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Tax was always a nightmare for me but indigolearn made me fall in love with tax and I scored the highest in tax ..I owe a big thanks to Shivateja sir and Indigolearn Thank you so much

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Thank you so much It is because of your classes I was able to pass in Taxation Shiva Teja sir helped me a lot

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Thanks to Shiva Teja Sir, Suraj Sir. Had a great journey with IndigoLearn.

Vaishnavi Sapakal

Really excellent teaching sir thank you

Sai Suparna Puttu

Thank you for your support and blessing to us.

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You have been a great support to my success...I successfully cleared my group-1 exam especially taxation with the help of those classes I could clear exam.. Thank you so much Indigolearn

Preethi S

Taxation was very hard to undersatnd for me in my 1st attempt. But thanks Shiva Teja Sir for exceptional Taxation lectures, i scored 61. I would strongly recommend him. Your passion and clear explanations made learning enjoyable.

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It's been a great journey with indigolearn, i enjoyed all the classes which I took, especially Shiva Teja sir Income tax classes i enjoyed a lot. Thanks you.

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I have taken taxation revision class for ca inter. From past 2 attempts I failed and got low marks in tax but now I have secured 72 marks in taxation that is because of the detailed revision class by ca shiva teja sir, it helped me a lot while revising for the tax

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Thank u so much to CA Shiva Teja sir. Classes are good and very understanding I really loved the videos **Today result are out I got 69 in tax Thank you so much indigolearn for providing classes**

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I only bought shiva teja sir's Taxation classes and as you can see, that had made all the difference!! thanks to 1FIN and all the people behind it.... It's not just a victory, it's an emotion!

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CA Inter May-22

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Edition 3 – Oct 2025

CA INTER PAPER 3B - GST (50M)

CHAPTER WISE WEIGHTAGE BASED ON PAST EXAM ANALYSIS

S. No.	CHAPTER NAME	Sep-25	May-25	Jan-25	Sep-24	May-24	Nov-23	May-23	Nov-22	May-22	Dec-21	Jul-21	Jan-21	Nov-20	Nov-19	May-19	Avg. of category (excl. MCQs)	ICAI Weightage (incl. MCQs)
I																		
2	Supply		5	5	5	5	4	5	4	4	-	4	-	5	-	-		
3	Charge of GST & Composition levy		5	-	5	5	-	8	2	5	3	-	5	4	11	5		
4	Place of Supply	5	-	5	5	5	-	-	-	-	-	-	-	-	-	-		
5	Exemptions		5	10	5	-	-	7	-	-	6	5	10	-	-	10	27.00	20 - 32 marks
6-I	Time of Supply		-	5	-	-	-	-	-	-	5	-	-	-	4	4		
6-II	Value of Supply		-			10	6	-	-	6	-	-	8	6	-	-		
7	Input Tax Credit & computation of liability	25	15	10	10	15	13	13	13	13	5	14	-	13	8	8		
	TOTAL	**30**	**30**	**35**	**30**	**40**	**23**	**33**	**19**	**28**	**19**	**23**	**23**	**28**	**23**	**27**		
II																		
8	Registration	5	2	5	-	-	5	-	7	5	9	5	5	4	5	9		
9	Tax Invoice and Ewaybill	5	5	2	2		7	2	9	7	5	-	7	3	5	5		
10	Payment of Tax and Interest		5	-	-	10	3	5	3	-	5	-	-	5	3	2		
11	Returns	5	-	5		-	5	3	5	3	-	10	3	3	5	-	15.85	10 - 16 marks
12	TDS &TCS	5	-	-	5	-	-	-	-	-	-	-	-	-	-	-		
13	Accounts and Records		5	-	10	-	-	-	-	-	-	-	-	-	-	-		
	TOTAL	**20**	**17**	**12**	**17**	**10**	**20**	**10**	**24**	**15**	**19**	**15**	**15**	**15**	**18**	**16**		
III																		
1	Introduction		3	3	3												3.00	0 - 2 marks
	GST (Total - Excl. MCQs)	**50**	**50**	**50**	**50**	**50**	**43**	**43**	**43**	**43**	**38**	**38**	**38**	**43**	**41**	**43**	**45.85**	**40 marks**

NOTE 1: Weightage of Optional questions has been taken in calculations; 2: MCQs are not considered in calculation. Only theory paper weightage has been taken. Till Nov 23 weightage was 40 Marks only, thereafter it is 50 marks

CA INTER PAPER 3B - GST (50M)

