passed on

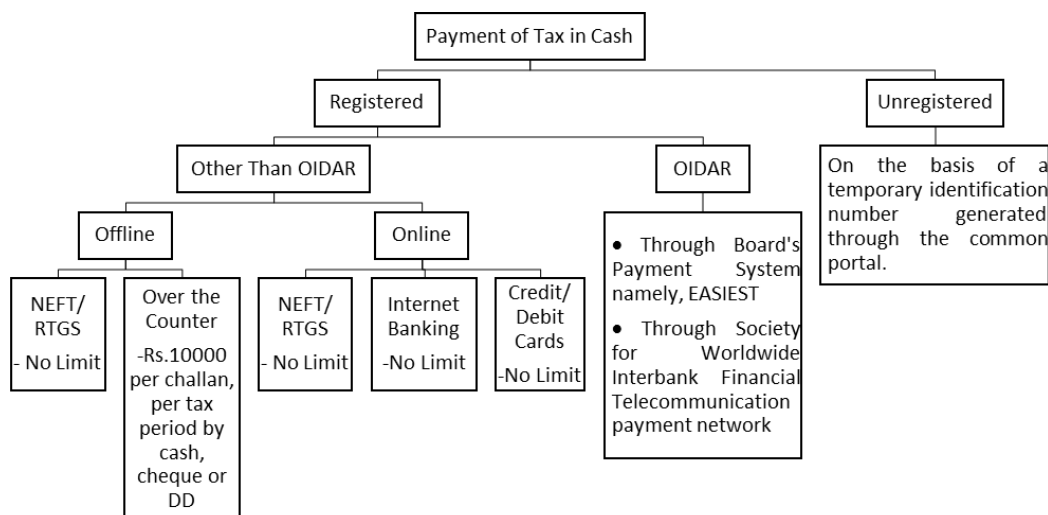
When a taxable person has paid the GST, it is presumed that the incidence of tax has been passed to the recipient.

IV. Electronic Cash Ledger

A taxable person can deposit tax, interest, penalty, fee or any other amount by the following modes:

- Internet Banking
- Credit /Debit cards
- National Electronic Fund Transfer (NEFT)
- Real Time Gross Settlement (RTGS)
- Over the Counter payment (OTC) through authorized banks for deposits up to Rs. 10,000 per challan per tax period, by cash, cheque or demand draft. This restriction is not applicable for payments made to:
 - Government Departments
 - Proper Officer or any other Officer recovering outstanding dues or during any investigation or enforcement activity or ad hoc deposit

- Temporary identification number is generated through common portal for any unregistered person for making payment.



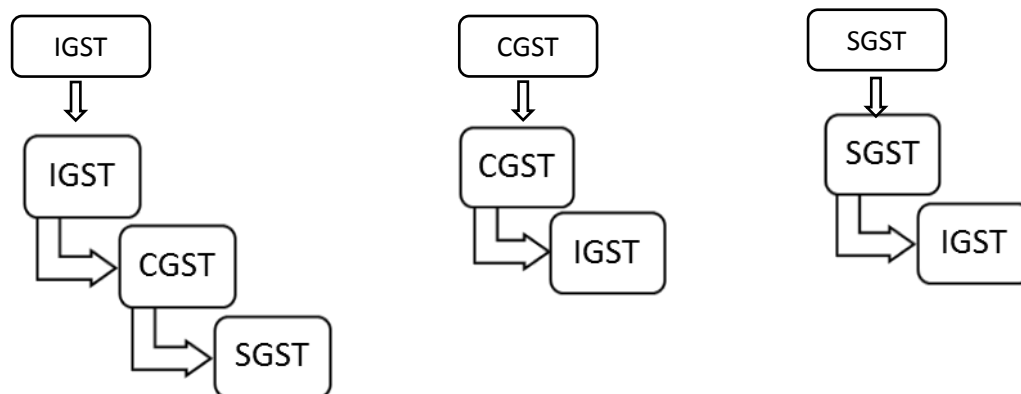
- All the deposits made by any one of the above-mentioned modes are credited to the Electronic Cash Ledger.
- Tax, interest, penalty, fees or any other amount is to be deposited through a challan generated on the common portal
- Date of credit into the account of the Government is deemed to be the date of deposit (not the actual date of debit to the account of the taxable person)
- A CIN should be generated by the collecting bank on successful credit of the amount and the same should be indicated in the challan.
- After the receipt of CIN, the said amount should be credited to the electronic cash ledger of the person.
- Electronic cash ledger is to be credited by the amount deducted as TDS or collected as TCS
- Electronic cash ledger is to be debited when a person has claimed refund of any amount from the electronic cash ledger.
- Electronic cash ledger is to be credited when the refund so claimed is rejected.

V. Electronic Credit Ledger

Electronic credit ledger is credited with the input tax credit as self-assessed in the monthly return and debited to the extent of the discharge of liability. Balance of unutilized amount in the ledger can be claimed as refund and the ledger debited by the refund amount. If refund is rejected, then the amount debited earlier gets re-credited.

The ITC available in the electronic credit ledger can be utilized for payment of tax liability subject to the following conditions:

- Integrated GST should first be utilized towards payment of Integrated GST and the amount remaining, if any, can be utilized towards the payment of the Central GST followed by the State GST, or as the case may be, the Union territory GST.
- Central GST should first be utilized towards payment of Central GST and the amount remaining, if any, may be utilized towards the payment of Integrated GST.
- State GST should first be utilized towards payment of State GST and the amount remaining, if any, may be utilized towards payment of Integrated GST.
- Union territory GST should first be utilized towards payment of Union territory GST and the amount remaining, if any, may be utilized towards payment of Integrated GST.
- Central GST should not be utilized towards payment of State GST or Union territory GST.
- State GST or Union territory GST should not be utilized towards payment of central GST.



VI. Electronic Liability Ledger

Every person who is liable to pay tax, interest, penalty, late fee or any other amount should maintain the electronic liability register.

The following items would be debited to the Electronic Liability Ledger:

- As per return filed- amounts payable towards tax, interest, late fee and any other amount
- All amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person
- The amount of tax and interest as a result of mismatch

- Any interest amount that may accrue from time to time.
- Amount demanded by the appellate authority or Appellate Tribunal or court

The following items would be credited to the Electronic Liability Ledger:

- Payment of all the liabilities of a registered person through electronic cash or credit ledger
- Payment of TDS and TCS
- Payment of tax under reverse charge mechanism
- Payment of tax under composition scheme
- Payment of interest, penalty, fee or any other amount under the Act
- Relief given by the appellate authority or Appellate Tribunal or court

DEBIT	CREDIT
<ul style="list-style-type: none"> (a) All amounts payable towards tax, interest, late fee and any other amount as per return filed (b) All amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person (c) The amount of tax and interest as a result of mismatch (d) Any interest amount that may accrue from time to time (e) Amount demanded by the appellate authority or Appellate Tribunal or court 	<ul style="list-style-type: none"> (a) Payment of all the liabilities of a registered person through electronic cash ledger or electronic credit ledger (b) Payment of TDS u/s 51, TCS by e-commerce operator u/s 52 (c) Payment of tax under reverse charge mechanism (d) Payment of tax under composition scheme (e) Payment of interest, penalty, fee or any other amount under the Act (f) Relief given by the appellate authority or Appellate Tribunal or court

VII. Interest on Delayed Payment of Tax

Interest is payable under the following three circumstances:

- Delayed in payment of tax, in full or in part
- Undue or excess claim of ITC
- Undue or excess reduction in output tax liability

It is calculated from the due date of payment till the actual date of payment at the rates specified below:

- For failure to pay tax - 18% per annum
- For undue or excess claim of ITC or undue or excess reduction in output tax liability - 24% per annum

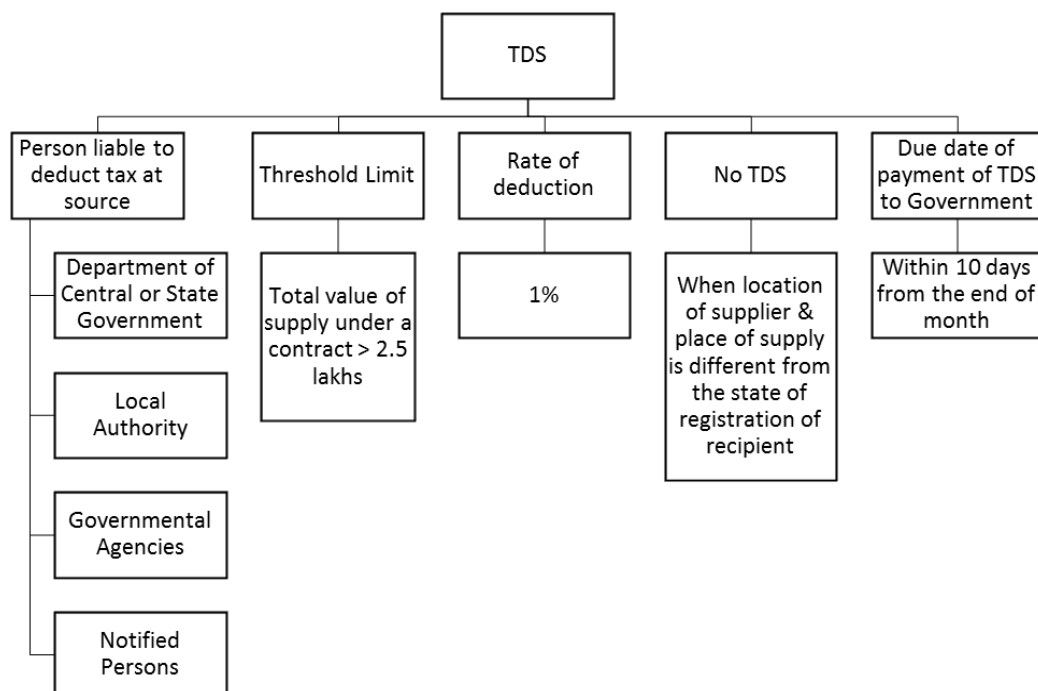
VIII. Tax deduction at source

Tax deductors are mandatorily required to deduct tax at source from payments made to the suppliers of taxable goods or services. These are:

- Central/State Government department or establishment
- Local Authority
- Governmental Agencies
- Persons notified by the Central Government

If the total value of the supply under a contract exceeds Rs.2,50,000, then deductor is required to deduct tax @ 1% at the time of making payment or credit to the supplier.

However, when the location of supplier and place of supply is different from the state of registration of recipient, no TDS would be deducted.



By 10th of the succeeding month, the amount of tax deducted at source should be deposited to the Central Government. Payment of TDS should be made by debiting the electronic cash ledger and crediting the electronic tax liability register.

Within 5 days of payment of TDS, the deductor issue a TDS certificate in Form GSTR-7A to the deductee containing the following details:

- contract value
- rate of deduction
- amount deducted
- amount paid to the Government

In case of failure to furnish the certificate within 5 days, the deductor should be liable to pay late fee of Rs.100 per day from the 6th day of payment till the day the certificate is furnished. The maximum late fee payable is Rs.5000.

Where the deductor does not remit the amount deducted as TDS to the Central Government, he is liable to pay penal interest @ 18% in addition to the amount of tax deducted.

The amount of tax deducted, as reflected in Electronic Cash Ledger of deductee, should be claimed as credit.

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. However, if the amount deducted has been credited to the Electronic Cash Ledger of the deductee, the deductor cannot claim refund (only deductee can claim).

IX. Collection of Tax at Source

1. TCS should be collected by every E-Commerce Operator at a rate of maximum 1% on the net value of transaction. Amount of return should be reduced from the gross value while returning the supplies to the suppliers.

By the 10th of the succeeding month, the amount so collected should be paid to the Government.

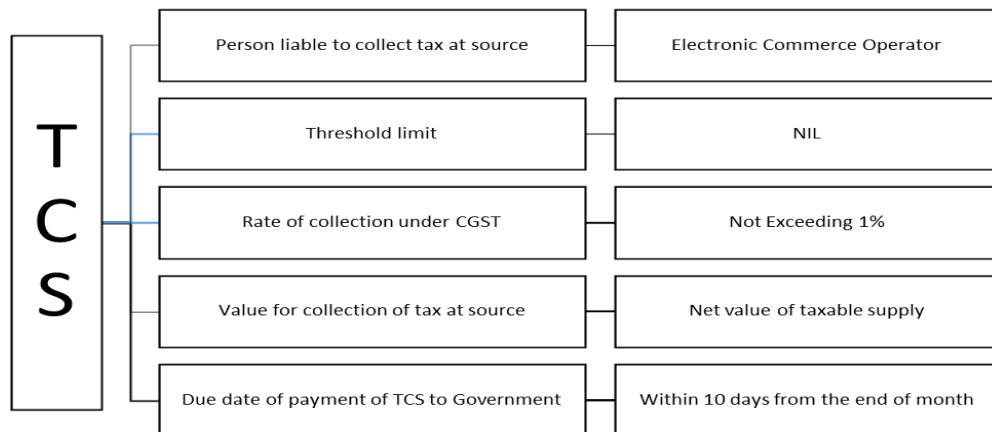
2. E-Commerce operator should furnish the following
 - (i) GSTR-8 - within 10 days of the succeeding month
 - (ii) Annual Statement - within 31st day of December of the next financial year

The following details are required to be furnished

- outward supplies of goods or services or both
- supplies returned
- amount of TCS

The amount of tax collected is reflected in the Electronic Cash Ledger of supplier because the related monthly return is filed by E-Commerce Operator.

Background Material on GST Law for Commerce Students



Question Bank

FAQs

1. What are the three types of ledgers to be maintained by a taxable person under the GST law?
Ans. Electronic credit ledger, Electronic cash ledger and electronic liability ledger
2. What are the deposit amounts that are reflected in Electronic Cash Ledger?
Ans. Electronic cash ledger contains details of deposit made towards tax, interest, penalty or any other amount
3. How ITC available in the electronic credit ledger can be utilized for payment of tax liability?
Ans. Credit of IGST is utilized against liabilities of IGST/CGST/SGST, Credit of CGST is utilized against liabilities of CGST/IGST and credit of SGST is utilized against liabilities of SGST/IGST.
4. Which date is considered the date of deposit of the tax dues?
Ans. The date of credit to the Government account
5. What is the threshold limit for tax deduction at source?
Ans. If the total value of supply exceeds 2.5cr, then tax would be deducted at source.
6. Is it compulsory to deduct TDS even where location of supplier and place of supply are different from the state of registration?
Ans. When location of supplier & place of supply are different from the state of registration of recipient, no TDS would be deducted.
7. Is it mandatory for e-commerce operator to obtain registration?

Ans. Yes, it is mandatory for e-commerce operator to obtain registration.

8. Whether e-Commerce operator is required to obtain registration in every State/UT in which suppliers listed on their e-commerce platform are located?

Ans. Yes, e-commerce operator is required to obtain registration in every state/UT in which supplier listed on their e-commerce platform are located.

9. Is it necessary for E-Commerce operators who are already registered under GST and have GSTIN to have separate registration for TCS as well?

Ans. E-Commerce operator has to obtain separate registration for TCS irrespective of the fact whether e-Commerce operator is already registered under GST as a supplier or otherwise and has GSTIN.

10. Is TCS collected on exempt supplies?

Ans. No, TCS is not collected on exempt supplies.

MCQs

1. Modes of depositing payment of tax, interest, fees, penalty can be done through-

- (a) Internet banking
- (b) RTGS/NEFT
- (c) Credit/Debit cards
- (d) All of the above

Ans. (d) All of the above

2. What is the rate of interest for delayed payment of tax?

- (a) 20%
- (b) 18%
- (c) 5%
- (d) 28%

Ans. (b) 18%

3. What is the rate of interest for availment or utilization of input tax credit?

- (a) 20%
- (b) 18%
- (c) 5%
- (d) 24%

Ans. (d) 24%

4. What is the rate for deduction of tax at source?

- (a) 10%
- (b) 2%
- (c) 1%
- (d) 5%

Ans. (c) 1%

5. What is the due date of payment of tax deducted at source?

- (a) Within 10 days from the end of the month
- (b) Within 20 days from the end of the month
- (c) Within 5 days from the end of the month
- (d) Within 30 days from the end of the month

Ans. (a) Within 10 days from the end of the month

6. Which GSTR is to be filed by the E Commerce Operator?

- (a) GSTR 8
- (b) GSTR 7
- (c) GSTR 1
- (d) GSTR 3B

Ans. (a) GSTR 8

Chapter 12

Offences & Penalties

Learning Objective

This chapter discusses the concepts of penalties for various offences, detention and seizure of goods, punishment for offences, and compounding of offences.

Coverage

- I. Nature of Offence and prescribed Penalty
- II. General Disciplines for imposition of Penalty
- III. Waiver of Penalty or Fee or both
- IV. Detention and seizure of goods
- V. Confiscation of goods or conveyance
- VI. Punishment for certain offences
- VII. Liability of officers and certain other persons
- VIII. Trial of offences by Courts and their sanction
- IX. Presumption of culpable mental state
- X. Relevance of statements in certain circumstances
- XI. Offences by companies
- XII. Compounding of offences

Introduction

Effective implementation of any law requires strict action against the defaulters. To ensure proper implementation of the GST law and to prevent tax evasion and corruption, the government has prescribed fees, interest and penalties. Various kinds of penalties have been prescribed by the government for different types of offences committed by a taxable person. This chapter covers penalties imposed for violation of laws under the GST.