QUESTION WISE TOPICS BASED ON PAST EXAM PATTERN

Question No.	Sep-25		May-25		Jan-25		Sep-24		May-24		Nov-23		May-23		Nov-22		May-22		Dec-21	
	Topic	M	Topic	M	Topic	M	Topic	M	Topic	M	Topic	M	Topic	M	Topic	M	Topic	M	Topic	M
COMPULSORY																				
5(a)	Computation of net GST liability inculding ITC concept	**5**	Computation of net GST liability inculding ITC concept	10	Computation of net GST liability inculding ITC concept	10	Computation of net GST liability inculding ITC concept	10	Computation of net GST liability including ITC concept	10	Computation of net GST liability including ITC concept	8	Computation of net GST liability including ITC concept and concept of composite supply	8	Computation of net GST liability including ITC concept and RCM concept and E invoicing	8	Computation of net GST liability including ITC concept and RCM concept	8	Computation of net GST liability including ITC concept and RCM concept	8
5(b)	Computation of GST liability - Exemptions and RCM concept combined	**5**	Computation of Taxable Value of Supply and GST Payable Including Forward and Reverse Charge Mechanism under GST	5	Concept of mixed supply and composite supply - Section 8	5	Exemptions	5	Value of Supply	5										
OPTIONAL (2 of 3)																				
6(a)	Determine ITC eligibility	**5**	Computation of Net ITC in Accordance with CGST Act 2017 or Rules, 2017	5	Computation of GST liability - Exemptions and RCM concept combined	5	Composition levy	5	Computation of net GST liability including ITC concept	5	Valuation - Value of Supply	6	Computatuon of GST liability - Exemptions and RCM concept combined	6	Computation of GST liability and ITC - Principal to Agent taxability - Del Credre Agent	6	Valuation - Value of Supply	6	Exemptions - Education related concept	6
6(b)	Place of supply	**5**	Determination Taxability of Services under GST Law	5	Place of supply	5	Place of supply	5	Place of Supply	5	Supply - Transaction is supply or not	4	Exemptions - Hospital	4	Composition Scheme and Registration applicability	4	Supply - Transaction is supply or not	4	Applicability of registration	4
7(a)	Computation of Aggregate Turnover and GST Registration Liability under GST Law	**5**	Calculation of Interest Payable under GST Law	5	determine the effective date of registration & revised tax invoice	5	Applicability of TDS	5	Payment of Tax and Interest	5	Ewaybill as per CGST Act	3	Payment of tax - Order for payment (Electronic Liability Register)	5	Computation of aggregate turnover for registration purpose	5	Issuance of Invoice for goods sent on approval basis	4	Time of Supply for goods and Services	5
7(b)	Bill To Ship To Model -E -Way Bill	**5**	Account and Records - Inspection and Verification of goods in Transit	5	Returns-rectification of errors and time limit of makinig the rectification	5	Accounts and records-Accounts for works contract	5	Payment of Tax and Interest	5	Tax Invoice	4	QRMP scheme and the requirement of ewaybill in case of principal to jobworker	3	Transfer of balance in electronic cash ledger	3	Ewaybill for multiple invoices	3	Calculation of interest liability under Section 50	5
7(c)											Payment of Tax and Interest	3	7(b)(ii) Job worker & Eway Bill	2	7(b)(ii) - Requirement for generation of ewaybill	2	GST returns - GSTR 1 filing	3		
8(a)	Rule 86B -Exceptions and Nature of Restrictions	**5**	Scope of Supply under Section 7 of the CGST Act, 2017"	5	HAM Model- Time of supply	5	Supply-section 7(1)(b),7(1)(c)	5	Value of Supply (or) Supply - Consideration	5	Input Tax Credit (Or) Registration	5	Non eligibility of composition scheme and the exemption related to GTA **(or)** transactions covered in Schedule III	5	Rule 86B - Applicability and exceptions	5	RCM concept - In case of service by Government to Business Entity	5	Registration requirements for CTP	5
8(b)	i) Exceptions to Filing Return under GST and Circumstances for Debarment from Furnishing GSTR-1/IFF ii)Exemption from GST Registration for Unregistered Persons Supplying through E-Commerce Operators – Conditions under Notification No. 34/2023-CT and Section 23 of CGST Act, 2017	**5**	(i) Provisons related to CTP and NRTP (ii) evolution of goods or services	2 3	Exemptions	5	(i)E inovoicing and (ii) Introduction of GST	2 3	Charge of GST	5	Returns	5	Rule 86A - Power of commissioner related to not allowing debit of electronic credit ledger	5	Isssuance of credit note	5	Utilisation of ITC	5	Cases where Dynamic QR code is not applicable for B2C transactions	5
			OR Section 31 of CGST Act,2017	5	OR (i)E-Way Bill on Part-01 and (ii)state taxes subsumed in the GST Regime	2 3	OR Accounts and records-Additional documents to be kept by agent	5							**OR** Applicability and non applicability of IFF	5	**OR** Power of PO to cancel registration in various cases	5	**OR** Applicability of E Invoicing and the time limits for validity of Ewaybill	5

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GST IN INDIA - AN INTRODUCTION

Contents –

- Direct and Indirect taxes
- Genesis of GST in India
- Framework of GST
- GST Council
- Deficiencies in erstwhile acts
- Features of GST

1. Introduction

- **Direct Taxes:** A direct tax is a kind of charge, which is imposed directly on the taxpayer and paid directly to the Government by the persons (juristic or natural) on whom it is imposed. A direct tax is one that cannot be shifted by the taxpayerto someone else. A significant direct tax imposed in India is income tax.
- **Indirect Taxes:** If the taxpayer is just a conduit and at every stage the tax- incidence is passed on till it finally reaches the consumer, who really bears the brunt of it, such tax is indirect tax. An indirect tax is one that can be shifted by the taxpayer to someone else.
- Also called consumption taxes, they are regressive in nature because they are notbased on the principle of ability to pay.
- Indirect taxation in India witnessed a paradigm shift on July 01, 2017 with usherance into a unified indirect tax regime wherein a large number of Central and State indirect taxes were amalgamated into a single tax – Goods and ServicesTax (GST).
- The introduction of GST has been a very significant step in the field of indirect tax reforms in India. There are several Central and State taxes which got subsumed in GST.
- GST extends to whole of India ***including the State of Jammu and Kashmir***.

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India – covers

- Its Territory,
- Territorial waters (Up to 12 nautical miles)
- Continental shelf (Up to 200 nautical miles)
- Exclusive Economic Zone
- Soil under the water
- And air space above territory and territorial waters.

2. Genesis of GST India

In the year ***2000,*** the then Prime Minister mooted the concept of GST and set up a committee to design a Goods and Services Tax (GST) model for the country

↓

In 2003, the Central Government formed a task force under Vijay Kelkar, known as ***Kelkar committee*** which strongly recommended fully integrated GST on national basis. But GST missed several deadlines.

↓

The Union Finance Minister, Shri P. Chidambaram, while presenting the Union Budget (2006-2007), announced that GST would be introduced from April 1, 2010.

↓

In 2014, the NDA Government tabled the Constitution (122nd Amendment) Bill, 2014 on GST by the then Finance minister, Mr. Arun Jaitley.

↓

on 27th March, 2017,
the GST bill was introduced in Lok Sabha and Rajya Sabha

↓

on 29th March, 2017,
GST Act was passed by Parliament

↓

on ***12th April, 2017***,
President's assent was received

↓

With effect from ***1st July, 2017***,
the historic indirect tax reform – ***GST was introduced***

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- France was the first country to implement GST in 1954.
- Presently, more than 160 countries have implemented GST in some form or the other because this tax has the capacity to raise revenue in the most transparent and neutral manner.

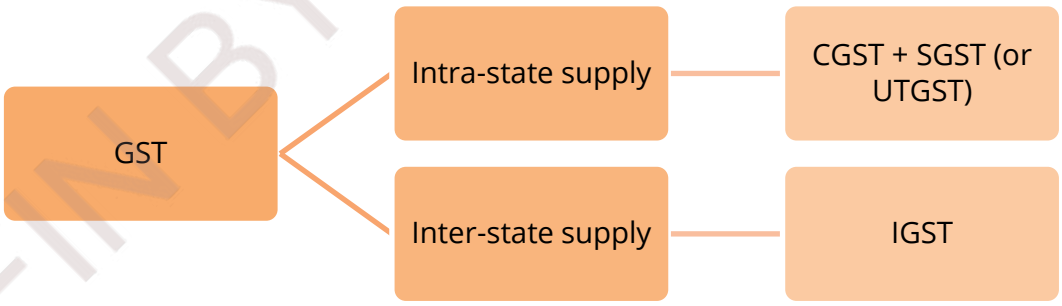
3. Framework of GST

3.1 Dual GST

- India has adopted a Dual GST model in view of the federal structure of the country.
- Consequently, Centre and States simultaneously levy GST on taxable supply ofgoods or services or both, which takes place within a State or Union Territory.
- Now, the Centre also has the power to tax intra-State sales & States are also empowered to tax services.
- GST is a destination based tax applicable on all transactions involving supply ofgoods and services for a consideration subject to exceptions thereof.
- GST in India comprises of
  - Central Goods and Services Tax ***(CGST)*** - levied and collected by Central Government,
  - State Goods and Services Tax ***(SGST)*** - levied and collected by State Governments/Union Territories with Legislatures and
  - Union Territory Goods and Services Tax ***(UTGST)*** - levied and collected byUnion Territories without Legislatures,

  on ***intra-State supplies*** of taxable goods and/or services.

- ***Inter-State supplies*** of taxable goods and/or services are subject to Integrated Goods and Services Tax ***(IGST)***. ***IGST is the sum total of CGST and SGST/UTGST and is levied by Centre on all inter-State supplies.***



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- There is ***single legislation – CGST Act, 2017*** - for levying CGST.
- Similarly, Union Territories without Legislatures are governed by UTGST Act,2017 for levying UTGST.
- States and Union territories with their own legislatures have their own GST legislation for levying SGST.
- Union Territories **without Legislatures** –
  - Andaman and Nicobar Islands
  - Dadra and Nagar Haveli
  - Chandigarh
  - Lakshadweep
  - Daman and Diu
  - Ladakh

  Union territories **with their own legislatures**
  - Delhi
  - Puducherry
- Though there are multiple SGST legislations, the basic features of law, such as chargeability, definition of taxable event and taxable person, classification and valuation of goods and services, procedure for collection and levy of tax and the like are uniform in all the SGST legislations, as far as feasible. This is necessaryto preserve the essence of dual GST.

3.2 Constitution (101 Amendment) Act, 2016

- **Article 265:** Article 265 of the Constitution of India prohibits arbitrary collection of tax. It states that "no tax shall be levied or collected except by authority of law".The term "authority of law" means that tax proposed to be levied must be withinthe legislative competence of the Legislature imposing the tax.

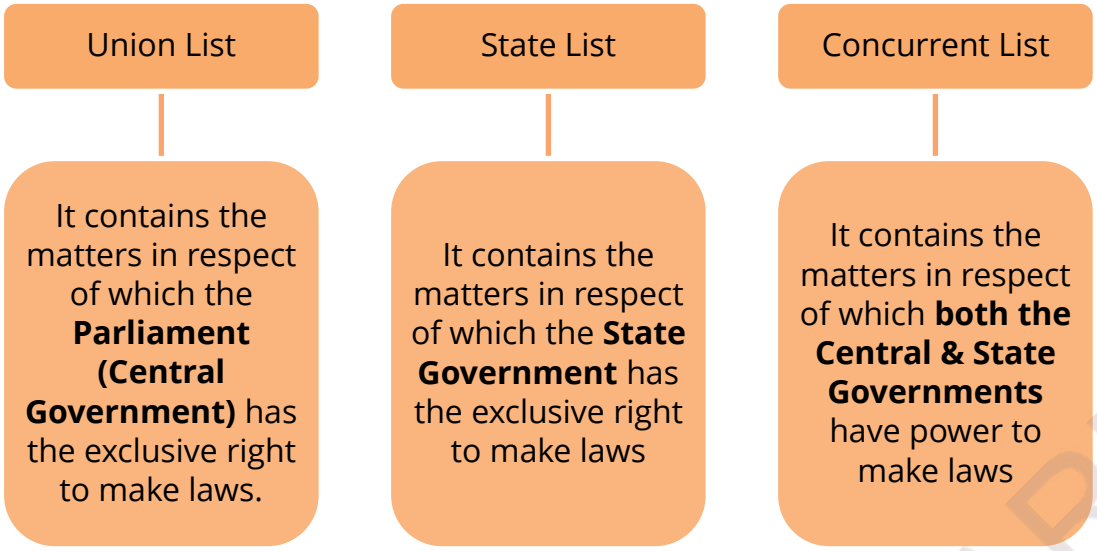
- **Article 245:** Part XI of the Constitution deals with relationship between the Union and States. The power for enacting the laws is conferred on the Parliament and on the Legislature of a State by Article 245 of the Constitution.

- **Article 246:** It gives the respective authority to Union and State Governments forlevying tax. Whereas Parliament may make laws for the whole of India or any partof the territory of India, the State Legislature may make laws for whole or part ofthe State.

- **Seventh Schedule to Article 246:** It contains three lists which enumerate the matters under which the Union and the State Governments have the authority tomake laws.

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- Entries 82 to 91 of List I enumerate the subjects where the Central Government has power to levy taxes. Entries 45 to 63 of List II enumerate the subjects where the State Governments have the power to levy taxes. Parliament has a further power to make any law for any part of India not comprised in a State even if suchmatter is included in the State List.
  - **Income tax is levied by virtue of Entry 82** - Taxes on income other than agricultural income and
  - **Customs Duty vide Entry 83** - Duties of customs including export duties ofthe Union List.
  - Power to levy Goods and Services Tax (GST) has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016.

- **Need for Constitutional Amendment** -
  - The Constitutional provisions hitherto had delineated separate powers for the Centre and the States to impose various taxes.
    - ✓ Whereas the Centre levied excise duty on all goods produced or manufactured in India
    - ✓ The States levied Value Added Tax once the goods entered the stream of trade upon completion of manufacture.
    - ✓ In the case of inter-State sales, the Centre had the power to levy a tax (the Central Sales Tax), but the tax was collected and retained entirely bythe States.
    - ✓ Services were exclusively taxed by the Centre together with applicable cesses, if any.
    - ✓ Besides, there were State specific levies like entry tax, Octroi, luxury tax, entertainment tax, lottery and betting tax, local taxes levied by Panchayats etc.
  - Introduction of the GST required amendment in the Constitution so as to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.
  - Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to

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as Constitution Amendment Act) was passed. It has 20 sections.Newly inserted Article 279A empowering President to constitute GST Council.