Analysis/Illustrations/Charts

Nature of Offence and prescribed Penalty

The CGST Act describes penalties for various specified offences committed by a person as under:

Nature of Offence	Prescribed Penalty
<p>A taxable person</p> <ul style="list-style-type: none">• Supplies any goods without invoice or incorrect invoice• Issues invoice without supply of goods• Collects tax but does not pay within 3 months of the due date• Fails to deduct or collect tax or fails to pay it to the government• Takes input tax credit without actual receipt of goods• Obtains refund by fraud• Manipulates financial records• Gives false information/return• Takes or distributes ITC in violation of the ISD provisions• Fails to get registered even though liable to do so• Transports taxable goods without documents• Fails to maintain books of accounts or any other documents• Fails to provide information and documents demanded by any officer or• Furnishes false information or documents during any proceedings• Prevents an officer from discharging duty• Supplies, transports or stores goods which are liable for confiscation• Does not disclose turnover leading to evasion of tax• Issues invoices or document by using the registration number of another person	<p>Higher of the following: Rs. 10,000 or An amount equivalent to the amount of tax evaded</p>

<ul style="list-style-type: none"> • Tamperers or destroys any material evidence or document • Disposes or tampers goods detained, seized or attached etc 	
If non-payment of tax is (a) Not due to fraud or intentional error/omission (b) Due to fraud or intentional error/omission	a) Higher of following: Rs. 10,000 or 10% of tax due b) Higher of the following: Rs 10,000 or amount of tax due
<ul style="list-style-type: none"> • Applicable to any person who helps in causing certain offences • Who keeps or deals with goods which are to be confiscated • Deals in services in violation of the GST law • Fails to appear before the GST officer when called; • Fails to issue invoice or account for it 	Up to Rs. 25,000
Failure to furnish information return	Rs. 100/day with maximum penalty of Rs. 5,000
General Penalty for any violation not listed above	Up to Rs. 25,000

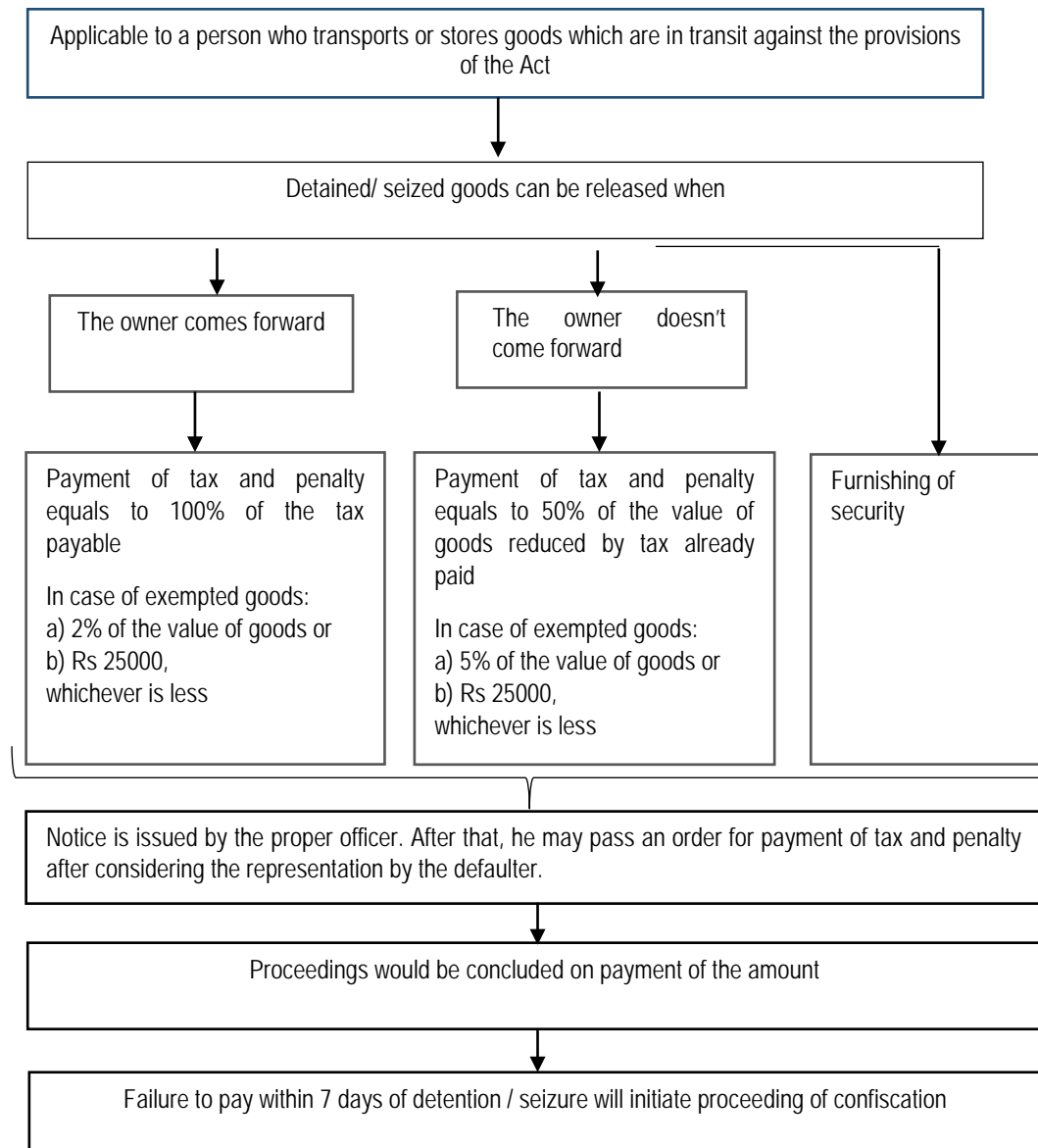
General rules for imposition of penalty

- No penalty would be applicable for minor violation of tax law where tax involved < Rs. 5000
- No penalty for omission or mistake in documentation which can be easily rectified
- Penalty would be dependent on facts and circumstances of each case and severity of violation
- No penalty without giving an opportunity of being heard
- Officer to specify the nature of breach and the applicable law, regulation or procedure
- If a person voluntarily discloses the breach, then his penalty may be lower as compared to when the officer finds it out
- The lower penalty would not be applicable where the penalty is prescribed under the Act as either a fixed sum or expressed as a fixed percentage

Waiver of penalty or fee or both

The Government can waive penalties or late fees in case of delayed filing of returns under certain special situations.

Detention and seizure of goods



Confiscation of goods or conveyance

All goods or conveyances should be liable to confiscation if a person:

- Supplies / receives goods with the intention to evade tax
- Does not account for goods on which he is liable to pay tax
- Supplies goods liable to tax without registration

- Violates the law with intent to evade the payment of tax
- Uses conveyance to transport goods which is in violation of the law

In case of confiscation of goods

- There is an option to pay fine to get the confiscated goods released
- Fine should not exceed the market value of goods confiscated less tax chargeable.
- Aggregate of fine and penalty leviable should not be less than the penalty leviable for detention

In case of confiscation of conveyance

- Fine should be equal to the tax payable on goods being transported.

Other points:

- When a fine is imposed, the owner will also be liable to tax and penalty
- No order for confiscation will be issued without opportunity of being heard
- The title of the confiscated goods vests with the Government.
- The officer adjudging confiscation can take assistance from a police officer for taking possession of goods
- If satisfied that the goods would not be needed anymore and after reasonable time, the officer may sell the goods and deposit sale proceeds with the Government

Punishment for certain offences

Offences such as:

- (a) supply of goods without issuance of invoice,
- (b) issuance of bill without supply,
- (c) wrongly availment of ITC without receiving actual supply,
- (d) collects taxes but fails to pay within 3 months from the due date of payment
- (e) Evades tax, fraudulently avails ITC or refund,
- (f) Manipulates financial records or
- (g) Gives false information/return with intent to evade tax
- (h) prevents any officer from discharge of duties,
- (i) acquires or deals in goods liable to confiscation,
- (j) receives/concerned with services in contravention,
- (k) fails to supply false information,

Background Material on GST Law for Commerce Students

- (l) destruction of material evidences, etc.,
- (m) attempting to commit or abetting commission of offence given above

Nature of Offence	Amount Involved	Period of Maximum Imprisonment and Fine
Tax evaded or Input Tax Credit wrongly taken or utilized, or refund wrongly taken	Exceeds Rs 1 crores but upto Rs 2 crores	1 year and fine
	Exceeds Rs 2 crores but upto Rs 5 crores	3 years and fine
	Exceeds Rs 5 crores	5 years and fine
Helps in commission of certain offences		6 months or fine or both
For subsequent offence	No limit	5 years and fine

- Without any specific reason recorded by the Court, the term of imprisonment is not to be less than 6 months.
- All offences are non-cognizable and bailable except in the cases where tax evasion is more than Rs. 500 Lakhs.
- A person is not to be prosecuted without the previous sanction of the Commissioner.

Liability of officers and certain other persons

- The following persons will be punishable if they wilfully disclose any information to which they are privy:
 - Any person engaged in the collection, compilation or computerization of statistics
 - Any officer of the central tax having access to information return
 - Any person engaged in service on the common portal
 - Agent of the common portal
- If information is disclosed for the following purposes, they would not be punishable:
 - for the purpose of prosecution for an offence under this act or any other act
 - for the execution of their duties

Penalty Imposed:

- Imprisonment up to 6 months;
- Fine upto Rs 25000;
- Both

- A person should be prosecuted for any offence under this section:
 - In case of Government servant – only with the previous sanction of the Government.
 - In case of Non- Government servant – only with the previous sanction of the Commissioner.

Trial of offences by Court and their sanction

Courts lower than Magistrate of the First Class should not declare the judgment for any offence committed under this act. Further, previous sanction of the commissioner is required in these cases.

Presumption of culpable mental state

- Any offence under this act would be presumed to be done in a culpable mental state by the court
- This means assuming that the offence was committed with the intent of evading taxes
- However, the accused can defend himself by proving that he was not in such a mental state.
- This fact is said to be proved only when the court believes it beyond reasonable doubt and not on its probability.

Relevance of statements in certain circumstances

A statement signed by a person during the course of proceeding is relevant for proving the truth of the facts in any prosecution for an offence under this Act in the following situations:

- When the person who made the statement is:
 - Dead or cannot be found
 - Incapable of providing evidences
 - Restricted by the adverse party
 - Presence of the person requires time or expenses involved for presenting the person, is considered unreasonable by the court
- When the person who made the statement is considered as a witness by the court, the statement should be produced as an evidence.

Offences by companies

- **Offence committed by a company**
 - Every person of the company is deemed guilty if the offence is committed during the time he is responsible for the conduct of its business.

- If it is proved that the offence was committed with the consent of the key managerial persons or because of negligence on their part, they will also be deemed
- **Offence by Partnership Firm or LLP or a HUF or a Trust**
 - The partners or karta or the managing trustee should be deemed to guilty for an offence committed under this act.
 - If proved that the offence was committed without their knowledge or all measures were exercised to stop such offence then they should not be held liable.

Compounding of offences

- Compounding of offences means agreeing to pay a certain sum of money with the assurance that the payer/offender would not be prosecuted.
- Compounding is allowed only after paying tax, interest and penalty connected with the offence.
- Any other proceeding which are instituted under any law should not be affected if compounding is allowed under this act.
- Compounding of offences -

Minimum limit	Maximum limit
Higher of the following	Higher of the following
Rs. 10,000	Rs. 30,000
Or	Or
50% of tax involved	150% of tax involved

- Commissioner may determine the amount of compounding.
- After payment of the relevant amount by the accused, no further proceeding should be initiated under this Act.
- Any criminal proceeding which has already been initiated will stand abated.

Illustrations

1. Mr. X, a taxable person collects tax on 1st August, 2017 and pays the tax to the government on 1st February, 2018 will he be liable for penalty under the GST?

(a) Tax amounting to Rs. 6,000

(b) Tax amounting to Rs.4,000

Ans. As per the provision, if any taxable person collects tax but fails to pay the same to the government within 3 months from the due date of payment, then he should be liable for penalty under GST-

Higher of – Rs. 10,000 or an amount equivalent to the amount of tax evaded

Where tax involved < Rs. 5000, it would be considered as minor breach and no penalty would be leviable.

(a) Mr. X pays the tax on 1st February, 2018 i.e., after 3 months from the due date of payment. Hence, he is liable to pay penalty- Higher of

(I) Rs. 10,000 or

(II) amount of tax evaded i.e., Rs.6,000

(b) As the amount does not exceeds Rs.5,000, no penalty would be leviable.

2. Mr. A, a taxable person supplies goods amounting to Rs. 6 Cr. without issuing any invoice (intention to evade tax). Is he liable for penalty under the GST?

Ans. If any taxable person supplies goods without issuing any invoice with the intention of evading taxes, he should be liable for punishment under GST. In above case as tax evaded exceeds Rs. 5 Cr, Mr. A would be liable for imprisonment for 5 years along with fine. Further, penalty of Rs. 10000 and amount equivalent to tax evaded would also be applicable.

Question Bank

FAQs

1. Can the Government waive late fees under the GST law?

Ans. Yes, the Government can waive penalties or late fees for taxpayers in specific situations.

2. What would be the penalty for not filing the information return?

Ans. Penalty for not filing the information return would be Rs. 100/ day with the maximum penalty of Rs. 5,000.

3. In which cases would general penalty be leviable?

Ans. Where there is no specific provision for penalty, general penalty would be attracted.

4. What is 'minor breach'?

Ans. If the amount of tax does not exceed Rs.5, 000, then it is considered a minor breach.

5. What would be the penalty in case of detention/seizure of goods or conveyance?

Ans. The penalty in case of detention/ seizure of goods or conveyance is as follows-

In case of owner – payment of tax and penalty equals to 100% of the tax payable

In case of exempted goods, 2% of the value of goods or Rs.25,000, whichever is less

In any other case- penalty equal to 50% of the value of goods reduced by tax already paid

In case of exempted goods, 5% of the value of goods or Rs. 25,000, whichever is less

Background Material on GST Law for Commerce Students

6. What is the maximum amount of fine in case of confiscation of goods?

Ans. The maximum amount of fine should not exceed the market value of goods confiscated less tax chargeable.

7. What is the maximum amount of fine in case of confiscation of conveyance?

Ans. The maximum amount of fine should be equal to the tax payable on goods being transported.

8. Upon confiscation of goods by the proper officer, in whose name does the title of the goods stand?

Ans. Upon confiscation, the title of the confiscated goods vests with the Government

9. What is the penalty imposed on the officer for disclosing any information?

Ans. Penalty imposed on the officer for disclosing any information is-

- (a) Imprisonment up to 6 months;
- (b) Fine up to Rs.25,000;
- (c) Both

10. What are the consequences of offences committed by companies?

Ans. Every person who at the time of offences being committed was responsible for the conduct of the business of the company should be liable for penalties.

MCQs

1. If a person obtains refund fraudulently, then he is liable for penalty of-

- (a) Rs. 10,000 or amount of tax evaded- higher
- (b) Rs. 10,000 or amount of tax evaded - lower
- (c) Rs. 5,000 or amount of tax evaded- higher
- (d) Rs. 10,000

Ans. (a) Rs.10,000 or amount of tax evaded- higher

2. What is the maximum penalty for not filing of information return?

- (a) Rs.10,000
- (b) Rs.5,000
- (c) Rs.20,000
- (d) Rs.6,000

Ans. (b) Rs.5,000

3. What is the maximum amount of general penalty leviable under the GST Act?

- (a) Rs.25,000
- (b) Rs.50,000
- (c) Rs.20,000
- (d) Rs.10,000

Ans. (a) Rs.25,000

4. Detained goods can be released after –

- (a) Furnishing of security
- (b) Payment of tax and penalty
- (c) Either (a) or (b)
- (d) Both (a) or (b)

Ans. (c) Either (a) or (b)

Chapter 13

E-Way Bill

Learning Objective

This chapter discusses the circumstances in which the e way bill is issued. It also discusses the person responsible for issuing e way bill under various modes of conveyance. The validity period of the e way bill is meant to prevent any misuse of this electronic form. Further various documents to be carried during the course of transit have also been discussed in this chapter.

Coverage

- I. Person in charge of conveyance to carry prescribed documents and devices
- II. Documents to be carried
- III. Devices that are to be carried
- IV. Threshold limit for carrying E-Way Bill
- V. Calculation of Consignment Value
- VI. Types of Movements covered by E-Way Bill
- VII. Form of E-Way Bill
- VIII. Person responsible for issuing E-Way Bill
- IX. Transportation of Goods by Road
- X. Transportation of Goods by Rail
- XI. Transportation of Goods by Air or Vessel
- XII. Where aggregate of consignment value carried in conveyance is more than ₹ 50000/-
- XIII. Optional generation of Consolidated E-Way Bill for multiple assignments
- XIV. Optional generation of E-Way Bill
- XV. Unique E-Way Bill Number
- XVI. Updation of details of conveyance and assignment of E-Way Bill
- XVII. Time Limits under E-Way Bill
- XVIII. Extension of Validity Period
- XIX. Exemption from E-Way Bill

Introduction

E way bill has been introduced to check tax evasion in the movement of high value goods exceeding ₹ 50000/-. It is a document generated on the portal to inform the department about the movement of goods. Its purpose is to secure maximum tax compliance and thus to protect tax revenues of the country.

Analysis/Illustrations/Charts

1. Person in Charge of the Conveyance to carry prescribed Documents and Devices

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. [S. 68(1) of CGST]

2. Documents to be carried [R. 138A(1)]

The person in charge of a conveyance shall carry—

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the **e-way bill** in physical form or the e-way bill number in electronic form

3. Devices that may be carried [R. 138A(4)]

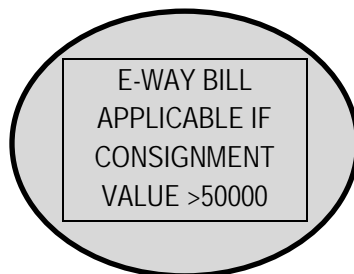
The Commissioner may, by notification, require a class of transporters

- 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

4. Threshold Limit for carrying E-Way Bill

Every registered person who causes movement of goods of consignment value **exceeding fifty thousand rupees** is required to furnish information in E-way Bill **before commencement of movement of goods** [R. 138(1)]



Exceptions:

Goods sent for Interstate Job Work

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 [3rd Proviso to R. 138(1)]

Handicraft goods sent for Interstate supply by persons exempted from registration

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 the e-way bill shall be generated by the said person irrespective of the value of the consignment [4th Proviso to Rule 138(1)]

- For Inter-state taxable supply of goods or services, registration is mandatory and there is no exemption from registration available up to ₹ 20 lacs which is available for intra state taxable supplies. However, Inter-state supply of Handicraft goods up to ₹ 20 lakhs has been exempted from registration by a separate notification subject to condition that:
 - a) PAN is obtained
 - b) E-Way Billing is done

5. Calculation of the Consignment Value

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.

Consignment Value Includes taxes

The consignment value of goods includes the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document.