3.3 Taxes subsumed by GST

Central taxes	State taxes
• Central excise duty & additional excise duties • Service tax • Excise Duty under Medicinal & Toilet Preparation Act • Additional duties of Customs (CVD) • Special additional duties of customs (SAD) • Central Sales Tax • Central Surcharges and cess	• Sales tax / VAT • Luxury tax • Entry Tax & Purchase tax • Entertainment and amusement tax (except those levied by local bodies) • Taxes on advertisements • Tax on lottery, betting and gambling • State Surcharges and cess

3.4 Significant provisions of Constitution (101st Amendment) Act, 2016

- **Article 246A:** This article grants power to Centre and State Governments tomake laws with respect to GST imposed by Centre or such State.
  - Centre has the exclusive power to make laws with respect to GST in case ofinter-State supply of goods and/or services.
  - However, in respect to the following goods, the aforesaid provisions shallapply from the date recommended by the GST Council :
    - ✓ Petroleum crude
    - ✓ High speed diesel
    - ✓ Motor spirit (commonly known as petrol)
    - ✓ Natural gas
    - ✓ Aviation turbine fuel

Not yet under GST

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- **Article 269A:** This article stipulates that GST on ***supplies in the course of inter-State trade or commerce*** shall be levied and collected by the Government of India and such tax shall be apportioned between the Union and the States in themanner as may be provided by Parliament by law on the recommendations of theGoods and Services Tax Council.
  - ***Import of goods or services*** or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce. Central Government has power to levy IGST on the import transactions which were earlier subject to Countervailing duty under the Customs Tariff Act, 1975.
  - Where an amount collected as IGST has been used for payment of SGST orvice versa, such amount shall not form part of the Consolidated Fund of India. This is to facilitate transfer of funds between the Centre and the States.
  - Parliament is empowered to formulate the principles regarding place of supply and when supply of goods, or of services, or both occurs in inter- State trade or commerce
- **Article 270: Distribution of the goods and services tax (GST) between the Centre and the States**

  Article 270 is amended to provide for distribution of the goods and services tax between the Centre and the States, by order of the President after considering recommendations of the Finance Commission.

  This applies for those tax amounts apportioned or payable to the Central Government for taxes levied by it under articles 246A(1) and (2) and Clause (1) of 269A.

4. GST council

- ***Article 279A*** of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- President constituted the GST Council on 15th September, 2016.

Chairman	Central Govt. Representative	Union Finance Minister
Member	Central Govt. Representative	Union Minister of State (Revenue / Finance
Members	State Govt. Representatives (for each state & UT with legislature)	Ministers in charge ofFinance/Taxation or Nominated Minister

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- **Function of the Council** – Make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc.
- **Council recommendations** - the special provisions with respect to the Special Category States. There are 11 **Special Category States**, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.
- Decision of the GST Council - taken by a ***majority of not less than three-fourths*** of ***the weighted votes of the members present and voting***.
  - Vote of the Centre has a weightage of one-third of total votes cast and
  - votes of all the State Governments taken together - has a weightage of two-thirds of the total votes cast, in that meeting.

5. Important Definitions

Goods and Services Tax (GST) – Article 366 (12A) - means any tax
- on supply of goods, or services or both
- except taxes on the supply of the alcoholic liquor for human

- The power to levy tax on alcoholic liquor for human consumption is with state government.

Goods - Sec. 2(52) of CGST Act - means every kind of **movable property**
- other than money and securities
- but includes actionable claim, growing crops, grass and things attachedto or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Securities - Sec. 2(101) of CGST Act – Shall have the same meaning as assigned to it in section 2(h) of securities contract (Regulation) Act,1956.

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- Securities include – shares, scrips, stocks, bonds, debentures, debenture stock orother marketable securities of like nature in or of any incorporated company or other body corporate. It also includes derivatives, units of mutual fund or securityreceipts.

Money – Sec. 2(75) of CGST Act - means the Indian legal tender or

- any foreign currency, cheque, promissory note, bill of exchange, letterof credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument.
- recognised by the Reserve Bank of India
- when used as a consideration to settle an obligation or exchange withIndian legal tender of another denomination
- but shall not include any currency that is held for its numismatic value

- ***Actionable claim*** – is an unsecured debt, enforceable in the court of law.

Actionable claim- Section 2(1) of CGST Act read with section 3 of the Transfer of Property Act, 1882 means a claim to any debt,

- other than a debt secured by
  - ✓ mortgage of immovable property or
  - ✓ hypothecation or pledge of movable property, or
- to any beneficial interest in movable property not in the possession,either actual or constructive, of the claimant,
- which the civil courts recognise as affording grounds for relief, whethersuch debt or beneficial interest be existent, accruing, conditional or contingent.

Services- Sec. 2(102) of CGST Act - means anything other than goods, money and securities

- but includes activities relating to the use of money or its conversion by cashor by any other mode, from one form, currency or denomination to anotherform, currency or denomination for which a separate consideration is charged.

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6. Deficiencies in the erstwhile acts

- ***Double taxation of a transaction as both goods and services*** as the distinctionbetween goods and services was often blurred, e.g. software was liable to both VAT and service tax.
- CENVAT did not include chain of value addition in the distributive trade below the stage of production. Similarly, in the State-level VAT, CENVAT load on the goods was not removed leading to the ***cascading of taxes***. To illustrate, when the goods were manufactured and sold, both central excise duty (CENVAT) and State-Level VAT were levied.
- Though CENVAT and State-Level VAT were essentially value added taxes, set off of one against the credit of another was not possible as CENVAT was a central levy and State-Level VAT was a State levy
- ***VAT on goods was not integrated with tax on services***, at the State level, to remove the cascading effect of service tax. With service sector being the fastest growing sector in the economy, the exclusion of services from the tax base of theStates potentially eroded their tax- buoyancy.
- ***CST*** was another source of distortion in terms of its ***cascading nature*** since it was non-VATABLE. Being an origin based tax, CST was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place.
- There were ***several taxes in the States***, such as, Luxury Tax, Entertainment Tax, etc. which were not subsumed in the VAT.

7. Features of GST

- ***Comprehensive tax structure*** – GST is a comprehensive tax structure covering both goods and services. This addresses all the above mentioned deficiencies.
- ***Value added tax*** - GST is a value added tax levied on manufacture, sale and consumption of goods and services. In the GST regime, the major indirect taxes have been subsumed in the ambit of GST.
- ***Continuous chain of tax credits*** - GST offers comprehensive and continuous chain of tax credits from the producer's point/ service provider's point up to the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.
- ***Tax borne by final consumer*** - The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages
- ***No cascading effect of taxes*** - Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate.

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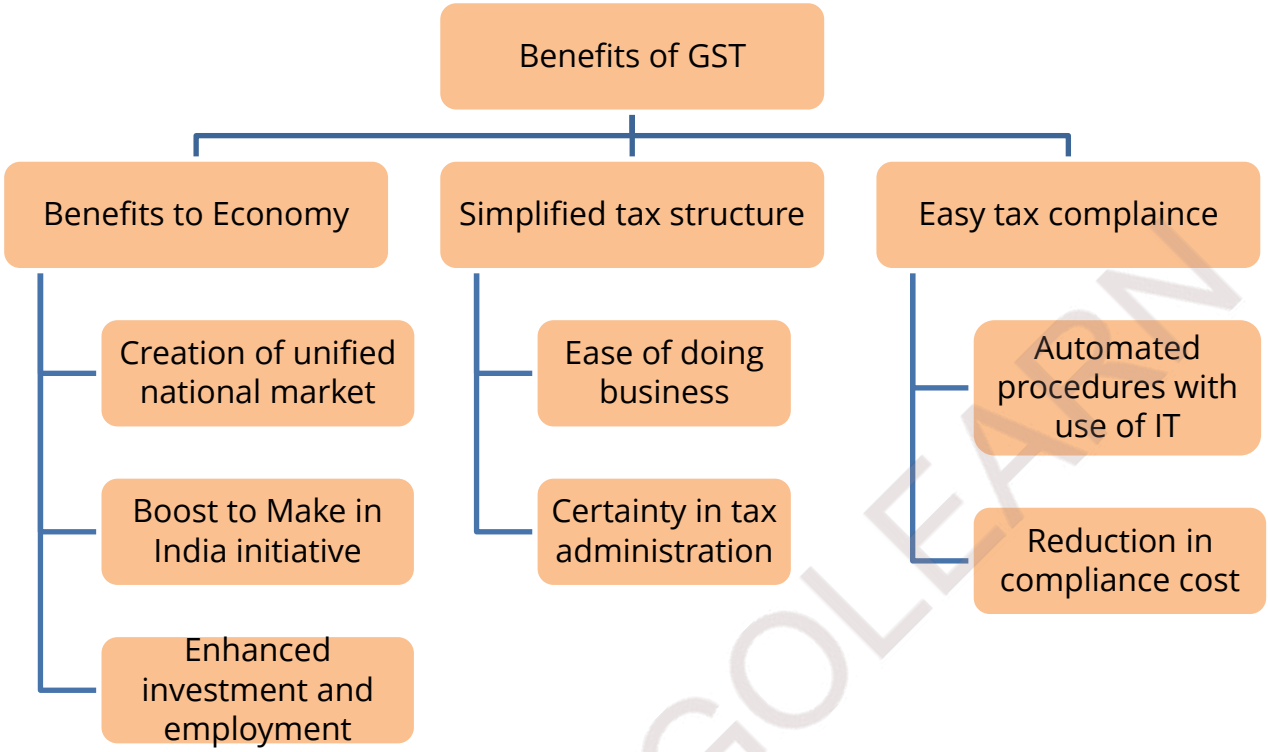
8. *Goods and services outside GST purview –*

- **Alcoholic liquor for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be *subjected to State excise duty* and inter-State/intra-State sale of the same is subject to *CST/VAT* respectively.
- **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.
  Till such date, central excise duty continues to be levied on manufacture/ production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is *subject to CST/ VAT* respectively.
- **Tobacco:** Tobacco is within the purview of GST, i.e. GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Resultantly, tobacco is subject to *GST as well as central excise duty.*
- **Real estate sector:** Real estate sector has been kept out of ambit of GST, i.e. GST will not be levied on sale/purchase of immovable property.

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9. Benefits of GST



Note:
GST is a destination based consumption tax i.e., tax will reach that state where goods or services or consumed. Accordingly, certain states have lost revenue on account of introduction of GST. In order to compensate such states, GST compensation cess has been introduced on some products. Initially, it was proposed that this will be levied for a period of 5 years. However, the same has been extended till 31.3.2026

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SUPPLY UNDER GST

Contents –

- Meaning and scope of supply (sec 7)
- Supply with consideration in course/ furtherance of business [Sec 7(1)(a)]
- Import of services for consideration [Sec 7(1)(b)]
- Supply without consideration- Deemed supply [Sec 7(1)(c)- -Schedule I]
- Activities treated as Supply of goods or Supply of services [Sec 7(1A) - Schedule II]
- Activities neither the supply of goods nor the supply of services [Sec 7(2)(a) - Schedule III]
- Composite Supplies [sec 8(a)]
- Mixed Supplies [Sec 8(b)]

1. Introduction

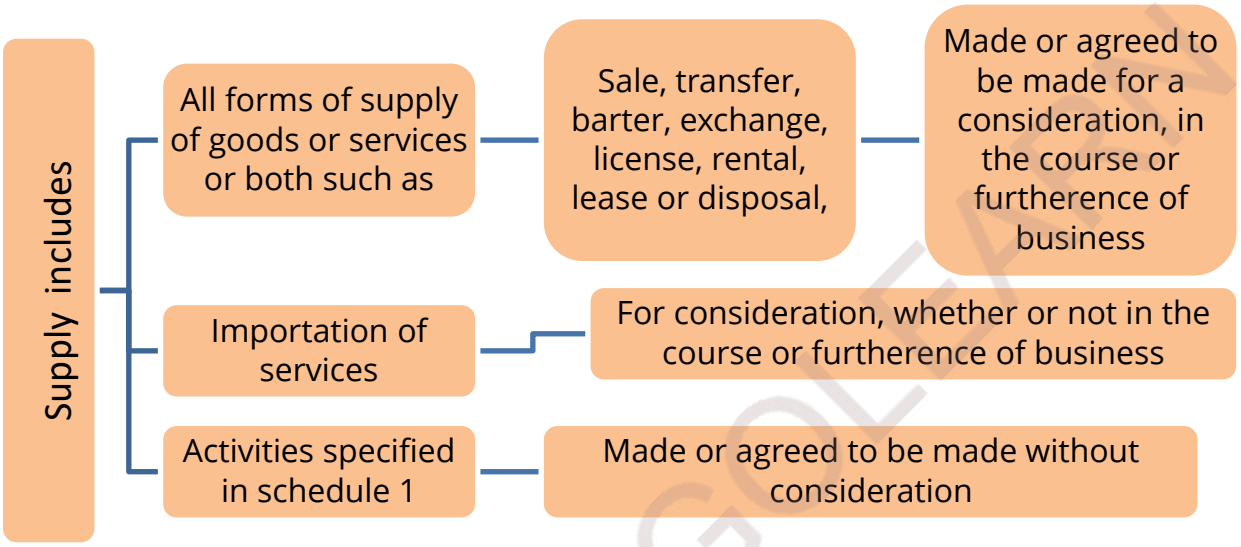
- Before levying any tax, taxable event needs to be ascertained. It determines the point at which tax would be levied.
- The GST laws lays down ***one comprehensive taxable event i.e. "Supply"*** - Supply of goods or services or both. Various taxable events namely manufacture,sale, rendering of service, purchase, entry into a territory of State etc. have beendone away with in favour of just one event i.e. Supply.
- In the GST regime, the entire value of supply of goods and/or services is taxed in an integrated manner, unlike the earlier indirect taxes, which were charged independently either on the manufacture or sale of goods, or on the provisions of services.