Consignment Value excludes value of Exempt Supply

The consignment value of goods shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Illustration No.1:

Value of Goods excluding taxes = ₹ 42,380

Taxes @ 18% = ₹ 7,628

Total Consignment Value = ₹ 50008

E-Way Bill is required because although value of goods is lesser than 50,000 consignment value including taxes is more than ₹ 50,000

Illustration No.2

Taxable Goods = ₹ 40,000

Exempt Goods = ₹ 15,000

Tax on Taxable Goods@ 18%= ₹ 7,200

Total Value of Invoice = ₹ 62,200

Although the value of invoice is ₹ 62,200, but consignment value excluding exempt goods is ₹ 47200/- which is lesser than the threshold limit of ₹ 50,000/-. **Hence E way Bill is not required.**

The registered person or, the transporter may opt to, generate and carry the e-way bill even if the value of the consignment is less than **fifty thousand rupees** [1st Proviso to Rule 138(3)]

6. Types of Movements covered by E-Way Bill

The movements covered are:

- (i) in relation to a supply; or
- (ii) for reasons other than supply (E.g. Job Work, For own use, Sale or approval]; or
- (iii) due to inward supply from an unregistered person,

7. Form of E-Way Bill

E-Way Bill is prepared in Form GST-EWB-01 on website ewaybillgst.gov.in after logging in with user ID and password in two parts

Background Material on GST Law for Commerce Students

Part A of Form EWB-01	1	Transaction Type	Outward or Inward
	2	Transaction Sub type	Select Either of Supply, Export/Import, Job Work, SKD/CKD, Recipient Not Known, For Own Use, Exhibition or Fairs, Line Sales, or Others
	3	Document Type	Select Either of-Tax Invoice, Bill of Supply, Bill of Entry, Delivery Challan, or Others
	4	Document No.	
	5	Document Date	
	6	Bill From	Name, GSTIN, State
	7	Dispatch From	Address, Place, PIN Code, State
	8	Bill to	Name, GSTIN, State
	9	Ship to	Address, Place, PIN Code, State
	10	Item Details	Product Name, Description, HSN, Quantity, Unit, Value, Tax Rate, Tax Amount, Total Invoice Value
	11	Transportation Details	Transporter Name, Transporter ID, Approximate Distance(in KM)
Part-B of Form EWB-01	1	Mode of Transport	Select Either of-Road, Rail, Air or Ship
	2	Vehicle Type	Regular, Over Dimensional
	3	Vehicle Number	
	4	Transporter Doc No. & Date	

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.[Rule 138(4)]

8. Person Responsible for Issuing E-Way Bill

A registered person responsible for causing movement of goods shall before commencement of movement of goods, furnish information relating to goods as specified in Part A of Form GST EWB-01 [Rule 138(1)]. The unregistered person too has the option to generate the e way bill by getting enrolled for issuing e-way bill on website. [2nd Proviso to Rule 138(3)]

Supply of goods by an unregistered supplier to registered recipient

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 1 to Rule 138(3)]

9. Transportation of Goods by Road

(a) Generation of E-way bill by registered person

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. [Rule 138(2)]

(b) Generation of E- Way Bill by Transporter

Where the e-way bill is not generated by registered person causing movement of goods 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 [Rule 138(3)] Hence transporter shall only provide information relating to Part B of GST EWB-01 i.e. mode of transport, vehicle type, vehicle Number, transport doc no. and date. This provision facilitates the registered person who does not have the complete information at the time commencement of movement of goods. Part A of E way bill is valid for updation for a period of 15 days for updation of Part B of E way Bill.[2nd Proviso to Rule 138(9)]

(c) Furnishing Information in Part A of E Way Bill on authorization

On authorization received from a registered person, the following persons 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, after which unique number will be generated on the said portal

- (i) Transporter
- (ii) E-Commerce Operator through whom goods are supplied
- (iii) Courier Agency through whom goods are supplied

(d) Validity of Part A of E way bill

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

(i) Intra State Movement up to 50 Kms from the place of consignor to the place of transporter

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.[3rd Proviso to Rule 138(3)]

(ii) Intra State Movement up to 50 Kms from the place of transporter to the place of consignee

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.

10. Transportation of Goods by Rail

Where the goods are transported by rail 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. Where the goods are transported by rail, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery. However, it is not mandatory to carry copy of E-way bill in physical or electronic form during transit.

11. Transportation of Goods by Air or Vessel

Where the goods are transported 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. However, it is not mandatory to carry copy of E-way bill in physical or electronic form during transit.

12. Where aggregate of consignment value carried in conveyance is more than Rs. 50,000/-

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. Hence where individual consignments are

lesser than ₹ 50,000/- but aggregate of consignments being carried in conveyance is more than ₹ 50,000/-, no E way bill is required for intra state movement of goods. For inter state movement of goods also, the provisions have been kept in abeyance where aggregate of consignment value of goods carried in conveyance is more than ₹ 50,000/-.

13. Optional Generation of Consolidated E Way bill for Multiple Assignments

Where multiple consignments are transported in one conveyance, the transporter may indicate the serial number of the e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 may be generated by him on the said common portal prior to the movement of goods.

14. Optional Generation of E Way Bill

- (a) E way bill may be generated by registered person or transporter even when the value of the consignment is less than ₹ 50,000/- [1st Proviso to Rule 138(3)]
- (b) Where movement of goods is caused by unregistered person, still such unregistered person or the transporter may generated E way bill at their option [2nd Proviso to Rule 138(3)]

15. Unique E way Bill Number [R. 138(4)]

Upon generation, Unique E Way bill number [EBN] is made available to:

- (a) Supplier
- (b) Recipient
- (c) Transporter

16. Updating of details of Conveyance and Assignment of E way bill [R. 138(5) & (5A)]

Where the goods are transferred from one conveyance to another, before such transfer and further movement of goods, details of conveyance shall be updated in E way bill

Where goods are assigned to some other transporter, the transporter can assign the E way bill to other transporter, registered or enrolled on web site.

17. Time Limits under E way Bill

• Validity Period of Part A of E-way Bill before updation of Part B [2 nd Proviso to R. 138(9)]	15 Days
• Period of Cancellation of E way Bill after generation, where goods are not transported or not transported as per details in	24 Hours from the

Background Material on GST Law for Commerce Students

E way Bill [R. 138(9)]	generation of E way bill
• Period for rejection of E way bill by the recipient [R. 138(12)]	72 hours from make available the details
• Validity period of E way Bill after generation, up to 100 Kms (for normal sized cargo)	1 day expiring on midnight of the following day
• Validity Period of E way bill for every additional 100 Kms or part (for normal sized cargo)	1 Additional day
• Validity period of E way Bill after generation, up to 20 Kms (for over dimensional cargo)	1 day expiring on midnight of the following day
• Validity Period of E way bill for every additional 20 Kms or part (for over dimensional cargo)	1 Additional day

18. Extension of Validity Period

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 [2nd Proviso to Rule 138(10)]

19. Exemption from E-Way Bill

Following are exempted from E way bill

1	Exempted Goods, other than de-oiled cake, specified in 2/2017-CGST Rate as amended from time to time [R.138(14)(e)] like a) live animals (b) unfrozen meat, fish (c) Fresh Milk, curd, lassi (d) unbranded paneer (e) fresh fruits (f) vegetables (g) Unbranded rice, flour etc., (h) salt (i) bread (j) plastic and glass bangles, (k) firewood, (l) newspaper, books (m) Manually operated or Animal driven Agri-implements, (n) Puja Samagri.
2	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
3	Where the goods being transported are treated as no supply under Schedule III of the Act
4	LPG for supply to Household and non-domestic exempted category
5	Kerosene oil sold under PDS
6	Postal baggages transported by Department of Posts

7	Natural or Cultured Pearls and precious or semi-precious stones; precious metals and metals clad with precious metals. Jewellery, goldsmiths' and silversmiths' wares and other articles.
8	Currency
9	Used Personal and Household Effects
10	Corals
11	Movement of empty cargo containers also exempted from E way Bill
12	Transit cargo from or to Nepal and Bhutan
13	Movement of goods with in areas notified by states in their Rule 138(14)(d) of GST Rules
14	Transportation of goods from port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
15	goods being transported from ICD/CFS to customs port, airport, air cargo complex and Land Customs station.
16	Movement of goods from one customs station or customs port to another
17	movement of goods under customs supervisions or under customs seal
18	Transportation of goods from Canteen Stores Department to Unit Run Canteen and authorized customers and from Unit Run Canteen to authorized customer
19	Movement of goods caused by defence formations under Ministry of defence.
20	Transportation of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India
21	Transportation of goods by rail by or to the Government including Central government, State government, local authority

Question Bank

FAQs

1. What is an E-Way bill?

Ans. E-way bill is an Electronic Way bill for movement of goods to be generated on the E-way bill portal. A GST registered person cannot transport goods in a vehicle whose value exceeds Rs.50, 000/- **without an e-way bill** that is generated on **ewaybillgst.gov.in** Alternatively, E-way bill can also be generated or cancelled through SMS, Android App and by site-to-site integration through API. When an E-way bill is generated, a unique E-way Bill Number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

2. What is the threshold limit applicable for generation of an E-Way Bill?

Ans. Every registered person who causes movement of goods of consignment value exceeding 50,000/-

(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 in **Part A of FORM GST EWB-01**, electronically, on the common portal.

3. What are the time limits after which E-Way shall be rendered as invalid?

Ans. An e-way bill or a consolidated e-way bill generated shall be valid for the following period

S. No	Distance	Validity Period
1	Up to 100 km	One day
2	For every 100 km or part thereof thereafter	One additional day

Note: 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.

4. Explain the circumstances under which e-way bill is not required?

Ans. In the following events, no e-way bill is required to be generated—

(a) where the goods being transported are specified in Annexure of Rule 138 of the CGST Rules;

(b) where the goods are being transported by a **non-motorized 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; and

(d) In respect of movement of goods within such areas as are notified under Rule 138(14) (d) of the Goods and Services Tax Rules of the concerned State.

(e) 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 transporter may not furnish the details of conveyance in **Part B of FORM GST EWB-01**.

5. What are the exceptions to threshold limit for carrying E-Way Bill?

Ans. Following are the exceptions to threshold limit for carrying E-Way Bill:-

1. In case of **goods sent for Inter-state Job Work**, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment.
2. **Handicraft goods sent for Inter-state supply** by persons exempted from registration e-way bill shall be generated by the said person irrespective of the value of the consignment.

6. Is there any provision to extend the validity period of E-way bill?

Ans. Where under the 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**.

7. What are the exemptions from E-Way Bill?

Ans. Following are **some** of the exemptions from E-Way bill:

1. Exempted Goods
2. 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
3. Used Personal and Household Effects
4. Currency
5. Natural or Cultured Pearls and precious or semi-precious stones; precious metals and metals clad with precious metals. **Jewellery, Goldsmiths and silversmiths' wares and other articles.**

MCQs

1. Every registered person who causes movement of goods of consignment value exceeding in relation to a supply or for reasons other than supply or due to inward supply from an unregistered person shall, before commencement of such movement, file **FORM GST EWB-01**.
 - (a) 50,000/-
 - (b) 1,00,000/-
 - (c) 70,000/-
 - (d) None of the above

Ans. (a) 50,000/-

2. When the movement of goods is caused by an unregistered person the e-way bill shall be generated by:

- (a) Unregistered person himself
- (b) The Transporter
- (c) Either of them
- (d) Neither of them

Ans. (c) Either of them

3. When is the e-way bill not required to be generated?

- (a) Where the goods being transported are specified in Annexure to Rule 138 of the CGST Rules;
- (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; and
- (d) All of the above

Ans. (d) All of the above

4. What is the valid tenure for the e-way bill for a distance of upto 100 KMS?

- (a) One day
- (b) Two days
- (c) One week
- (d) None of the above

Ans. (a) One day

5. What is the valid tenure for an e-way bill for a distance of more than 100 km?

- (a) One day + One additional day for every 100 km or part thereof thereafter
- (b) Two days
- (c) One week
- (d) None of the above

Ans. (a) One day + One additional day for every 100 km or part thereof thereafter

Chapter 14

Job Work

Learning Objective

This chapter defines job work and deals with the procedure for sending goods and bringing them back from a job worker. It also deals with situations where goods are sent directly to Job worker or sent from the premises of job worker to the customer of the principal manufacturer or another job worker. If the goods are not received back in time, lines given by the law state that the original sending point of goods becomes a taxable supply.

Coverage

- I. Job Work means
- II. Job Work treated as Service
- III. Supply of Goods by Registered Job Worker as supply by Principal
- IV. Registration requirement for Job Work
- V. Sending Goods to Job Worker without payment of Tax
- VI. Bringing Back Goods sent to Job Worker without payment of Tax
- VII. Direct supply of Goods from place of business of Job Worker
- VIII. Condition of Direct supply of Goods from place of business of Job Worker
- IX. Responsibility for keeping Proper Accounts
- X. Inputs not received back / supplied within one year
- XI. Capital Goods not received back/ supplied within three year
- XII. Supply of waste/ scrap by Job Worker
- XIII. ITC on Inputs sent to Job Worker by Principal
- XIV. ITC on Inputs sent directly to a Job Worker
- XV. Deemed Supply of Inputs by Principal to Job Worker
- XVI. Calculation of one year for Inputs sent directly
- XVII. ITC on Capital Goods sent to Job Worker
- XVIII. Deemed Supply of Capital Goods by Principal to Job Worker
- XIX. Calculation of three years for Capital Goods sent directly

XX. Procedure for movement of Goods

XXI. Intimation of movement of goods amongst Principal and Job Worker

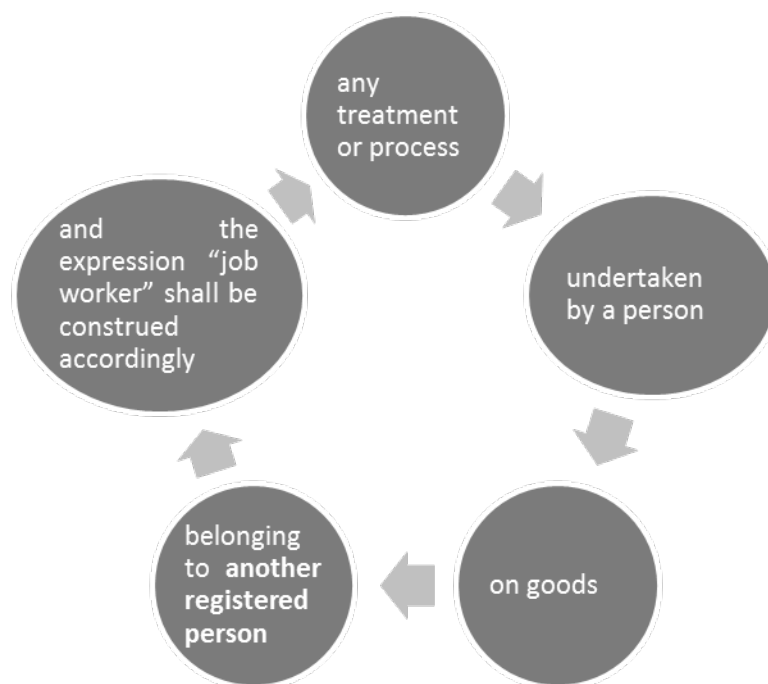
XXII. E-Way Bill for Inter and Intra state Job Work

Introduction

Job work is the treatment or process undertaken by a person on goods belonging to another registered person. Goods sent to job worker are not treated as supply and not taxed, except in certain circumstances. Job work in India is mostly done by small workers and hence the responsibility of compliances has been placed on person sending goods to a job worker (called the principal manufacturer)

Analysis/Illustration/Charts

Job work means



For Example

Mr. A of Maharashtra sends grey cloth to Mr. B of Karnataka for finishing. Mr. A is registered under GST. Mr. B is unregistered. Mr. B sends back grey cloth after finishing. The process of finishing shall be defined as Job Work done by Mr. B

Job Work treated as Service

Any treatment or process which is applied to another person's goods is a supply of services.

For Example

Mr. A of Maharashtra sends grey cloth to Mr. B of Karnataka for finishing. Mr. B uses his chemicals and sends back grey cloth after finishing. The process of finishing shall be defined as Job Work done by Mr. B and shall be treated as supply of service done by him. Chemicals, though goods shall not be separately taxed as good and principal supply being Job work, the entire amount of consideration shall be charged as service and shall not be bifurcated for goods and services.

Supply of Goods by Registered Job Worker treated as supply by Principal

The supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker

For Example

Mr. B after doing job work on the behalf of Mr. A, (principal manufacturer) sends goods directly from his works to Mr. C who is the customer of Mr. A. Mr. B, job worker is a registered person. Goods though removed from the works of Mr. B shall not be added to aggregate turnover of Mr. B and shall rather be added to aggregate turnover of Mr. A. Job work charges, shall however, be added to aggregate turnover of Mr. B

Registration Requirement for Job Work

A job worker is required to obtain registration only if his aggregate turnover exceeds ₹ 20 lacs, irrespective of the fact whether job worker and principal are situated in same state or different states

Example:

- | |
|---|
| 1. Total receipts of job work charges of M/s. Ram & Sons exceeds ₹ 20 lakhs in the month of December, 2018. Hence M/s. Ram Lal & Sons has to get registered under GST. |
| 2. Total receipts of job work charges of M/s. Ravi knitters was ₹ 18.50 lakhs during the relevant financial year. So, M/s. Ravi knitters does not need to get registered under thw GST. |

Sending Goods to Job Worker without payment of tax

A registered person (hereafter 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 to another job worker.

- | |
|---|
| 1. Mr. Ravi, a registered person sent goods for job work to a job worker. Mr. Ravi does not need to pay tax while sending such inputs to job worker, though goods have been removed from his premises. But Mr. Ravi has to give intimation to the department. Intimation is provided in Form ITC 04 which is required to be filed quarterly by Mr. Ravi providing details of goods sent for job work and received back. |
|---|

Bringing Back Goods Sent to a Job Worker without payment of tax

A registered person (hereafter referred to as the "principal") may **under intimation** and subject to such **conditions as may be prescribed**, bring back inputs, **after completion of job work or otherwise**, or capital goods, **without payment of tax**, **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**;

- | |
|--|
| 1. Mr. Ravi, a registered person sent goods for job work to a job worker on 01-12-2017. Mr. Ravi received goods after job work as on 01-03-2018. Since the input goods are received within the prescribed period of 1 year, Mr. Ravi does not need to pay tax on such inputs. |
| 2. Mr. Ravi, a registered person sent capital goods for use in job work to a job worker on 01-12-2017. Mr. Ravi received such capital goods after being used for job work on 01-03-2020. Since the capital goods are received within the prescribed period of 3 year, Mr. Ravi does not need to pay tax on such capital goods. |
| 3. Mr. Ravi, a registered person sent dies and moulds for use in job work to a job worker on 01-12-2017. Mr. Ravi received such dies and moulds after being used for job work on 01-03-2022. Mr. Ravi need not pay tax on such dies and moulds because the limitation of one/three years does not apply to them. |

Note: The limitation of receiving back does not apply to dies, moulds, jigs and fixtures.

Direct Supply of Goods form place of business of Job Worker

A registered person (hereafter in this section referred to as the "principal") may **under intimation** and subject to such **conditions as may be prescribed**, 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

For Example: Mr A sends goods directly to Mr. B from the premises of Mr. C, the job worker. Mr. B is located in New Delhi. Mr. A may send goods on payment of tax directly from the premises of Mr. C by billing to Mr. B and charging tax on goods being billed.

Condition of Direct Supply of Goods from the place of business of a Job Worker

The principal shall not directly supply the goods from the place of business of a job worker in accordance with section 143(1)(b) unless the said principal declares the place of business of the job worker as his additional place of business except in a case where

- (i) 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

1. Mr. Ravi, a registered person has declared the address of M/s. Bajrang & Sons, a job worker as his additional place of business. Hence Mr. Ravi can send goods directly from the job worker's place to its customers, since the job worker's address has already been shown as additional place of his business by him.