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2. Meaning & Scope of supply – Sec 7(1)(a)

- The definition of 'supply' as contained in section 7 of the CGST Act is an inclusive definition and does not define the term exhaustively.



- The terms used in the above definition are explained below: -

Sale - Sale involves transfer of ownership in goods or title to property from one person to another person for consideration.

Transfer - where the ownership may not be transferred but the right in the goodsis transferred.

Barter - It means, the exchange of goods and productive services for other goodsand productive services, without the use of money.

Exchange - when two persons mutually transfer the ownership of one thing for the ownership of another, along with money being paid as part of consideration, the transaction is called an exchange.

Licence - where one person grants to another, or to a definite number of other persons, a right to do or continue to do in or upon the immovable property of the granter, the right is called a licence.

Rentals - Periodical payment for use of another's property. Rent is to pay on monthly.

Lease - A lease is an agreement whereby the lessor conveys to the lessee in returnfor a payment or series of payments the right to use an asset for an agreed periodof time. A lease may be financial lease or operating lease.

Disposal- Disposal normally considered as selling of assets as scrap.

In the course of business – Whatever activities a person carries out regularly forrunning business, trade or commerce are called as In the course of business.

Furtherance of business - Such new activities which are undertaken to develop or expand the business are called as furtherance of business.

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- Anything supplied other than goods and services is outside the scope of supply.

Consideration [Sec 2(31)] - In relation to the supply of goods or services orboth includes—

(a) Any payment made or to be made, whether in money or otherwise,

(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 servicesor both, —

- Whether by the recipient or by any other person
- But shall not include any subsidy given by the Central Government or aState Government.
- However, ***a deposit*** given in respect of the supply of goods or services orboth ***shall not be considered*** as payment made for such supply ***unless the supplier applies*** such deposit as consideration for the said supply

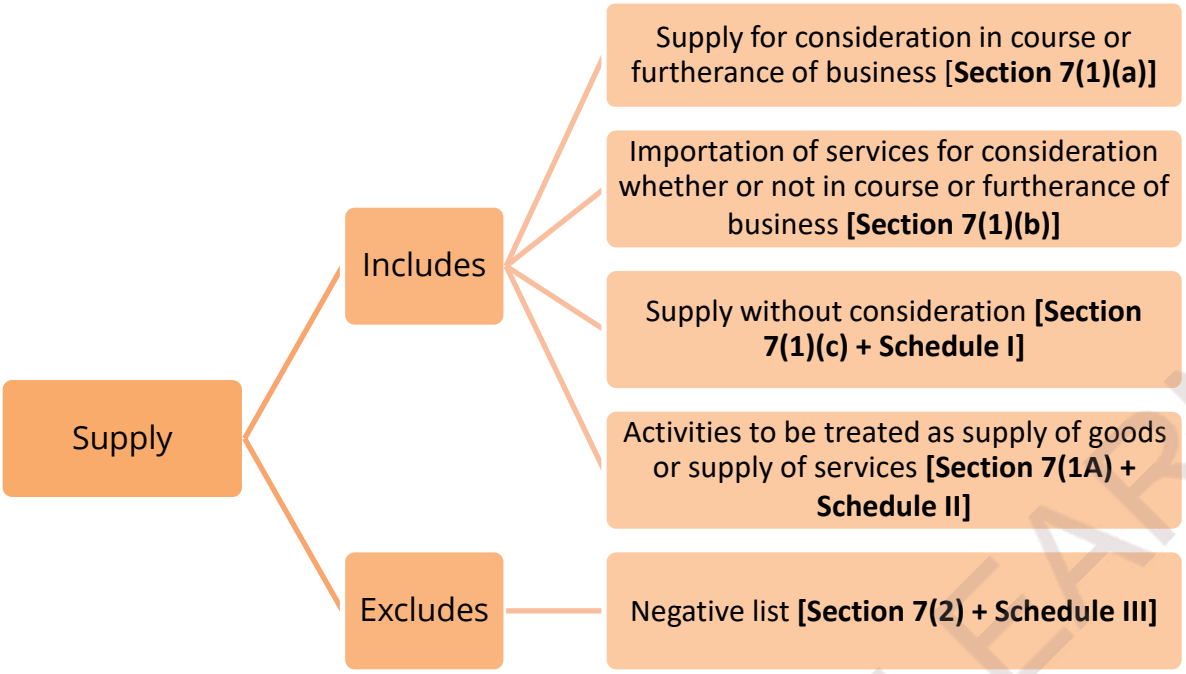
- From the above definition, the following are importation:
  - **Consideration** not only includes money but covers anything which might be possibly done, **given or made in exchange for something else.**
  - Consideration need not always flow from the recipient of the supply. It can also be **made by a third person.**
  - An important feature of consideration is **quid pro quo (something for something).** Donations received by a charitable organisations are treatedas considerations only if there exists an obligation on the part of the recipient of the donation or gift to do anything in return for the donor.

    GST is not leviable on gifts/ donations
    - if it is made to a charitable organisation
    - if it is payment has the character of the gift / donation and
    - if the purpose is philanthropic (i.e. no commercial gain) and not inthe nature of advertisement.

    When the name of the donor is displayed in the recipient's premises as an expression of gratitude and is not aimed at giving publicity to the donor in such a manner that it amounts to advertising of his business, then there isno supply of service for consideration.
  - **Art works sent by artists to galleries as exhibition- Not a Supply** as no consideration flows from the galleries to the artist.
  - Any **subsidy given by the Central Government or a State Government is NOT considered.**
  - A deposit shall not be considered as payment made for such supply unless thesupplier applies / appropriates such deposit as consideration for the said supply.
- Any transaction involving supply of goods and/or services without considerationis not a supply unless it is deemed to be a supply under Schedule I of the CGST Act.

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A new clause (aa) has been inserted in sub-section (1) of section 7 to include the following activity/transaction within the scope of supply retrospectively **with effect from 01.07.2017:**

Activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

An explanation is also being inserted to section 7(1)(aa), to clarify that the person/ its **members/ constituents shall be deemed to be two separate persons** and the supply of activities/ transactions inter se shall be deemed to take place from one person to another

3. Importation of services, for a consideration whether or not inthe course or furtherance of business. [Sec 7(1)(b)]

1. It is applicable only for services and not for goods
2. It should be import of 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.
3. Services shall be provided with consideration
4. Services may be in the course or furtherance of business or not in the course or furtherance of business.

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4. Supply without consideration - Deemed Supply [Sec 7(1)(c)]read with Schedule I.

- There are instances where an activity or transaction is treated as supply, ***even if the same is made without consideration.***
- These are specifically mentioned in Schedule I appended to the CGST Act. Thesame has been discussed below:

1	▪ Permanent transfer or disposal of business assets where input tax credit has been availed on such assets
2	▪ Supply of goods &/ or services 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 more than Rs.50000/- in a financial year by an employer to an employee shall not be treated as supply of goods &/ or service
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
4	▪ Import of services by a [person] from a related person or from any of his other establishments outside India, in the course or furtherance of business

4.1 Permanent Transfer/Disposal of Business Assets where input tax credit hasbeen availed on such assets.

- In order to qualify as supply under this para, following conditions need to be satisfied:
  - There must be a disposal or transfer of business assets
  - Transfer/disposal must be permanent
  - ITC must have been availed on such business assets.
- However permanent transfer/disposal of following business assets, without consideration, will not be deemed as supply:
  - Business assets on which ITC is blocked/not available under GST
  - Business assets though eligible for ITC, ITC has not been availed by the registered person.
- It is important to note that the term business assets has not been defined underthe GST law.
- This clause is wide enough to cover transfer of business assets from holding to subsidiary company for nil consideration.

4.2 Supply between related person or distinct persons

- Supply of goods or services or both between 'related persons' or between 'distinct

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persons' as specified in section 25, will qualify as supply ***provided it is made in the course or furtherance of business***.

4.2.1 Distinct persons

- Under GST law, a supplier is required to obtain **State-wise registration**.
- He has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit.
- Further, where he has multiple places of business in a State/UT, he has the optioneither to get a single registration for said State/UT or to get separate registrations for each place of business in such State/UT.

Distinct persons - A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as distinct persons. [sec 25(4)]

Establishments of Distinct persons - where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then suchestablishments shall be treated as establishments of distinct persons. [sec 25(5)]

Transactions between different locations (with separate GST registrations) of samelegal entity (e.g., ***stock transfers or branch transfers) will qualify as 'supply'*** under GST as these are transactions between distinct persons.

- However, transfer between two units of a legal entity under single registration (apparently within same State) will not be considered as supply. For e.g.: supply of goods from factory (In Lucknow) to retail showroom (In Kanpur) in same State(Uttar Pradesh) under single registration does not constitute supply.

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4.2.2 Related persons

As per Explanation to Section 15,

(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 25% or more of the outstanding voting stock or shares of both of them;

(v) one of them directly or indirectly controls the other;

(vi) both of them are directly or indirectly controlled by a third person;

(vii) together they directly or indirectly control a third person; or

(viii) they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

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- **Difference between agent and Distributor**

Agent	Distributor
Procures from the company and supplies to customers on behalf of the company for ***commission***	Purchases from the company and sells to customers in his own capacity for ***profits***.

Family [Sec 2(49)] - means, —

- The spouse and children of the person, and
- The parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

Person [Sec 2(84)] - Includes —

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

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4.2.3 Supply of goods or services or both between an employer and employee:

- Services provided by an employee to the employer in the course of or in relationto his employment are not treated as supply [Schedule III of CGST Act]. Any perquisites provided by employer to employee in course of employment will not be subjected to GST.
- If services such as membership of a club, health and fitness centre etc. are provided free of charge to all the employees by the employer, the same will not be subjected to GST.

- The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is partand parcel of the cost-to company (CTC)
- ***Gifts up to Rs. 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.***
- The term 'gift' has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be enforced in a court of law.

4.3 Principal – Agent

- Supply of goods—

  (a) by a principal to his agent where the agent undertakes to supply such goodson 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

  is considered as supply.
- ***Only supply of goods and not supply of services*** is covered here. the supply ofservices between the principal and the agent and vice versa would therefore require "consideration" to be considered as supply.
- The key ingredient for determining relationship under GST would be whether theinvoice for the further supply of goods on behalf of the principal is being issued by the agent or not. Thus the indicator is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.
- Where the ***invoice for further supply is being issued by the agent in his name*** then, any provision of goods from the principal to the agent would fall within thefold of this para. I.e., It would be ***considered as supply***.
  The disclosure or non- disclosure of the name of the principal is immaterial in such situations.
- In cases where the ***invoice is issued*** by the agent to the customer ***in the name of the principal***, such agent shall ***not fall within the ambit of Schedule-I*** of theCGST Act, 2017.
- Similarly, where the goods being procured by the agent on behalf of the principalare invoiced in the name of the agent then further provision of the said goods bythe agent to the principal would be covered by this para.

4.3.1 Examples for the above provisions:

1. Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various

suppliers who can provide the goods as desired by Anmol, and asks the supplier, Mr. C to send the goods and issue the invoice directly to Mr. A.

In this scenario, Mr. B is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Para 3. of Schedule I.

2. M/s Tintin, a banking company, appoints Mandaar (auctioneer) to auction certaingoods. The auctioneer arranges for the auction and identifies the potential bidders.The highest bid is accepted and the goods are sold to the highest bidder by M/s Tintin. The invoice for the supply of the goods is issued by M/s Tintin to the successful bidder.
   In this scenario, the auctioneer is merely providing the auctioneering services withno role played in the supply of the goods. Even in this scenario, Mandaar is not anagent of M/s Tintin for the supply of goods in terms of Para 3. of Schedule I.

3. Gautam, an artist, appoints Gambhir (auctioneer) to auction his painting. Gambhirarranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder.
   The invoice for the supply of the painting is issued by Gambhir on the behalf of Gautam but in his own name and the painting is delivered to the successful bidder.In this scenario, Gambhir is not merely providing auctioneering services, but is also supplying the painting on behalf of Gautam to the bidder and has the authority to transfer the title of the painting on behalf of Gautam. This scenario is covered under Para 3. of Schedule I.

4.3.2 Del-Credere Agent (DCA)

- A DCA is a selling agent who is engaged by a principal to assist in supply of goodsor services by contacting potential buyers on behalf of the principal. DCA guarantees the payment to the supplier. where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of the buyer. The commission paid to the DCA is relatively higher than that paid to a normal agent as he is effectively providing an insurance against default by the buyer.

- In order to guarantee timely payment to the supplier, the DCA can resort to various methods including ***extending short-term transaction-based loans*** to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest. This loan is to be repaid by the buyer along with an interest to the DCA at a rate agreed.