2. Mr. Ravi, a registered person has not declared the address of M/s. Bajrang & Sons, a job worker as his additional place of business. Hence Mr. Ravi **cannot** send goods directly from the job worker's place to its customers, since the job worker's address has **not** been shown as additional place of his business by him. Still if the goods are sent by Mr. Ravi, then it may be treated as supply by job worker and not Mr. Ravi and job worker may be required to be registered.

Responsibility for Keeping Proper Accounts

The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal

Maintaining proper accounting records is the responsibility of the Principal

Inputs not received back /supplied within one year

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 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.**

Mr. Ravi, a registered person sent inputs for job work to a job worker on 01-12-2017. Mr. Ravi received such goods after job work as on 01-03-2019. Since the inputs are not

received within the prescribed period of 1 year. Mr. Ravi needs to pay tax on such inputs assuming such inputs were supplied as on 01-12-2017 along with interest amount.

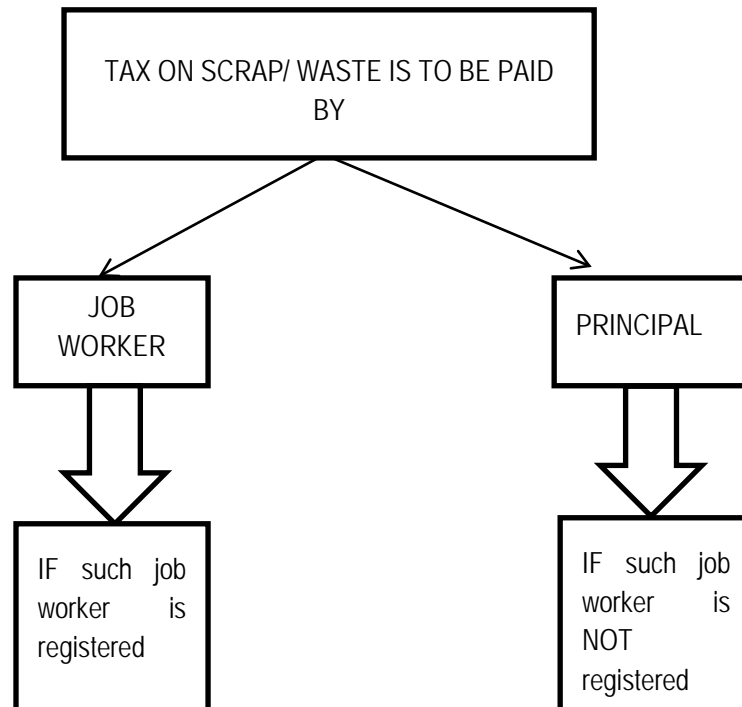
Capital Goods not received back/supplied with in three year

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 or are not supplied from the place of business of the job worker 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**.

Mr. Ravi, a registered person sent capital goods for job work to a job worker on 01-12-2017. Mr. Ravi received such capital goods after job work as on 01-03-2021. Since the capital goods are not received within the prescribed period of 3 year. Mr. Ravi needs to pay tax on such capital goods assuming such capital goods were supplied as on 01-12-2017 along with interest amount.

Supply of Waste/Scrap by Job Worker

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.



ITC on Inputs Sent to a Job Worker by the principal

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

Mr. Ravi sends goods to his job worker for treatment. Mr. Ravi shall not lose the benefit of ITC availed on receipt of goods.

ITC on Inputs Sent directly to Job Worker

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.

Mr. Ravi, a registered person instructs his supplier to send inputs for job work directly to his job worker's place. Though receipt of goods by the recipient is one of the conditions for availing ITC but Mr. Ravi can claim ITC on such inputs without even bringing such inputs to his place of business.

Deemed Supply of Inputs by the Principal to a Job Worker

- 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:

Calculation of one year for inputs sent directly

- 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.

Mr. Ravi directed his supplier to send inputs to his job worker against inputs billed to him on 1-12-2017 but received by job worker on 01-01-2018. Inputs received back from job worker on 15-12-2018. Though period of one year has expired from the date of sending of inputs i.e. 1-12-2017. But 1 year period shall be calculated from

date of receipt of inputs by job worker i.e. 1-1-18 and hence inputs shall not be deemed to be supplied by Mr. Ravi.

ITC on Capital Goods Sent to Job Worker

- 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.
- without being first brought to his place of business.

Mr. Ravi, a registered person instructs his supplier to send capital goods for job work directly to his job worker's place. Hence Mr. Ravi can claim ITC on such capital goods without even bringing such capital goods to his place of business.

Deemed Supply of Capital goods by the Principal to a Job Worker

- 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:

Calculation of three years for capital goods sent directly

- 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

Mr. Ravi directed his supplier to send capital goods for use by his job worker against capital goods billed to him on 1-12-2017 but received by job worker on 01-01-2018. Capital Goods received back from job worker on 15-12-2020. Though period of 3 years has expired from the date of sending of goods i.e. 1-12-2017. But 3 year period shall be calculated from date of receipt of capital goods by job worker i.e. 1-1-18 and hence capital goods shall not be deemed to be supplied by Mr. Ravi.

Procedure for the movement of Goods

The movement of goods for following transactions shall be supported by delivery challan:

Sending Goods by principal to Job Worker	Challan to be issued by Principal
Sending of goods from supplier to Job Worker directly	Challan to be issued by Principal
Sending of goods from one Job Worker to another Job Worker	<p>Challan to be issued by Principal or Job Worker sending the goods to another Job Worker.</p> <p>Challan of the Principal may also be endorsed by the Job Worker indicating therein the quantity and description of goods. In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker</p> <p>Where goods are sent to yet another job worker, the challan of job worker received can also be endorsed by job worker sending goods to yet another job worker</p>
Return of Goods by Job Worker to the principal	<p>Challan of the Principal may be endorsed by the Job Worker indicating therein the quantity and description of goods. In case the goods after carrying out the job work, are sent in piecemeal quantities to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker</p> <p>Where goods are returned to Principal had been received on challan issued/endorsed from another Job worker, goods can be returned back by endorsing the challan of job worker so received</p>

Intimation of movement of goods amongst principal and Job Worker

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 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. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act

E way Bill for Inter and Intra state Job Work

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 [3rd Proviso to Rule 138]

However for Intra state movement of goods, E way bill is not required up to ₹ 50,000/-.

Question Bank

FAQs

1. Does the additionally purchased material by a job-worker, incorporated in the goods received from the principal amount to supply?

Ans. Yes, it amounts to supply in the hands of the job worker as composite supply or otherwise.

2. Can a job worker take input credit on the inputs used in the process of job work?

Ans. Yes, the job worker is eligible to claim input tax credit since the processing charges received in respect of labor charges and the supply of additional goods added is taxable in the hands of the job worker.

3. Is the Job worker liable to pay GST under the reverse charge mechanism on goods or services if notified?

Ans. Yes. In terms of section 9(3) of the CGST Act, 2017 on the specified categories of supply of goods and/or services, the recipient of such goods and/or services is liable to pay GST under reverse charge basis. Further, Section 143 of the CGST Act, 2017 does not provide any exemption to job worker in this regard.

4. Can a registered taxable person send goods without payment of tax to his Job worker?

Ans. Yes. Section 143 of the CGST Act, 2017 provides that the registered taxable person (principal) can send any inputs or capital goods to a job-worker for job-work without payment of tax. He, further can send the goods from one job-worker to another job worker and so on subject to certain conditions.

5. Can the processing charges charged by a job worker be shown separately in the invoice and are they required to charge GST on the same?

Ans. Yes, if the goods supplied by the principal satisfies the conditions as enumerated in section 143 of CGST Act, 2017, then the job worker will have to show the processing charges separately and charge tax only on the processing charges.

6. Whether the goods of principal directly supplied from the job-worker's premises will be included in the aggregate turnover of the Job Worker?

Ans. No. Since the responsibility for accountability of inputs and/or capital goods lies with principal, it will be included in the aggregate turnover of the principal as enumerated in section 143 of the CGST Act, 2017.

7. Under what circumstances can the principal directly supply goods from the premises of Job Worker without declaring it as additional place of business?

Ans. The goods can be supplied directly from the place of business of job-worker without declaring it as additional place of business in two circumstances namely where the job worker is a registered taxable person or where the principal is engaged in supply of goods as may be notified in this behalf.

8. Whether provisions of Section 143 apply in case of Inter-State job-work?

Ans. If the principal desires to directly supply processed goods from the premises of the job worker located in a State different from the State where the principle is registered, the principal will not be permitted to avail this facility allowed by section 143.

9. If the conditions specified in section 143 in respect of receiving back the inputs within stipulated time are not satisfied what is the implications in the hands of principal?

Ans. In terms of section 143(3), if the said inputs are not received back within the stipulated time, then it shall be deemed that the said inputs had been supplied by the principal to the job-worker on the day when the said inputs were sent out.

10. How is the movement of goods to be made to job worker? Is there a need to raise an invoice?

Ans. The principal can move the goods to a job-worker place under the cover of a delivery challan containing the details as specified in rule 55 of the CGST Rules, 2017 only if the goods are removed in terms of section 143 of the CGST Act, 2017.

FAQs

1. Should the principal referred to in Section 143 be registered?

(a) Yes

(b) No

Ans. (a) Yes

2. Who is the principal as per Section 143?

- (a) A person who sends inputs and/or capital goods for job-work
- (b) A registered taxable person who sends inputs and/or capital goods for job-work
- (c) A registered taxable person who supplies inputs and/or capital goods for job-work
- (d) A registered person

Ans. (d) A registered person

3. When will the inputs and/or capital goods sent to job-work become a supply?

- (a) When the inputs and/or capital goods sent to job-worker are not received within 1 year or 3 years respectively
- (b) When the inputs and/or capital goods sent to job-worker are not supplied, with or without payment of tax, from the job-workers place within 1 year or 3 years respectively
- (c) Both under (a) or (b)
- (d) None of the above

Ans. (c) Both under (a) or (b)

4. From what time will the period of one or three years be calculated under Section 143?

- (a) The day when such inputs and/or capital goods are sent to job-worker
- (b) The day when a job-worker receives the said goods directly
- (c) Both (a) and (b)
- (d) None of the above

Ans. (c) Both (a) and (b)

5. Will a principal who sends moulds, dies, jigs, tools and fixtures to job worker's place liable to pay GST on such removal?

- (a) No, it is not a supply
- (b) Yes, if not received within time limit
- (c) No, as capital goods as referred in section 143 excludes moulds, dies, jigs, tools and fixtures.
- (d) None of the above

Ans. (c) No, as capital goods as referred in section 143 excludes moulds, dies, jigs, tools and fixtures

6. GST is applicable on__

- (a) Inputs and/or capital goods sent to job-worker (Satisfying conditions u/s 143)
- (b) The job-worker charges and additional material added by the job-worker on the inputs sent by the principal
- (c) Both of the above
- (d) None of the above

Ans. (b) The job-worker charges and additional material added by the job-worker on the inputs sent by the principal

7. When should a job-worker go for registration?

- (a) Always
- (b) Only if his aggregate turnover exceeds the threshold limits specified under Section 22 of the Act.
- (c) Never
- (d) None of the above

Ans. (b) Only if his aggregate turnover exceeds the threshold limits specified under Section 22 of the Act

8. Can a principal supply inputs and/or capital goods from the job-worker's premises?

- (a) Yes, only when the job-worker is registered
- (b) Yes, even if the job-worker is unregistered by declaring the job-worker's premises as his additional place of business
- (c) Yes, irrespective of whether the job-worker is registered or not, principal is engaged in the supply of goods which are notified by the Commissioner on this behalf
- (d) All of the above

Ans. (d) All of the above

9. Mr. X has sent his goods to Mr. Y on job-work on 07-05-2017. From when it will be considered as deemed supply if not received back within prescribed period of one year (further extended by one year)?

- (a) 06-05-2018
- (b) 07-05-2017
- (c) 03-11-2018
- (d) Not Taxable

Ans. (b) 07-05-2017

10. If the inputs are not received back from the job worker within the prescribed limit by the principal then, who is responsible to pay the GST?

- (a) Job worker
- (b) Principal
- (c) Job worker is responsible when sending such inputs and Principal needs to reverse the ITC taken earlier.
- (d) None of the above

Ans. (b) Principal

Chapter 15

Assessment and Audit

Learning Objective

This chapter discusses various kinds of assessments carried out in different circumstances. It also discusses the audits conducted under the GST under special conditions and circumstances.

Coverage

- I. Meaning of Assessment
- II. Self-Assessment
- III. Provisional Assessment
- IV. Scrutiny of Returns
- V. Assessment of Non- filers of Returns
- VI. Assessment of Unregistered Person
- VII. Summary Assessment
- VIII. Meaning of Audit
- IX. Audit by Tax Authorities
- X. Special Audit

Introduction

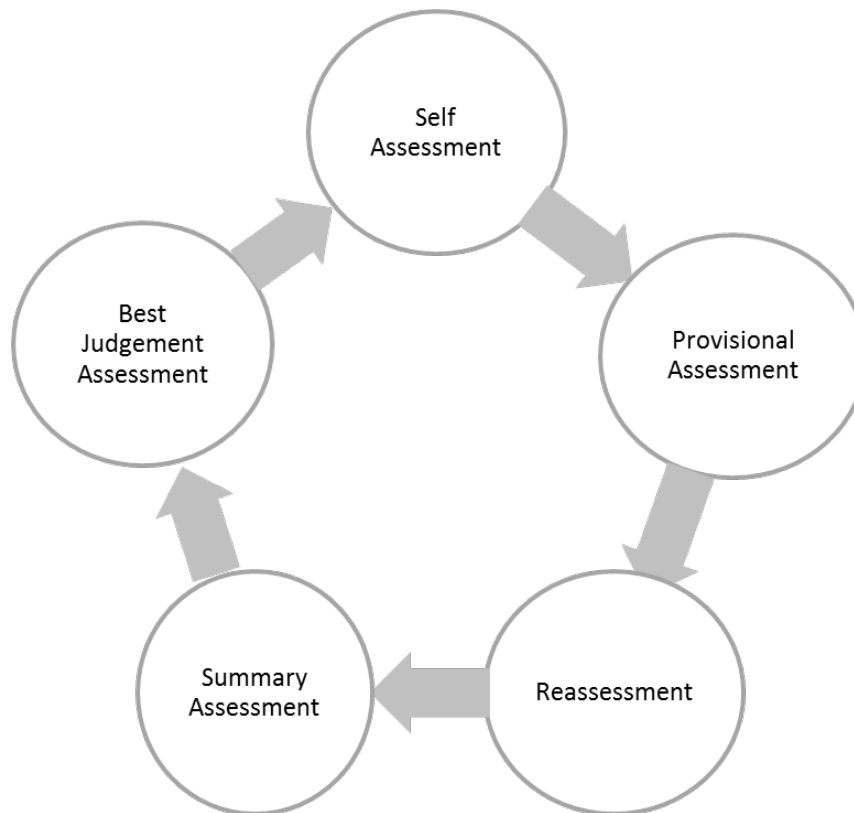
Assessment is the process of determining the amount of tax liability under the GST. Various types of assessments such as self-assessment, provisional assessment, scrutiny, assessment of non-filers, assessment of unregistered persons and summary assessment, are conducted, depending on the circumstances of each case.

There are circumstances in which audit is executed by tax authorities, which have been discussed in this chapter. GST Law also requires a registered person to get done, GST Audit by a Chartered Accountant or Cost and Works Accountant, when his turnover during the financial year exceeds Rs. 2 crores.

Analysis/ Illustrations/Charts

1. Meaning of Assessment [S. 2(11)]

Assessment means determination of tax liability under this Act and includes



2. Self-Assessment [S. 59]

- Every registered person shall self-assess the tax payable under GST Act.
- Every registered person shall furnish a return as specified in section 39 for each tax period.

3. Provisional Assessment [S.60]

3.1 Situations that warrant Provisional Assessment

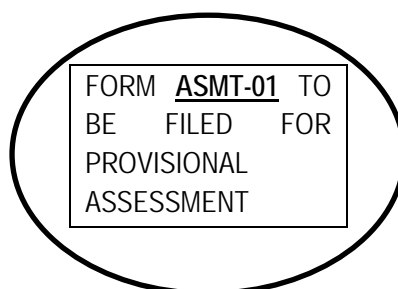
Provisional Assessment can be availed by a taxable person only in two situations only:-

He is unable to determine the value of goods or services or both

He is unable to determine the rate of tax applicable to the value of goods or services

3.2 Request for Provisional Assessment

For availing provisional assessment a request has to be made to the proper officer in writing in **Form ASMT-01** along with supporting documents.

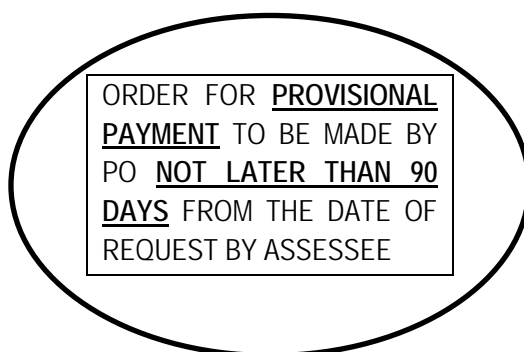


3.3 Seeking Additional Information and Reply

The proper officer may require additional information, which the applicant will provide to him. The applicant can, if he so desires, also appear in person before the PO to give him the information that he wants from him.

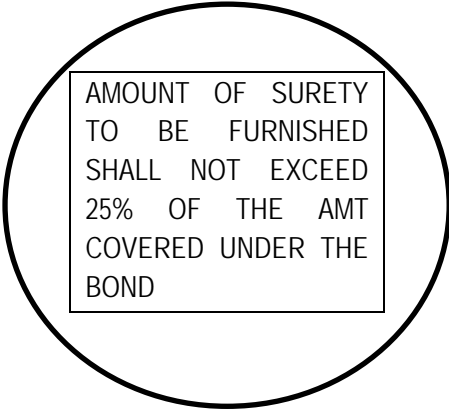
3.4 Order for Provisional Payment of Tax

Proper officer shall issue an order **not later than 90 days from the date of receipt of request** allowing payment of tax on provisional basis. Provisional order shall indicate the **value or rate** on which the assessment is to be allowed.



3.5 Furnishing of Bond and Surety/Security

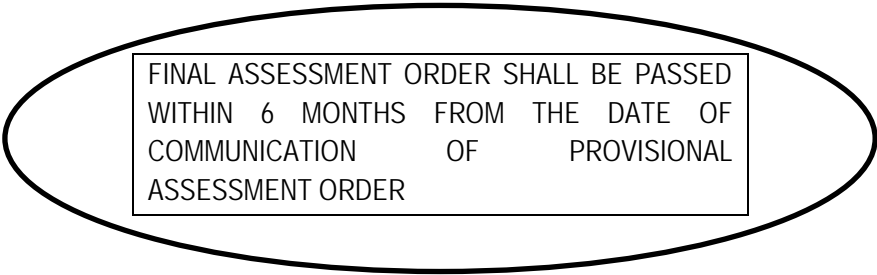
The provisional payment of tax has to be made along with furnishing of bond and surety or security. The execution of bond and surety/security is done to bind taxable person for payment of difference between amount that may be finally assessed and amount of tax provisionally assessed. Provisional Order shall also contain the amount for which bond is to be executed and security to be furnished. The amount of security to be furnished **shall not exceed 25% of the amount covered under the bond**.



AMOUNT OF SURETY
TO BE FURNISHED
SHALL NOT EXCEED
25% OF THE AMT
COVERED UNDER THE
BOND

3.6 Final Order

Proper officer shall pass final assessment order after provisional assessment, taking into account such information as may be required for finalizing the assessment. Notice calling for information required for finalization of assessment shall be issued. Final assessment order following provisional assessment shall be passed within 6 months from the date of communication of provisional assessment order.



FINAL ASSESSMENT ORDER SHALL BE PASSED
WITHIN 6 MONTHS FROM THE DATE OF
COMMUNICATION OF PROVISIONAL
ASSESSMENT ORDER

3.7 Extension of Time Period for passing of Final Order

Joint Commissioner or Addl. Commissioner may extend the period for final assessment following the provisional assessment on

1. Sufficient cause being shown and
2. For the reasons to be recorded in writing

for further period not exceeding 6 months

Commissioner may extend the period for final assessment following provisional assessment on for further period of time but not exceeding 4 years.

3.8 Payment of Interest

Registered person shall be liable to pay interest @ 18% from the first date after due date of payment of tax till the date of actual payment.

Where after final assessment order u/s 60(3) a registered person becomes entitled to refund, interest shall be paid @ 9%. The interest on refund shall run from 61st date from the date of communication of order.

3.9 Release of Security

Application for release of security shall be made after issue of final assessment order. After ensuring that tax specified in final assessment order has been paid, Proper Officer shall release the security by issuing an order within 7 days from the date of receipt of the application.

ORDER FOR RELEASE OF SECURITY SHALL BE MADE WITHIN 7 DAYS FROM THE DATE OF RECEIPT OF APPLICATION BY PO (AFTER ENSURING THAT THE TAX SPECIFIED IN FINAL ASST. ORDER HAS BEEN PAID)

4. Scrutiny of Returns [S. 61]

The return and related information is scrutinized to verify the correctness of the return.

4.1 Discrepancy Notice

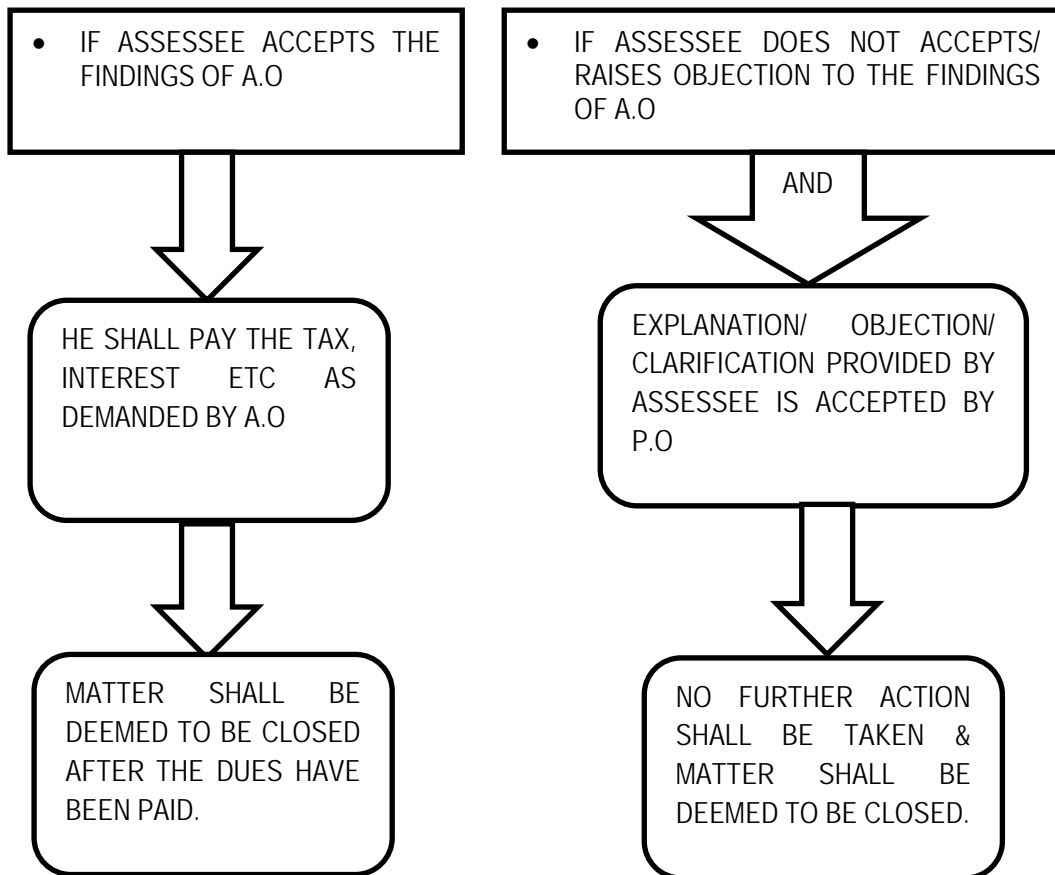
After scrutiny Proper Officer is required to inform the registered person of the discrepancies. Notice informing discrepancies shall afford a time period not exceeding 30 days from the date of service or further period as may be permitted by Proper Officer. Where possible discrepancy notice shall specify the amount of tax, interest and any other amount payable in relation to the discrepancy

PO MAY ISSUE NOTICE INFORMING DISCREPANCY TO ASSESSEE REQUIRING RESPONSE WITHIN 30 DAYS FROM THE DATE OF ISSUE OF NOTICE.

4.2 Acceptance/Explanation of Discrepancy

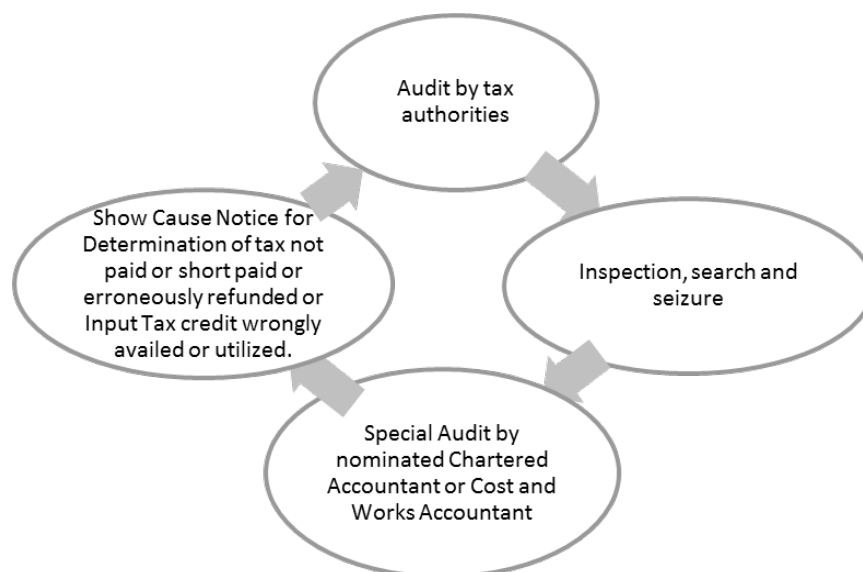
Registered person may accept the discrepancy and pay the tax, interest and other amount arising from such discrepancy and inform the same. Registered person may furnish explanation for discrepancy. If explanation of registered person is acceptable, he shall be

informed and no further action shall be taken in this regard. If explanation of registered person is acceptable, he shall be informed.



4.3 Actions that may be taken after scrutiny of returns

If no explanation is offered in 30 days or further permitted period of being informed about discrepancy or accepted tax is **NOT PAID**, proper officer may take any of following actions against registered person after scrutiny of returns:

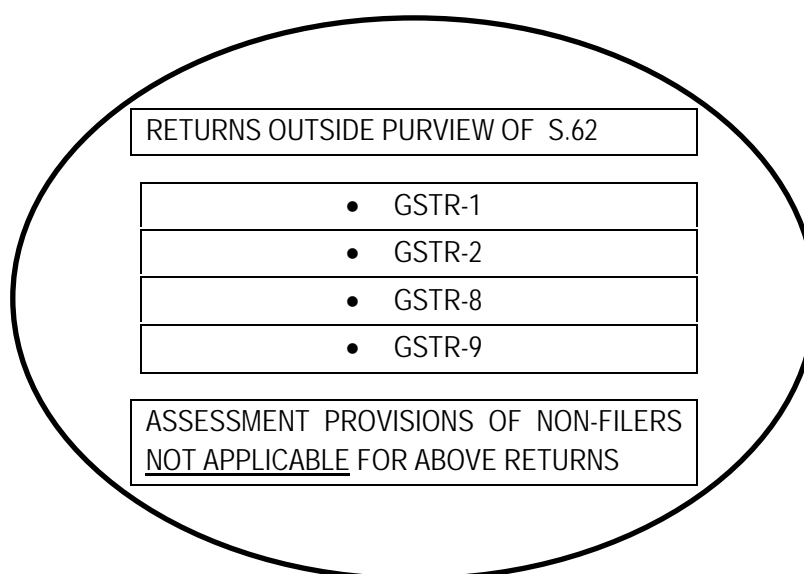


5. Assessment of Non-filers of Returns [S. 62]

5.1 Applicability

The assessment provision of non-filers u/s 62 apply to returns u/s 39 i.e. GSTR-3,3B, 4,7,6,5 or u/s 45 (Final Return) i.e. GSTR-10.

The assessment provisions of non-filers do not apply to GSTR-1, 2, 8, 9. The assessment provisions of non-filers u/s 62 shall apply when a person fails to comply with the notice requiring filing of return within 15 days.



5.2 Best Judgment Assessment

The Proper Officer may proceed to assess tax liability of registered person who fails to furnish return to the best of his judgment. Best judgement assessment order has to be passed within 5 years from the date specified u/s 44 for annual return of the financial year to which tax not paid relates. Best Judgment assessment order for non-filers assessment to be made in ASMT-13.

EXAMPLE

- For the F.Y. 2017-18, the PO must pass the best judgement assessment order **on or before 31st Dec, 2023** (within 5 years from due date of filing annual return: 31stDec, 2018).

5.3 withdrawal of Assessment

Where a valid return is filed within 30 days from the date of service of best judgement assessment order, best judgment assessment shall be deemed to have been withdrawn.

5.4 Interest Payment

Inspite of deemed withdrawal of best judgment assessment order, interest u/s 50(1) @ 18% p.a. shall not abate.

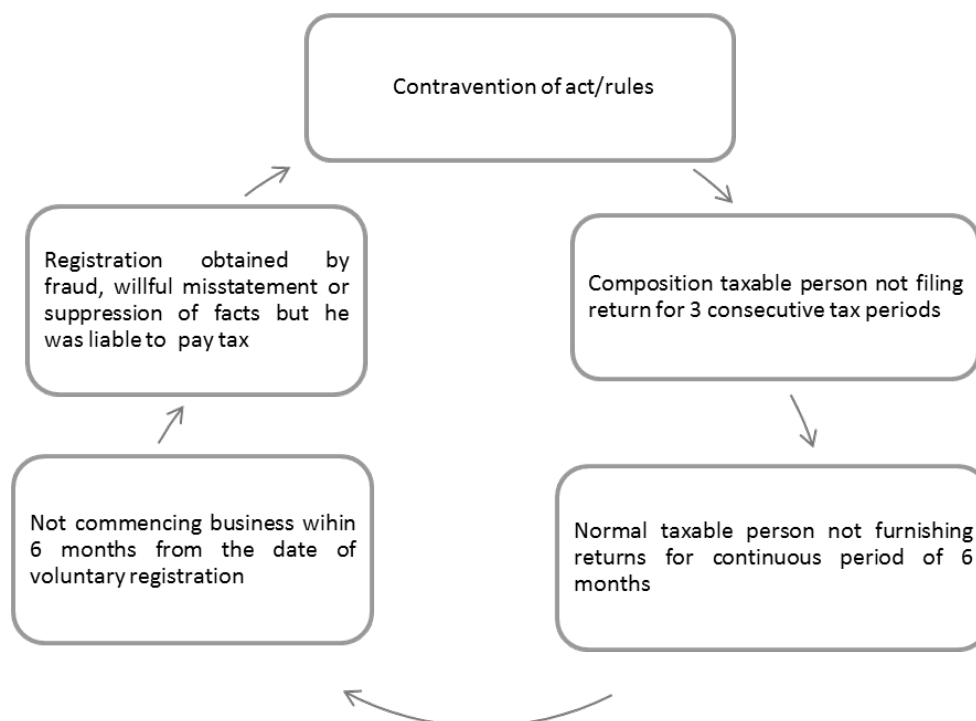
5.5 Late Fee

Inspite of deemed withdrawal of best judgment assessment order, late fee u/s 47 shall not abate.

6. Assessment of Unregistered Person [S. 63]

6.1 Applicability

The provisions of assessment of unregistered persons apply to only those persons who are **liable to obtain registration but fail to do so**. The provisions of assessment of unregistered persons also apply to those unregistered persons whose registration has been cancelled u/s 29(2) by PO due to



6.2 Best Judgment Assessment

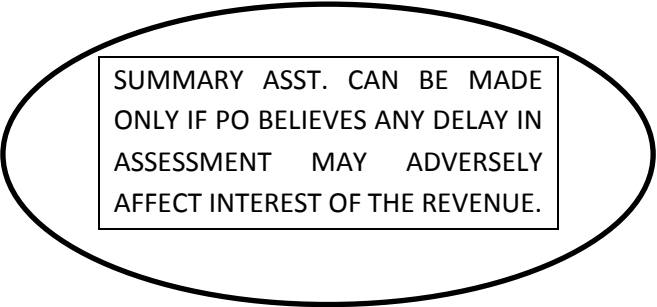
Best judgment assessment order has to be passed within 5 years from the date specified u/s 44 for annual return of the financial year to which tax not paid relates. No best judgment assessment order shall be passed without giving the taxable person an opportunity of being heard. Notice mentioning the grounds for best judgment assessment shall be given. Time period of 15 days shall be given to reply to Show Cause Notice for best judgment assessment order of unregistered person. Best Judgment assessment order shall be made in ASMT-15

7. Summary Assessment [S. 64]

7.1 Applicability

Summary Assessment can be made only by Proper Officer on evidence showing a tax liability of a person that has come to his notice.

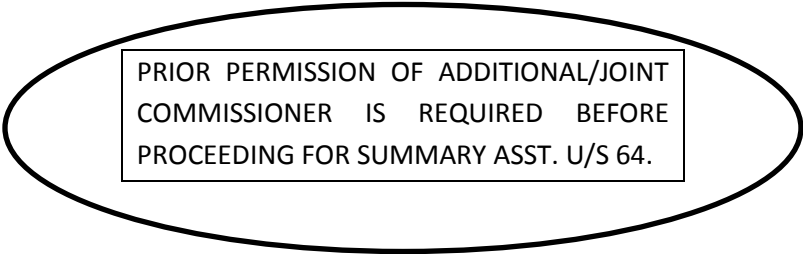
Summary Assessment can be made only if the PO has sufficient grounds to believe that any delay in assessing tax liability can adversely affect the interest of revenue.



SUMMARY ASST. CAN BE MADE
ONLY IF PO BELIEVES ANY DELAY IN
ASSESSMENT MAY ADVERSELY
AFFECT INTEREST OF THE REVENUE.

7.2 Permission

For Summary Assessment u/s 64, previous permission of Addl. Commissioner or Joint Commissioner is sine qua non.



PRIOR PERMISSION OF ADDITIONAL/JOINT
COMMISSIONER IS REQUIRED BEFORE
PROCEEDING FOR SUMMARY ASST. U/S 64.

7.3 Assessment

Proper Officer has the power to issue assessment order. Summary Assessment u/s 64 can be done by PO only to protect the interest of revenue.

7.4 Unascertainable Taxable Person

Where taxable person to whom liability pertains is unascertainable and liability pertains to supply of goods the person in charge of the 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.

7.5 Withdrawal of Summary Assessment

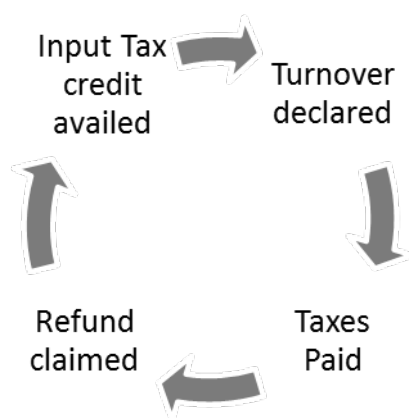
On application by the taxable person within 30 days from the date of receipt of summary assessment order if Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw the order. Withdrawal of summary assessment can be made by Addl. Comm. or Jt. Comm. on own motion also if they consider the order to be erroneous.

7.6 Show Cause Notice for Determination of Tax

In case of withdrawal of summary assessment, Show Cause Notice for Determination of tax not paid or short paid or erroneously refunded or Input Tax credit wrongly availed or utilized shall be followed.

8. Meaning of Audit

- (a) Audit Means Examination of Records, Returns and other documents maintained or furnished by registered person. Hence audit cannot be conducted in case of unregistered person even if he was required to be registered.
- (b) In Audit records, returns and other documents to be examined, may be maintained or furnished under this Act or Rules or any other law for the time being in force.
- (c) In audit examination is done to verify the correctness of



- (d) In audit examination is also done to assess the compliance with the provisions of this Act or rules.

Two types of Audits

1. Audit by Tax Authorities
2. Special Audit

9. Audit by Tax Authorities

- (a) Audit can be done by Commissioner or any officer authorized by him.
- (b) Audit may be conducted either under general order or a specific order.
- (c) Period of audit shall be a financial year or multiples thereof.
- (d) Audit may be conducted at the place of business of registered person OR In the office of the Commissioner or person authorized by him.
- (e) Not less than 15 working days notice prior to the conduct of audit to be given in prescribed manner.
- (f) Audit to be completed within 3 months from date of commencement of audit.

- (g) Where Commissioner is satisfied that audit in respect of such Registered Person cannot be completed within 3 months he may for reasons to be recorded in writing extend the period by further period not exceeding 6 months.

Registered person to facilitate authorized officer

- (h) During the course of audit, the authorized officer may require the registered person to facilitate verification and furnish information.
- (i) Registered Person (RP) may be required to afford necessary facility to verify the Books of accounts or other documents as authorized officer may require.
- (j) Registered Person may be required to furnish the information as the authorized officer may require.
- (k) Registered Person may be required to render assistance for timely completion of the audit.
- (l) Proper Officer shall be authorized to conduct audit with assistance of his team of officials.

Process of Audit

- (m) Proper Officer shall record the observations in audit notes.
- (n) Proper Officer may inform discrepancies noticed during audit to RP.
- (o) Registered Person shall reply to discrepancies.
- (p) Proper Officer shall finalize findings only after due consideration of reply.
- (q) On conclusion of audit Information of findings by Proper Officer to Registered Person shall be given.
- (r) Information of findings, reasons, right, obligations shall be made within 30 days.

10. Special Audit

- (a) At any stage of scrutiny, inquiry, investigation or any other proceedings direction to the RP to get accounts examined and audited can be given.
- (b) Direction for special audit can be given only by an officer not below the rank of the Assistant Commissioner.
- (c) Direction for special audit can be given only if officer is of the opinion that value has not been properly declared or the credit availed is not within normal limits.
- (d) Prior approval of the Commission is required for special audit.
- (e) Direction for Special audit has to be made by communication in writing to the Registered Person.

- (f) Special shall involve getting records including Books of Accounts examined and audited.
- (g) Special audit has to be done by Chartered Accountant or Cost & Works Accountant nominated by Commissioner.
- (h) Report of Audit is to be submitted by the nominated CA or CWA duly signed and certified by him.
- (i) Report of special audit is to be submitted to the designated Assistant Commissioner.
- (j) Special Audit report shall mention there in particulars as may be specified.
- (k) Special Audit may be directed even if accounts of the registered person have been audited under any other law or under other provisions of this Act.
- (l) Registered Person shall be given an opportunity of being heard in respect of material gathered on the basis of special audit which is proposed to be used in any proceedings against RP under this Act or Rules.
- (m) On conclusion of special audit the Registered Person shall be informed about its findings.
- (n) Expenses And Remuneration of CA/CWA shall be determined and paid by the Commissioner and such determination shall be final.
- (o) Where audit results in detection of tax not paid or short paid or erroneously refunded or Input Tax credit wrongly availed or utilized, Proper Officer may initiate action u/s 73 or 74.

Points to Remember

1. SPECIAL AUDIT TO BE ORDERED BY OFFICER NOT
BELOW THE RANK OF ASST. COMMISSIONER

2. SPECIAL AUDIT MAY BE DIRECTED EVEN IN CASE THE
ACCOUNTS OF THE ASSEESSEE HAVE BEEN AUDITED UNDER
ANY OTHER LAW OR OTHER PROVISION UNDER THIS ACT

3. REMUNERATION OF CA/CWA AS DETERMINED BY
COMMISSIONER SHALL BE FINAL

Question Bank

FAQs

1. How is the assessment made if the taxable person is not able to determine the value of goods and/or services or determine the rate of tax?
Ans. 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. Are Self-Assessment and provisional assessment mutually exclusive?
Ans. Yes, if the taxable person opts for self-assessment, he cannot opt for provisional assessment for the same period for same supply. However, he can opt for provisional assessment if he is unable to determine taxable value / tax liability/ (rate of tax) for any subsequent periods.
3. What conditions needs to be satisfied by a taxable person for assessment of taxes on provisional basis?
Ans. The proper officer may allow for payment of tax on provisional basis subject to execution of bond in prescribed form along with surety / security as the proper officer may deem fit binding the taxable person for differential tax if any.
4. What does scrutiny of returns mean under CGST Act, 2017?
Ans. The CGST Act, 2017 empowers proper officer to scrutinize the return and related particulars furnished by the taxable person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in a manner as may be prescribed.
5. What action is taken by the proper officer when no satisfactory explanation is given by the registered person for the discrepancies brought to his notice?
Ans. In the event, after accepting the discrepancies, no satisfactory explanation is furnished within a period of thirty days or such further extended time. If the taxable person fails to

take the corrective measures in the return for the month in which discrepancy is accepted, the proper officer may initiate audit under Section 65 or special audit under Section 66 or inspection, search and seizure under Section 67 or proceed to determine the tax and other dues under Section 73 or Section 74.

6. Does the CGST Act, 2017 provides for assessment if the registered taxable person does not furnish returns?

Ans. The proper officer is empowered to assess the tax liability on such registered person to the best of his judgment taking into account all the relevant materials which is available, or which is gathered and issue an assessment order in **FORM GST ASMT-13** 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.

7. Does the CGST Act, 2017 provides for assessment of taxes of the unregistered taxable person who fails to take registration even though liable to do so?

Ans. If a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under section 29(2) but who was liable to pay tax, the proper officer may assess the tax liability to the best of his judgement after providing opportunity of being heard to such person.

8. Can the proper officer proceed suo-moto to assess the tax liability of any person on possession of relevant evidence?

Ans. No, the proper officer has to obtain prior permission of Additional/Joint Commissioner to proceed to assess the tax liability.

9. Can the Additional / Joint Commissioner withdraw the summary assessment order only on the application by a taxable person?

Ans. The Additional / Joint Commissioner can, on his own motion may withdraw the summary assessment order in the event such order is erroneous and thereafter may follow the procedure laid down in Section 73 or 74 which provides for determination of tax liability on account of tax not paid other than fraud, wilful mis-statement etc., or otherwise .

10. What kinds of audits are envisaged under the law?

Ans. Two types of Audits

1. Audit by Tax Authorities
2. Special Audit

11. Who shall direct the special audit to be done?

Ans. An officer not below the rank of Assistant Commissioner may, with the prior approval of

the Commissioner, shall issue a direction in FORM GST ADT-03 to such registered person. to get his records including books of account examined and audited by a Chartered Accountant or a Cost Accountant specified in the said direction.

12. When shall special audit u/s 66 be applicable?

Ans. Special audit can be directed if at any stage of scrutiny, enquiry, 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, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, with the prior approval of Commissioner.

MCQs

1. A taxable person may apply for provisional assessment:

- (a) when the taxable person is not able to determine the value of goods and/or services
- (b) when the taxable person is not able to determine the rate of tax.
- (c) (a) or (b)
- (d) (a) and (b)

Ans. (c) (a) or (b)

2. The payment of tax on provisional basis may be allowed, if the taxable person:

- (a) executes a bond in such form as may be prescribed in this behalf
- (b) with such surety or security as the proper officer may deem fit, binding the taxable person for differential tax if any.
- (c) (a) or (b)
- (d) (a) & (b)

Ans. (d) (a) & (b)

3. Whether all the returns submitted under Section 39 will be scrutinized?

- (a) No, 50% of the returns submitted under Section 39 will be scrutinized.
- (b) Yes, all the returns submitted under Section 39 will be scrutinized.
- (c) No, Returns submitted under Section 39 will be self-assessed and proper officer may select any return for scrutiny under this Section.
- (d) No, 35% of the returns submitted under Section 39 will be scrutinized.

Ans. (c) No, Returns submitted under Section 39 will be self-assessed and proper officer may select any return for scrutiny under this Section

4. Is there any time limit specified to furnish the return after serving of assessment order?

(a) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 15 days from service the assessment order.

(b) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the assessment order.

(c) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 45 days from service the assessment order.

(d) No time limit has been specified.

Ans. (b) Yes, Return has to be filed by registered person who has failed to submit return under Section 39 or Section 45 within 30 days from service the assessment order

5. What is the consequence, where a taxable person fails to obtain registration even though liable to do so?

(a) Proper officer may assess the tax liability to the best of his judgement.

(b) Issue a show cause notice and pass assessment order after providing opportunity of being heard.

(c) (a) or (b)

(d) (a) and (b)

Ans. (d) (a) and (b)

6. The order u/s 64 may be withdrawn:

(a) On an application made by taxable person,

(b) If the Additional/Joint Commissioner considers that such order is erroneous.

(c) (a) or (b)

(d) The order passed u/s 64 cannot be withdrawn.

Ans. (c) (a) or (b)

7. The tax authorities may conduct audit u/s 65 at:

(a) the place of business of the registered person

(b) the place of residence of the registered person.

(c) the office of the tax authorities.

(d) (a) or (c)

Ans. (d) (a) or (c)

8. Who is authorized to conduct the special audit including books of account u/s 66?

(a) Chartered Accountant as may be nominated by the Commissioner.

(b) Cost and Works Accountant as may be nominated by the Commissioner.

(c) (a) or (b)

(d) Any officer as may be nominated by the Additional Director.

Ans (c) (a) or (b)

9. The time limit to submit a report of the audit u/s 66 is:

(a) within the period of ninety days without any extension of time

(b) within the period of sixty days without any extension of time

(c) within the period of ninety days. The Assistant Commissioner may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days.

(d) None of the above.

Ans. (c) within the period of ninety days. The Assistant Commissioner may, on an application made to him in this behalf or for any material and sufficient reason, extend the said period by another ninety days

10. Special Audit can be directed by a proper officer if he is of the opinion that:

(a) Value requires verification

(b) Value has been overstated

(c) Value has not been correctly stated

(d) All of above

Ans. (c) Value has not been correctly state

Chapter 16

Demand and Recovery

Learning Objective

This chapter discusses the procedure to be followed by the proper officer for issuing a show cause notice. It also discusses the various stages and circumstances under which the taxpayer by paying tax due along with interest and without or lesser amount of penalty can get away. The purpose is to reduce litigation and promote compliance. This chapter also deals with the various tools of recovery that are available with the officers to deal with, taxpayers who does not pay the finally determined amount of his tax liability.

Sub-index

- I. Demand
- II. Determination of Tax (not paid/ short paid/ erroneously refunded) or Input Tax Credit (wrongly availed or utilized)
- III. Process of determination of Tax (not paid/ short paid/ erroneously refunded) or Input Tax Credit (wrongly availed or utilized)
- IV. Quantum of Penalty at various stages of the proceedings
- V. Maximum Time Limits for Issue of Show Cause Notice and Determination Order
- VI. Stay Period to be excluded from time limits
- VII. Exclusion of Time Period of Pendency of Proceedings due to Prejudicial order in some other proceedings in further appeal
- VIII. Where charges of fraud, willful misstatement or suppression of facts are not established [S. 75(2)]
- IX. Consequential Orders pursuant to the direction of the Court etc. [S. 75(3) & 75(8)]
- X. Process of Decision Making
- XI. Demand Order Amount not to exceed show cause notice [S. 75(7)]
- XII. Order of Discharge of Demand u/s 73 & 74 [S. 49(8)]
- XIII. Recovery of Self Assessed Tax [S. 75(12)]
- XIV. Tax Collected but not paid [S.76]
- XV. Tax paid under Wrong head [S. 77 of CGST and S. 19 of IGST]
- XVI. Recovery of Tax

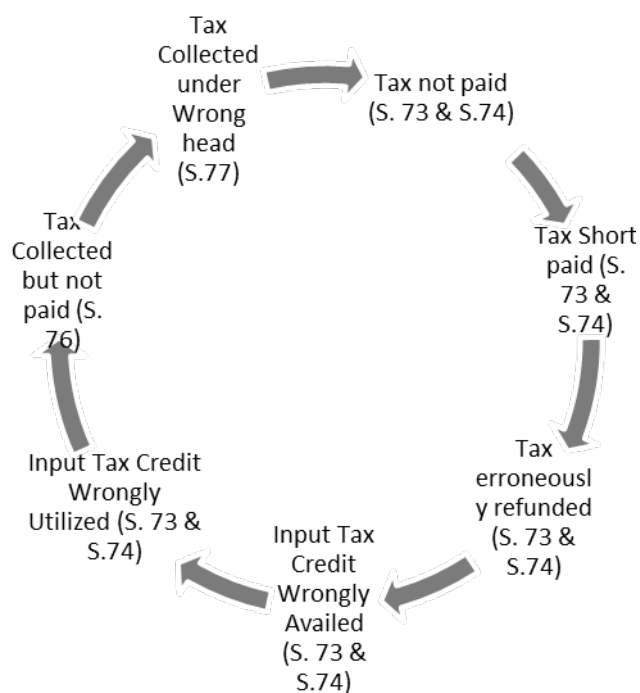
Introduction

The most important tool available to the proper officer to check tax evasion under GST is the power to issue show cause notice for non-payment or short payment of tax. A show cause notice can also be issued if tax is collected but not deposited or is deposited under wrong head. Wrong availment or misutilization of ITC also invites show cause notice. The defaults relating to tax payment may be willful or inadvertent or due to ignorance.

Analysis/Illustration/Chart

1. Demand

GST law authorizes the proper officer to determine and demand the following amounts:



2. Determination of Tax (not paid/short paid/ erroneously refunded) or Input tax credit (wrongly availed or utilized)

The determination of tax or Input tax credit can arise due to following reasons

By Reason <u>other than</u> Fraud or any willful mis statement or suppression of facts [S. 73]	By Reason of Fraud or any willful mis-statement or suppression of facts [Section 74]
1. Tax not paid	1. Tax not paid

2. Tax Short paid	2. Tax Short paid
3. Tax erroneously refunded	3. Tax erroneously refunded
4. Input Tax Credit Wrongly Availed	4. Input Tax Credit Wrongly Availed
5. Input Tax Credit Wrongly Utilized	5. Input Tax Credit Wrongly Utilized

3. Process of determination of Tax (not paid/short paid/ erroneously refunded) or Input tax credit (wrongly availed or utilized)

The following process is followed for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized:

1. The taxpayer is provided an opportunity to pay tax without issuing him a show cause notice (SCN) on the basis of his own ascertainment or ascertainment of proper officer (P.O) and inform the proper officer regarding payment of tax in writing in Form DRC-03 The proper officer shall issue an acknowledgement of the payment accepted.

Opportunity shall be provided to the taxpayer:

- to pay the tax
- on his own or on the ascertainment of P.O.
- without the issue of SCN and
- inform the P.O of such tax payment in Form DRC-03

2. If tax is paid by the taxpayer at his own volition as above, no further Show Cause Notice(SCN) is issued to the taxpayer and the matter stands concluded on payment of tax along with interest and **NIL or very low amount of penalty** [S. 73(6) and S. 74(6)] except 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[S.73(11)]

If the tax is paid by the taxpayer at his own volition, then:

- no SCN is to be issued and
- the matter stands concluded
- on the payment of such dues

3. If the taxpayer does not pay tax by self-determination or makes short payment of tax in above ascertainment, then proper officer shall issue a show cause notice for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized in Form GST DRC-01.[S. 73(1), 73(7) and S. 74(1), 74(7)]

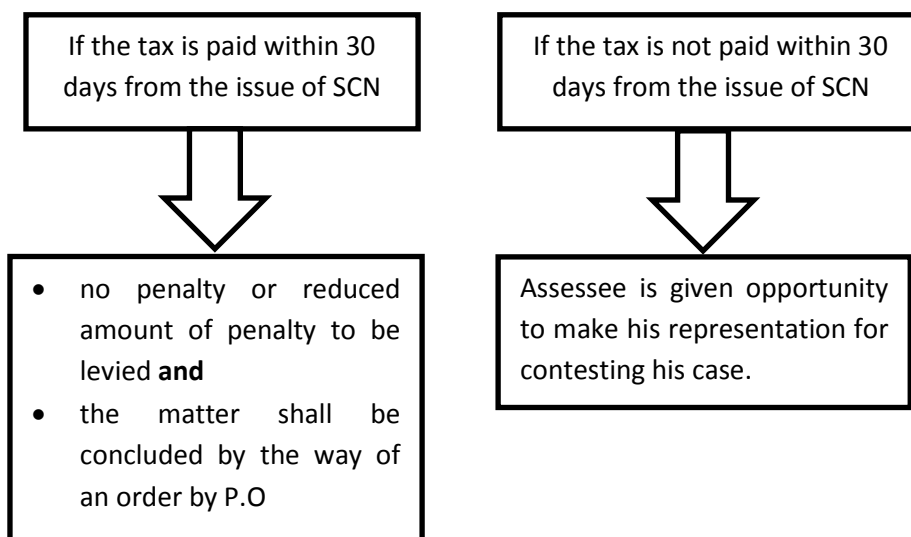
If the taxpayer does not pay the tax determined, then:

- the P.O shall issue SCN
- for such unpaid tax, short paid tax or the amount erroneously refunded or ITC wrongly availed

4. Further the proper officer may also serve a detailed statement regarding determination of tax or input tax credit for periods not covered by show cause notice and service of such statement shall be deemed to be service of show cause notice for such periods [S. 73(3),73(4) and S. 74(3),74(4)]

5. If the person charged pays the tax and interest within 30 days from the issue of show cause notice and informs the proper officer about the payment in form GST DRC-03, he may be subject to **NIL penalty or reduced amount of penalty** and proper officer shall **issue an order** concluding the proceedings in respect of notice. [S. 73(8) and S. 74(8)] except 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. [S. 73(11)]

6. If the person charged does not pay tax and interest along with reduced amount of penalty within 30 days from the date of issue of show cause notice he is given opportunity to make his representation for contesting his case.

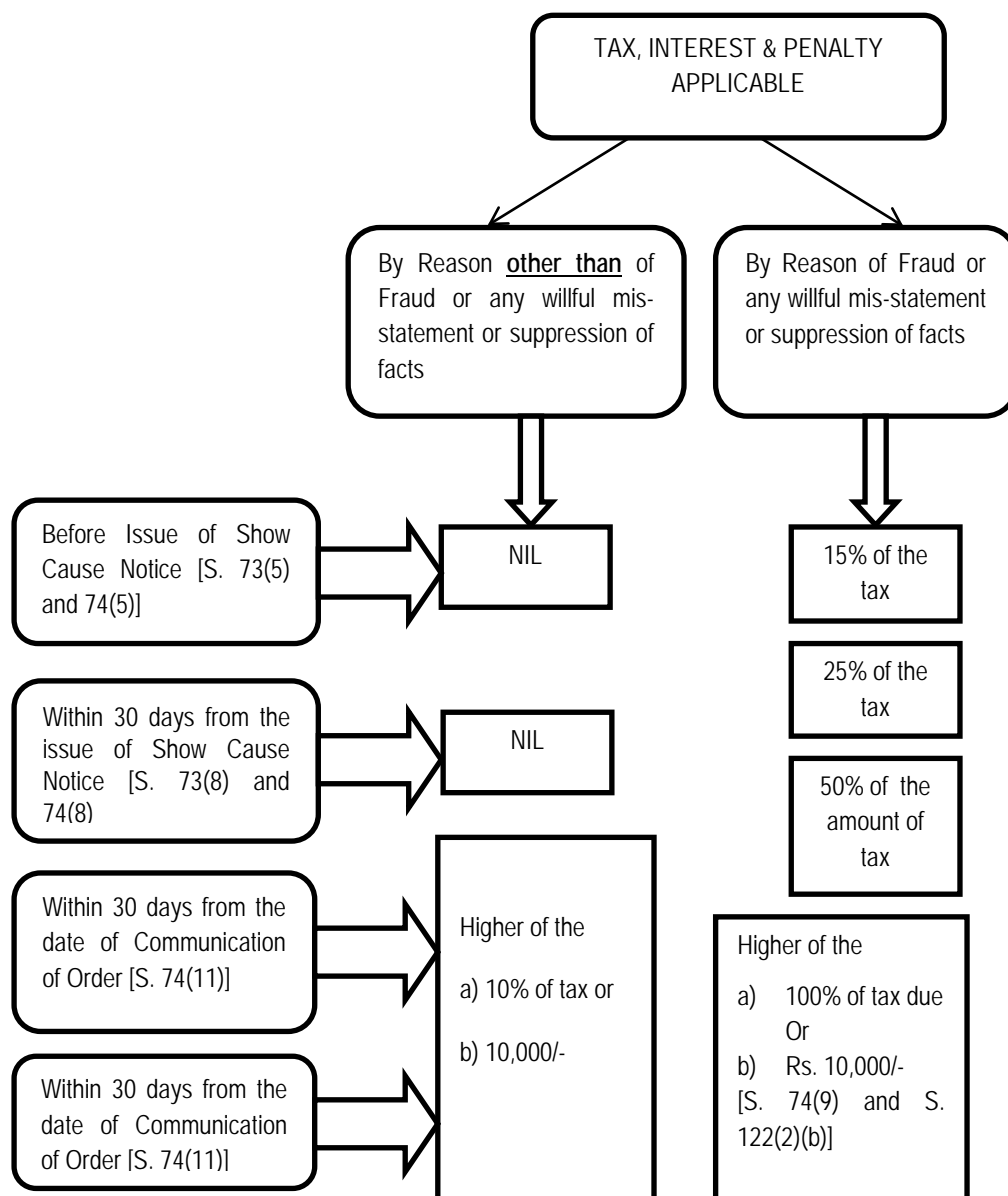


7. The proper officer after considering the representation of the person charged, shall determine the amount of tax, interest and penalty to be paid by person charged and issue an order. [S. 73(9) and S. 74(9)]

8. In case of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud, willful misstatement or suppression of facts one more opportunity is granted to pay tax and interest with penalty lesser than as determined in order above provided the amount of tax, interest and lesser penalty is paid within 30 days from the date of communication of the order. This opportunity is available only in case of fraud, willful misstatement or suppression of facts and not in other cases because in case of fraud, willful misstatement or suppression of facts a very high amount of penalty is charged.[S. 74(11)]

In case of fraud etc. **one more opportunity** is granted to pay tax and interest with penalty **lesser than as determined in order** above provided the amount of tax, interest and lesser penalty is paid **within 30 days from the date of communication of the order**.

4. Quantum of Penalty at Various stages of Proceedings



Tax and Interest and applicable penalty paid	By Reason other than of Fraud or any willful mis-statement or suppression of facts [Section 74]	By Reason Fraud or any willful mis-statement or suppression of facts [S. 73]
Before Issue of Show	NIL	<ul style="list-style-type: none"> 15% of the tax

Cause Notice [S. 73(5) and 74(5)]		
Within 30 days from the issue of Show Cause Notice [S. 73(8) and 74(8)]	NIL	<ul style="list-style-type: none"> 25% of the tax
Within 30 days from the date of Communication of Order [S. 74(11)]	Higher of the a) 10% of tax or b) Rs. 10,000/-	<ul style="list-style-type: none"> 50% of Amount of Tax
After 30 days from the date of Communication of Order [S. 73(9) and S. 122(2)]	[S.73(9) and S. 122(2)(a)]	<ul style="list-style-type: none"> Higher of the a) 100% of tax due or b) Rs. 10,000/- [S. 74(9) and S. 122(2)(b)]
Immunity from Penalty under other sections 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 [S.75(13)]		
Interest The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability [S. 75(9)]		

5. Maximum Time limits for Issue of Show cause Notice and Determination Order

Maximum Time period allowed	By Reason of Fraud or any willful mis statement or suppression of facts [Section 74]	By Reason other than Fraud or any willful mis statement or suppression of facts [S. 73]
For Order of Determination of tax not paid or short paid or ITC wrongly availed or mis utilized or refund has been erroneously paid.	<ul style="list-style-type: none"> 5 years from due date for furnishing of annual return for the financial year to which determination of tax etc. relates OR <ul style="list-style-type: none"> 5 years from date of erroneous refund [S. 74(10)] 	<ul style="list-style-type: none"> 3 years from due date for furnishing of annual return for the financial year to which determination of tax etc. relates OR <ul style="list-style-type: none"> 3 years from the date of erroneous refund [S. 73(10)]

For Issue of Show Cause Notice	At least 6 Months prior to: <ul style="list-style-type: none"> • 5 years from due date for furnishing of annual return for the financial year to which determination of tax etc. relates [S. 74(10)] OR <ul style="list-style-type: none"> • 5 years from date of erroneous refund [S. 74(2)] 	At least 3 months prior to: <ul style="list-style-type: none"> • 3 years from due date for furnishing of annual return for the financial year to which determination of tax etc. relates [S. 74(10)] OR <ul style="list-style-type: none"> • 3 years from the date of erroneous refund [S. 73(2)]
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.[S. 75(10)]		

6. Stay Period to be excluded from time limits

In calculation of above time limits for issue of show cause notice as well as issue of order for determination of tax etc. if the service of notice or issuance of order has been stayed by order of Court or Appellate Tribunal, the period of stay shall be excluded while calculating the time limits and hence the time for issuance of notice or order shall stand extended. [S. 75(1)]

The period during which issue of the order has been stayed by an Appropriate Authority shall be excluded for calculating time limits

7. Exclusion of Time period of Pendency of Proceedings due to prejudicial order in some other proceedings in further appeal

It may happen that issue on which show cause notice is issued may be the same on which revenue has already lost its case before Appellate Authority or Appellate Tribunal or High Court.

Now in such other case the department goes for further appeal before Appellate Tribunal or High Court or Supreme Court because it is prejudicial to the interest of revenue and wishes to keep the impugned case for which show cause notice has been issued alive till the matter is decided by higher Court or Tribunal. Hence in such a case period between the date of decision of

- (a) Appellate Authority and Appellate Tribunal or
- (b) Appellate Tribunal and High Court or
- (c) High Court and Supreme Court

Shall be excluded while calculating the time limits and hence the time for issuance of notice or order shall stand extended.

[S. 75(11)]

8. Where charges of fraud, wilful misstatement or suppression of facts are not established [S. 75(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 willful 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.

Implications

- (a) Reduced limitation period for issue of show cause notice and issue of order for determination of tax etc. shall apply
- (b) Reduced penalty as applicable to cases where determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized is by Reason **other than** fraud or any willful mis-statement or suppression of facts shall apply.

9. Consequential Orders pursuant to direction of Court etc. [S. 75(3) & 75(8)]

- Where order for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized
- 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. 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.

10. Process of Decision Making

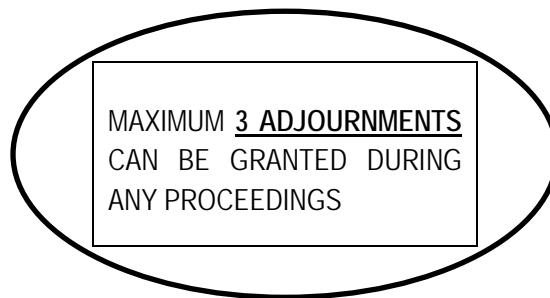
An opportunity of being heard shall be granted [S. 75(4)]

- Where any adverse decision is contemplated against person chargeable with tax or penalty or

- Where request is received in writing from person chargeable with tax or penalty

Adjournment [S. 75(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. No such adjournment shall be granted for more than three times to a person during the proceedings.



Speaking Order [S. 75(6)]

The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

11. Demand Order Amount not to exceed show cause notice [S. 75(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.

12. Order of Discharge of Demand u/s 73 & 74 [S. 49(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.

13. Recovery of Self Assessed Tax [S. 75(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.

14. Tax Collected but not paid [S.76]

Payment of Amount collected as representing Tax [S. 76(1)]

- 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.

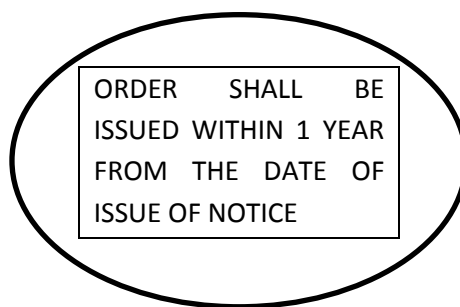
Show Cause Notice and opportunity [S. 76(2) & (5)]

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.
- 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.

Order [S. 76(6), (7), (8)]

The proper officer shall issue an order within one year from the date of issue of the notice. Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded for computing the period of one year. The proper officer, in his order, shall set out the relevant facts and the basis of his decision.



Payment of Tax and penalty pursuant to notice [S. 76(3) & (6)]

The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served determine the amount due from such person and thereupon such

person shall pay the amount so determined. The proper officer shall issue an order within one year from the date of issue of the notice.

Payment of Interest [S. 76(4)]

In addition to the amount along with penalty, the impugned person shall be liable to pay interest from the date such amount was collected by him to the date such amount is paid by him to the Government

Disposal of Amount Collected [S. 76(9)/(10)/(11)]

- (a) Adjust the amount paid towards tax payable
- (b) Balance to be credited to the Consumer Welfare Fund
- (c) The person who has borne the incidence of the amount, may apply for the refund

15. Tax paid under Wrong head [S. 77 of CGST and S. 19 of IGST]

Tax Paid by Registered Person	Subsequently Held to be	Refund of	Interest
Central tax and State Tax or Central tax and Union Territory Tax On transaction considered to be Intra State Supply	<ul style="list-style-type: none">Inter-state Supply	Central Tax and State tax or Central Tax or Union Territory Tax [S. 77(1)]	No Interest on payment of Integrated Tax [S. 19(2)]
Integrated Tax On transaction considered to be Inter State Supply	<ul style="list-style-type: none">Intra State Supply	Integrated Tax [S. 19(1)]	No Interest on Payment of Central Tax and State/UT Tax [S. 77(2)]

NO INTEREST IS PAYABLE BY THE ASSESSEE:

- ON THE PAYMENT UNDER THE HEAD IGST INSTEAD OF SGST/UTGST & CGST
- OR
- ON THE PAYMENT UNDER THE HEAD SGST/UTGST & CGST INSTEAD OF IGST

16. Recovery of Tax

Payment of tax in pursuance of the order passed under the Act to be made within 3 months from the date of serving the order. The period may be reduced below 3 months also in

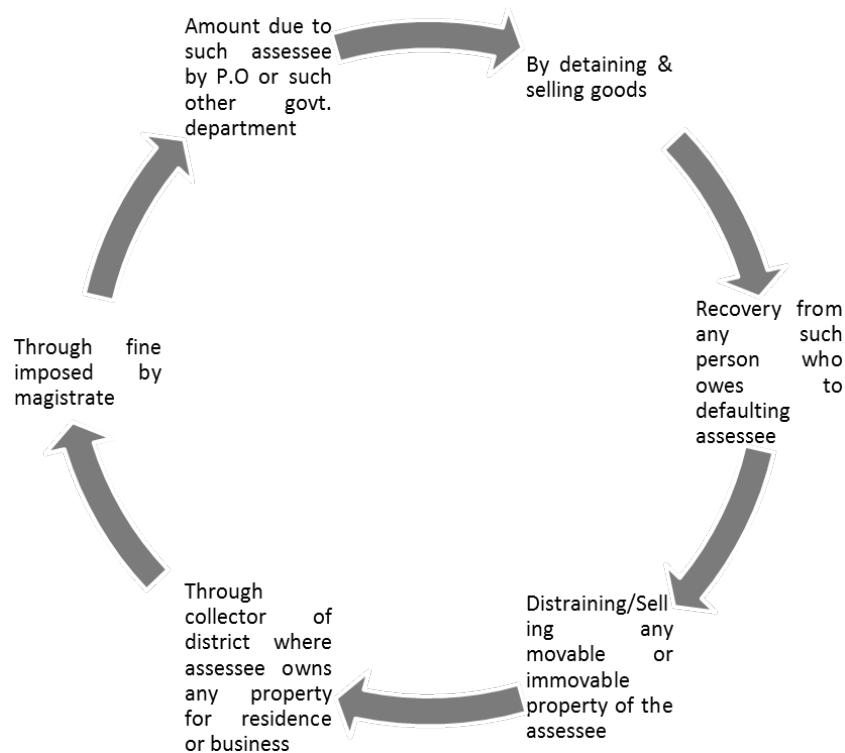
appropriate cases. [S.78]. State tax officer can also recover the amount payable under Central tax. If the amount payable under state tax and central tax is not fully recovered, the amount recovered shall be credited to central tax and state tax proportionately [S. 79(3) and 79(4)].

IF THE AMOUNT PAYABLE UNDER STATE & CENTRAL TAX IS **NOT FULLY RECOVERED**, IN SUCH CASE AMOUNT RECOVERED SHALL CREDITED TO CENTRAL & STATE TAX PROPORTIONATELY

Modes of Recovery [S.79]:

One or more of following modes may be adopted for recovery:

- (a) Amount payable may be deducted from money owing to person charged under control of proper officer or specified officer including Officer of State tax or Local Authority or Board or corporation owned or controlled, wholly or partly by government
- (b) Recovery made be made by detaining and selling goods, under control of proper officer, belonging to person charged
- (c) Recovery by Notice in writing to Person from whom money is due to or from whom money may become due to or who holds money for or on account of or who may subsequently hold money for or on account of person charged. Recovery to be made only when money becomes due and not before it so becomes due.
- (d) Distraint of any movable or immovable property and detaining the same. If still the amount remains unpaid the proper officer may cause the property to be sold and recover the amount.
- (e) Proper officer may prepare a certificate signed by him and send it to Collector of district where person charged owns any property or resides or carries on any business. The amount specified in certificate shall be recovered like land revenue.
- (f) Application can be made to Magistrate to recover the amount specified in application to be recovered like a fine imposed by the Magistrate.



Provisional Attachment [S. 83]

Normally, the above modes shall come into play only after the expiry of the period of 3 months from date of order or reduced period specified by proper officer, but in order to protect interest of revenue, Commissioner may order provisional attachment of any property including bank account belonging to taxable person during pendency of proceedings. However, such order shall abate **after expiry of one year from the date of order**.

Payment in Installments [S.80]

On application, Commissioner may allow payment in maximum 24 monthly installments with interest. No appeal can be made against the order of Commissioner not allowing or allowing payment in lesser installments [S. 121(d)]

TAX DEMAND MAY BE PAID IN 24 MONTHLY
INSTALLMENTS ALONG WITH INTEREST (ON THE
PERMISSION OF COMMISSIONER)

Question Bank

FAQs

1. Under what circumstances, the proper officer shall invoke provisions of section 73(1) to serve show cause notice on the person chargeable with tax?

Ans. The proper officer shall invoke provisions of section 73(1) to the person chargeable with tax for any reason other than:

- fraud
- willful misstatement
- suppression of facts,

When he has reasons to believe that tax has not been paid or short paid or erroneously refunded or input tax credit has been wrongly availed or utilized.

2. What is the time limit for issue of show cause notice by the proper officer under section 73(2)?

Ans. The proper officer shall issue show cause notice at least 3 months prior to the time limit of 3 years for issuance of order i.e.

- Before completion of 3 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 utilized relates to, or
- Within 3 years from the date of erroneous refund, as the case may be.

3. Can the person chargeable with tax pay the amount of demand along with interest before the service of show cause notice under sub-section 73(1) or statement under section 73(3)?

Ans. Yes. The person chargeable with tax can pay the amount of tax along with interest under section 50 based on 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 in Form GST DRC-03.

4. If the show cause notice is issued under section 73(1) or 73(3) and thereafter the person chargeable with tax makes payment, is there any need to adjudicate the case?

Ans. No. Where the person chargeable with tax pays the tax along with interest under section 50 within 30 days of issue of such show cause notice, no penalty shall be payable. The person chargeable with tax shall inform 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.

Background Material on GST Law for Commerce Students

5. What is the maximum penalty leviable under section 73?

Ans. Penalty equivalent to 10% of the tax or 10,000/- whichever is higher.

6. Under what circumstances, the proper officer shall invoke provisions of section 74(1) to serve show cause notice on the person chargeable with tax?

Ans. The proper officer shall serve notice under the provisions of Section 74(1) along with a summary electronically in Form GST DRC-01 on the person chargeable with tax for any reason of:

- Fraud
- willful misstatement
- suppression of facts

when he has reasons to believe that tax has not been paid or short paid or erroneously refunded or input tax credit has been wrongly availed or utilized.

7. What is the time limit for issue of show cause notice by the proper officer under section 74(2)?

Ans. The proper officer shall issue show cause notice at least 6 months prior to the time limit of 5 years for issuance of order i.e.:

- Before completion of 5 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 wrongly availed or utilized relates to or
- Within 5 years from the date of erroneous refund, as the case may be.

8. What is the maximum penalty leviable under section 74?

Ans. Penalty equivalent to 100% of the tax.

9. Whether any amount representing as tax is collected from any other person be retained and not paid to Government?

Ans. Every person who has collected from any other person any amount representing as tax under this Act shall forthwith pay the said amount to Government, regardless of whether the supplies in respect of which such amount was collected are taxable or not.

MCQs

1. What is the time limit for issue of order in case of fraud, misstatement or suppression?

- (a) 30 months
- (b) 18 months

(c) 5 years

(d) 3 years

Ans. (c) 5 years

2. What is the time limit for issue of order in case of other than fraud, misstatement or suppression?

(a) 30 months

(b) 18 months

(c) 5 years

(d) 3 years

Ans. (d) 3 years

3. Is it obligatory on the part of the Department to take on record the assessee's representation during adjudication and issue of order?

(a) Yes

(b) No

(c) At proper officer's discretion

(d) If requested by notice

Ans. (a) Yes

4. What is the maximum amount of demand for which the officer can issue an order under section 73 in case of other than fraud, misstatement or suppression?

(a) Amount of tax + interest + penalty of 10% of tax

(b) Amount of tax + interest + penalty of 10% of tax or ₹ 10,000/- whichever is higher

(c) ₹ 10,000/-

(d) Amount of tax + interest + 25% penalty

Ans. (b) Amount of tax + interest + penalty of 10% of tax or ₹ 10,000/- whichever is higher

5. What is the maximum amount of demand for which the officer can issue an order under section 74 in case fraud, misstatement or suppression?

(a) Amount of tax + interest + penalty of 15% of tax

(b) Amount of tax + interest + penalty of 25% of tax

Background Material on GST Law for Commerce Students

- (c) Amount of tax + interest + penalty of 50% of tax
- (d) Amount of tax + interest + penalty of 100% of tax

Ans. (d) Amount of tax + interest + penalty of 100% of tax

6. Any amount of tax collected shall be deposited to the credit of the Central or State Government:

- (a) Only when the supplies are taxable
- (b) Regardless of whether the supplies in respect of which such amount was collected are taxable or not
- (c) Only when the supplies are not taxable
- (d) None of the above

Ans. (b) Regardless of whether the supplies in respect of which such amount was collected are taxable or not

7. Is there any time limit for issue of notice under section 76 in cases where tax collected but not paid?

- (a) No time limit
- (b) 1 year
- (c) 3 years
- (d) 5 years

Ans. (a) No time limit

8. The time limit for payment of tax demand is from the date of service of the order,

- (a) 3 months
- (b) 90 days
- (c) 6 months
- (d) 1 year

Ans. (a) 3 months

9. Maximum number of monthly installments permissible under section 80 is:

- (a) 36
- (b) 12
- (c) 48
- (d) 24

Ans. (d) 24

10. Which officer/s has the power to grant permission for payment of tax through installment?

- (a) Commissioner
- (b) Principal Commissioner
- (c) Assistant Commissioner
- (d) Both (a) and (b)

Ans. (d) Both (a) and (b)

Chapter 17

Miscellaneous Issues

Learning Objective

This chapter discusses the various circumstance where in a person can apply for advance ruling. It also discusses the procedure for appeal where a taxable person is aggrieved by the decision of the adjudicating authority. This chapter also discusses the concepts of anti-profiteering requiring to pass on the benefit of ITC or reduced prices to the recipients.

Coverage

- I. Advance Rulings
- II. How to obtain advance Ruling from the Authority for Advance Ruling
- III. Appeal against the order of the Authority for advance Ruling
- IV. Indecisive questions under Advance Ruling [S. 101(3)]
- V. Binding Applicability of Advance Ruling [S. 103]
- VI. Void Advance Ruling
- VII. Appeal and Revision
- VIII. Revision of Order
- IX. Appeal to the High Court [S. 117]
- X. Appeal to the Supreme Court [S. 118]
- XI. Compliance Rating [S. 149]
- XII. Anti Profiteering [S. 171]

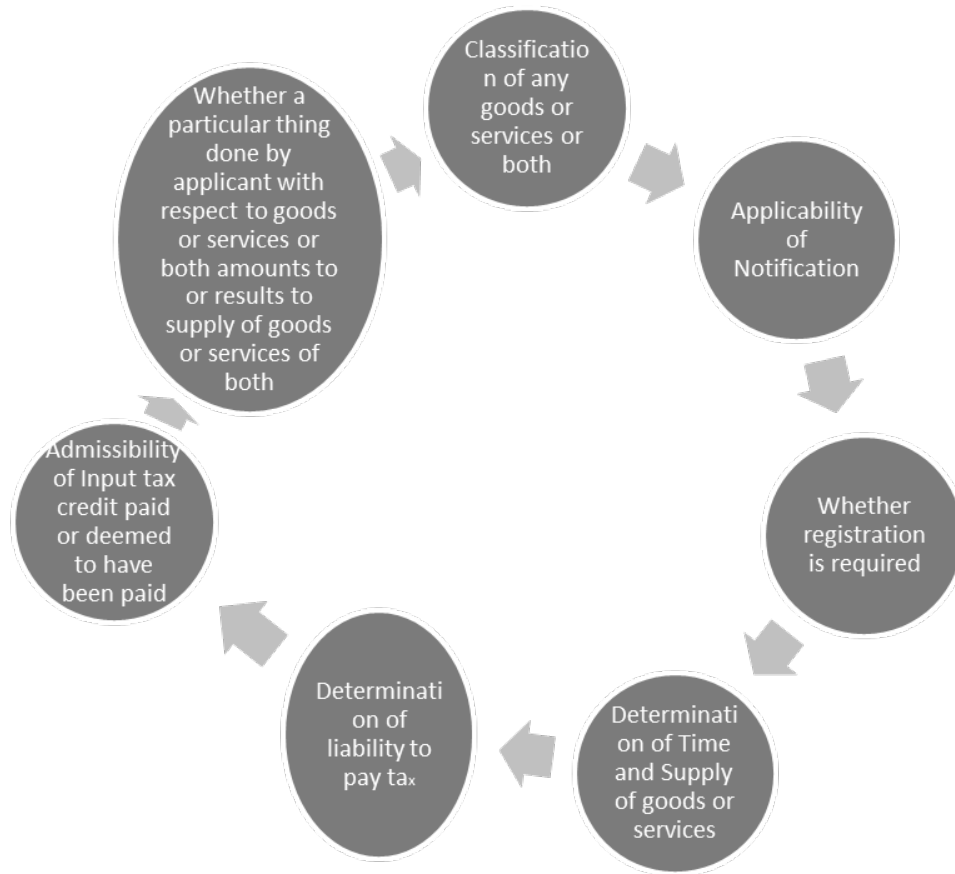
Introduction

Miscellaneous important issues like advance rulings, appeals and revisions, compliance rating and anti-profiteering are discussed.

Analysis/illustration/Charts

Advance Rulings

The mechanism of Advance ruling has been incorporated under GST law so that taxpayers can clear their doubts about the following:



How to obtain advance Ruling from the Authority for Advance Ruling?

- (a) An application shall be filed in prescribed form and manner
- (b) Application shall be accompanied by prescribed fee [₹ 5000 (CGST) and ₹ 5000 (SGST)]
- (c) Application shall state the question on which advance ruling is sought to be obtained
- (d) Application shall be filed with Authority for advance ruling constituted by state.
- (e) Copy of application shall be forwarded to concerned officer
- (f) Authority for advance ruling may call for records from concerned officer
- (g) After examining the application and records called for and after hearing applicant or his authorized representative authority for advance ruling shall either admit or reject

- application for advance ruling. Application shall not be rejected without providing opportunity of being heard and reasons for rejection shall be stated.
- (h) Authority for advance ruling shall not admit application where the question raised is already pending or decided in proceedings in case of applicant.
 - (i) Copy of order of admission or rejection of application shall be sent to applicant and concerned officer.
 - (j) Where application for advance ruling is admitted, authority for advance ruling shall pronounce its decisions on the question involved after:
 - Examining such further material as may be placed before it by the applicant
 - Examining such further material as may be obtained by the Authority for advance ruling
 - Providing opportunity of being heard to
 - Applicant or his authorized representative
 - Concerned officer or his authorized representative
 - (k) The order for advance ruling shall be pronounced within 90 days from date of application.
 - (l) A copy of advance ruling shall be sent to
 - Applicant
 - Concerned Officer and
 - The jurisdictional officer

Appeal against order of Authority for advance Ruling

- (a) Appellate Authority for advance ruling is set up for each state for:
 - i) Deciding the question involved where members of authority for advance ruling differ with each other. In this case reference shall be made by authority for advance ruling [S. 98(4)]
 - ii) Filing appeal against the order of authority for advance ruling by the aggrieved applicant, concerned officer or jurisdictional officer. [S. 100(1)]
- (b) Appeal to be filed within 30 days from the date of communication of order of authority for advance ruling. The period may be further extended by 30 days where appellant is prevented by sufficient cause from presenting the appeal.
- (c) The appeal shall be decided within 90 days from date of filing appeal or making of reference by authority for advance ruling.

- (d) Appeal fee is ₹ 10,000 under CGST and ₹ 10,000/- under SGST, totaling to ₹ 20,000/-
- (e) Order of appellate authority for advance ruling shall be communicated to
- Applicant
 - Concerned Officer
 - Jurisdictional Officer and
 - Authority for advance ruling

Indecisive questions under Advance Ruling [S. 101(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.

Binding Applicability of advance Ruling [S. 103]

The advance ruling pronounced by authority for advance ruling or appellate authority for advance ruling is binding on:

- (a) The applicant
- (b) Concerned officer or
- (c) Jurisdictional officer in respect of applicant.

Void Advance Ruling

Authority for advance ruling shall not admit application where the question raised is already pending or has been decided in proceedings in case of applicant. However, where the Authority or the Appellate Authority finds that advance ruling pronounced by it 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*

Appeal and Revision

Appeal to Appellate Authority

Order that can be appealed against	Forum of Appeal	Aggrieved Person	Period of Appeal from the date of communication of order to be appealed against	Further Extension of Time for Appeal may be allowed	Pre deposit for filing of Appeal	Time for deciding appeal (Recommendatory)
------------------------------------	-----------------	------------------	---	---	----------------------------------	--

Background Material on GST Law for Commerce Students

Adjudicating Authority is AC/DC or Superintendent	Additional Commissioner Appeals (Appellate Authority)	Taxpayer	3 Months	3 Months	Full amount of Admitted tax, interest, fine, fee and penalty	One year from the date of filing of appeal
Adjudicating authority is Additional or Joint Commissioner	Commissioner Appeals (Appellate Authority)				And 10% of remaining amount of tax in dispute	
Adjudicating Authority is AC/DC or Superintendent	Additional Commissioner Appeals (Appellate Authority)	Revenue	6 Months	3 Months	Not Applicable	
Adjudicating authority is Additional or Joint Commissioner	Commissioner Appeals (Appellate Authority)					

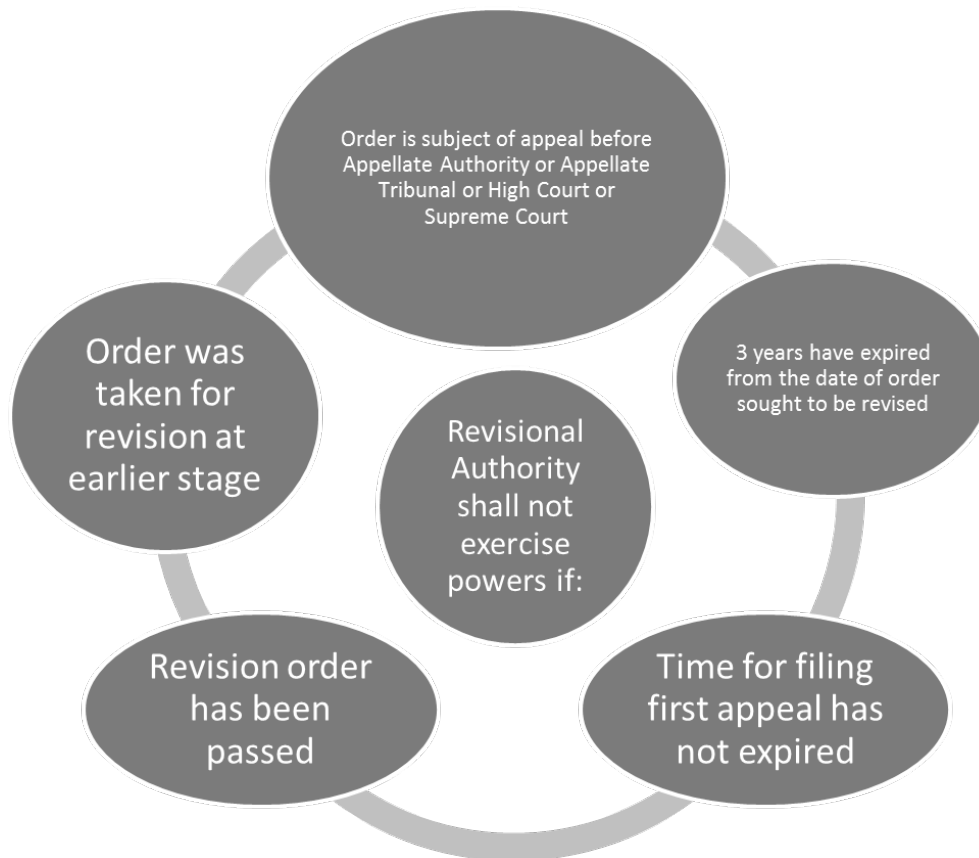
Revision of Order

Circumstances of Revision of order by Revisional Authority

Revisional Authority has power to stay the order of subordinate authority and enhance or modify or annul the orders in following cases:

- Where order passed by sub ordinate authority is erroneous in so far as it is prejudicial to the interest of revenue and
- That Order 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,

Time Limits for exercising powers by Revisional Authority



Appeal against the order of Appellate authority or Revisional Authority

Appeal against the order of the appellate authority or Revisional authority can be filed to Goods and Services Tax Appellate Tribunal (GSTAT) as under:

GSTAT	Constituted by	Jurisdiction of Issues Involved	Constitution of Members	Period of Filing of Appeal	Further Extension of Time period for filing appeal allowed	Pre Deposit Required	Time for deciding appeal (Recommendatory)
National	Central	Where one of	Judicial	3 months	3 Months	Full	One

Background Material on GST Law for Commerce Students

I Bench at New Delhi or Regional Benches of National Bench	Government	the issue involved relates to place of supply	Member Technical Member (Centre) Technical Member (State)	for taxpayer 6 months for revenue		amount of Admitted tax, interest, fine, fee and penalty	year from the date of filing of appeal
State Bench or Area Benches of State Bench with in State	State Government	Where none of the issue involved relates to place of supply				And 20% of remaining amount of tax in dispute	

Appeal to the High Court [S. 117]

- (a) Appeal against order of State Bench or Area Bench shall lie before High Court
- (b) Appeal before High Court can be made only on substantial question of law
- (c) Appeal before High Court to be made within 180 days.

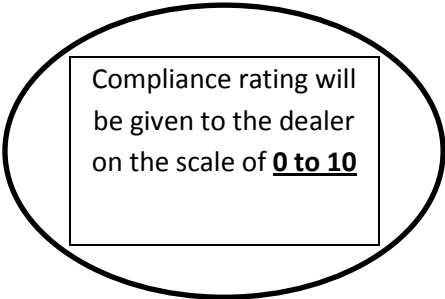
Appeal to the Supreme Court [S. 118]

Appeal to the Supreme Court shall lie against the order of the

- (a) High Court or
- (b) National Bench or Regional Bench

Compliance Rating [S. 149]

Every registered person is to be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of GST. The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed. The goods and services tax compliance rating score is to 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.



Compliance rating will
be given to the dealer
on the scale of **0 to 10**

Anti Profiteering [S. 171]

Any reduction in the 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. The Central Government may, on the 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.

Question Bank

FAQs

1. What are the matters on which the Advance Ruling can be obtained?

Ans. The Advance Ruling can be obtained on the following matters:

- (a) classification of any goods or services or both;
- (b) applicability of a notification issued under provisions of the Act;
- (c) determination of time and value of the 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.

2. Is there a time limit within which the application needs to be disposed of?

Ans. The Advance ruling should be pronounced in writing within 90 days of receipt of application.

Background Material on GST Law for Commerce Students

3. What if, the members of the Advance Ruling Authority have different viewpoints on the advance ruling sought?

Ans. 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.

4. Is the advance ruling binding on all the tax payers?

Ans. Advance Ruling will be binding only on the applicant who has sought for advance ruling.

5. Is the advance ruling binding on all the department officers?

Ans. No – Advance ruling will be binding only on the concerned officer or the jurisdictional officer in respect of the applicant.

6. Is there any time limit for filing an appeal?

Ans. Yes. Time limit to file appeal before Appellate Authority, for an assessee (person aggrieved) is 3 months from the date of communication of the order. Whereas in case of an appeal filed by the department on the basis of the directions by the Commissioner shall have to be filed within 6 months from date of communication of the decision or order.

7. Is there a need to remit the entire amount of tax, interest, penalty, fine or fee before going for appeal?

Ans. For filing appeal following amounts shall have to be remitted:

• Demands which are not contested	Entire amount of such demands (tax, interest and penalty) shall have to be remitted
• Demands which are contested	a sum equal to 10% of the remaining amount of tax in dispute arising from the said order shall have to be remitted

8. What are the circumstances in which the order of subordinate authority is revised by the Revisional Authority?

Ans. Revisional Authority has power to stay the order of subordinate authority and enhance or modify or annul the orders in following cases:

- (a) Where order passed by sub ordinate authority is erroneous in so far as it is prejudicial to the interest of revenue and
- (b) That Order 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

- (c) In consequence of an observation by the Comptroller and Auditor General of India,

9. What is the time limit within which appeal can be made before High Court?

Ans. Appeal before High Court is to be made within 180 days.

10. Whether a question involving factual disputes be taken up before the High Court?

Ans. Appeal before High Court can be made only on substantial question of law. Hence, question involving factual disputes could not be taken up before the High Court.

MCQs

1. Where shall the Advance Ruling Authority be located?

- (a) The Authority shall be located in each state / Union Territory.
- (b) The Authority shall be located in Centre.
- (c) The Authority shall be located in both Centre & State.
- (d) None of the above

Ans. (a) The Authority shall be located in each state / Union Territory

2. The Advance Ruling Authority shall comprise:

- (a) One member from amongst the officers of Central tax.
- (b) One member from amongst the officers of State tax or Union Territory tax as the case may be.
- (c) (a) & (b)
- (d) None of the above

Ans. (c) (a) & (b)

3. Who shall make an application for advance ruling?

- (a) Applicant
- (b) Department
- (c) Appellate Authority
- (d) None of the above

Ans. (a) Applicant

4. Within how many days shall the Authority pronounce its decision on advance ruling from the date of receipt of application

- (a) 30 days
- (b) 60 days
- (c) 90 days
- (d) 120 days

Ans. (c) 90 days

5. Within how many days can appeal before the Appellate authority be filed?

- (a) 30 days
- (b) 60 days
- (c) 90 days
- (d) 120 days

Ans. (a) 30 days

6. Who can apply for rectification of error on record?

- (a) Applicant
- (b) Concerned officer or Jurisdictional Officer
- (c) Advance Ruling Authority or the Appellate Authority on its own accord can rectify the error
- (d) All of the above

Ans. (d) All of the above

7. When can the Authority declare the advance ruling pronounced as void?

- (a) If ruling is obtained by suppression of material facts
- (b) If the applicant is in the business of supplies on which clarification has been sought
- (c) If the applicant does not engage in the business of supplies after 6 months of obtaining the ruling
- (d) If a Supreme Court judgement is pronounced on the same issue and the judgement is exactly the opposite of the clarification issued under the ruling

Ans. (a) If ruling is obtained by suppression of material facts.

8. The Advance Ruling pronounced by the Appellate Authority shall be binding on

- (a) The applicant who sought the advance ruling.
- (b) The jurisdictional officer in respect of the applicant

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

Ans. (c) (a) and (b)

9. When should the opportunity of being heard be given to an applicant or the appellant for the rectification of advance ruling?

- (a) If the rectification has the effect of enhancing the tax liability.
- (b) If the rectification has the effect of reducing the amount of admissible input tax credit.
- (c) (a) or (b)
- (d) None of the above

Ans. (c) (a) or (b)

10. Under what circumstances can the members of the Appellate Authority deem that no advance ruling can be issued in respect of the questions covered under the appeal?

- (a) If the members of the Appellate Authority differ on any point or points referred to in appeal
- (b) If the members of the Advance Ruling Authority differ on any point or points referred to in appeal
- (c) Applicant wants to withdraw the application
- (d) Both (a) and (c)

Ans. (a) If the members of the Appellate Authority differ on any point or points referred to in appeal