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Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?

If invoice is issued by the supplier to the customer, either himself or through DCA, the DCA does not fall under the ambit of the agent.

If invoice is issued by the DCA in his own name, the DCA **would fall** under the ambit of agent.

4.3.3 Clarification with regards to Del-Credere Agent (DCA)

Treatment of interest charged on Temporary loan (provided by DCA to Buyer)

Where DCA is not an agent under Para 3 of Schedule I

1. The temporary short-term transaction based loan is a ***Independent supply of service*** by the DCA to the recipient on Principal to Principal basis.

2. The ***interest*** being charged by the DCA ***would not form part of the value of supply*** of goods supplied .

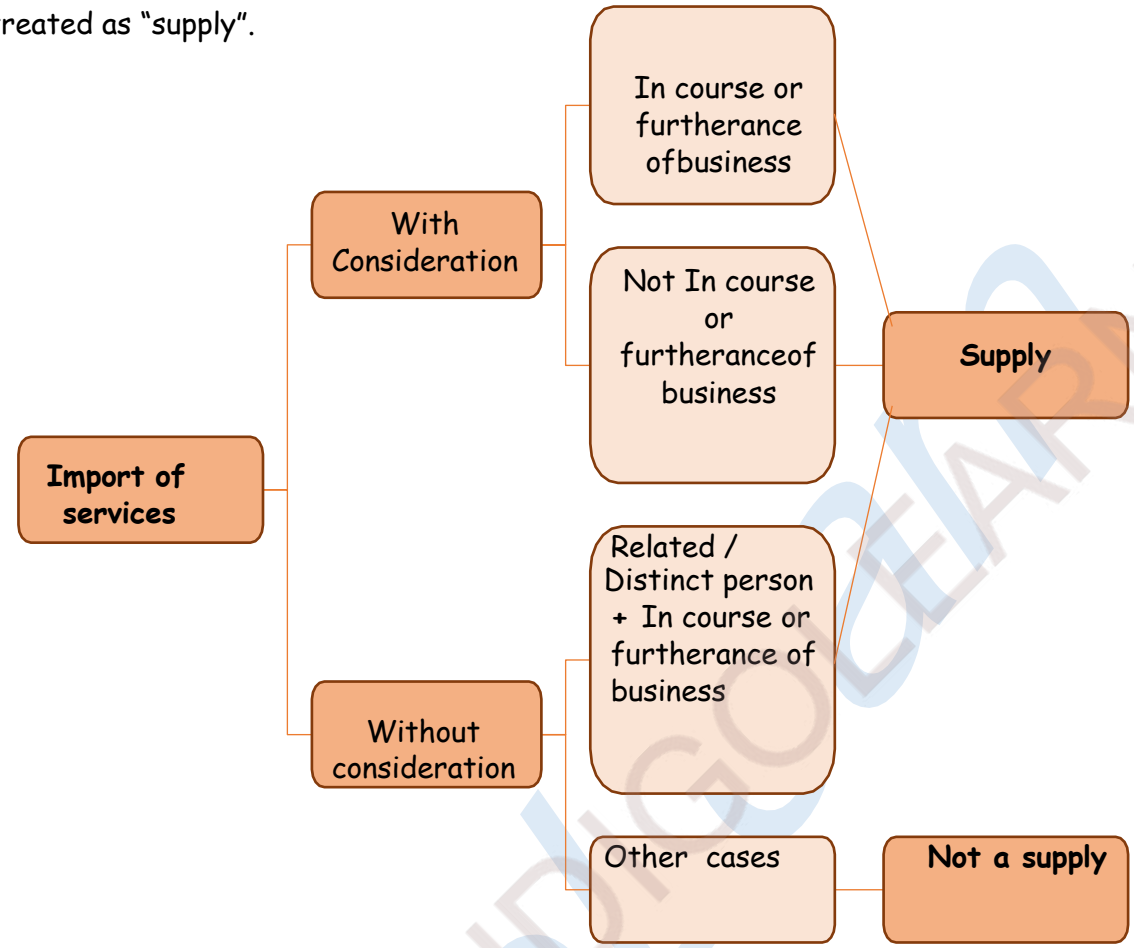
Where DCA is an agent under Para 3 of Schedule I

1. The temporary short-term transaction based credit is ***subsumed in the supply*** of the goods.

2. The value of the ***interest*** charged for such credit would be required to be ***included in the value of supply of goods.***

4.4 Importation of services

- Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".



5. Activities to be treated as Supply of Goods or Supply of Services[Section 7(1A) + Schedule II]

- Section 7(1A) (read with Schedule II) of the CGST Act classifies certain activities/ transactions constituting supply, either as supply of goods or supply of services.
- This helps in mitigating the ambiguities which existed in earlier laws.
- This also helps in identifying the correct tax rate as there are different rates for different goods and different services.

Schedule II		
Sr. No.	**Transactions**	**Supply**
1.	**Transfer**	
	(a) Transfer of the title in goods.	Supply of goods
	(b) Transfer of right in goods or undivided share ingoods without the transfer of title.	Supply of service

	(c) Transfer of title in goods under an agreementwhich stipulates that property in goods shall pass at	Supply of goods
	a future date upon payment of full consideration as agreed. (Examples – i) Installment , ii) Hire purchase sale and iii) Goods sent on approval	
2.	Land and Building	
	(a) Lease, tenancy, easement, licence to occupy land	Supply of service
	(b) Lease or letting of any building including for business or commerce. (Building might be a commercial, industrial or residential complex rent out wholly or partly)	Supply of service
3.	Treatment or process	
	Any treatment or process which is applied to another person's goods (example – Catering, job work etc.)	Supply of service
4.	Transfer of business assets	
	(a) Goods forming part of business are transferred or disposed off by the owner	Supply of goods
	(b) The owner (person carrying on business) uses or allows to use business assets for personal use.	Supply of service
	(c) If the owner ceases to be a taxable person then business assets will be assumed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person. This is not applicable when:- (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.	Supply of goods
5.	(a) Renting of immovable property. (b) Construction of complex, building, civil structure, etc. where consideration is received before issue of completion certificate*	Supply of service

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	(c) Temporary transfer or permitting use or enjoyment of any intellectual property right (d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software (e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act. Note: Activity of Transfer of tenancy right against consideration (i.e. tenancy premium) is squarely covered under supply of service liable to GST. Transfer of tenancy rights cannot be treated as sale of land / building given in Schedule 5.	Supply of service
6.	**Composite supply**	
	(a) Works contract services 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. **(b)**Supply by way of or as part of any other service or in any other manner whatsoever, of goods beingfood or any other article for human consumption or any drink (other than alcoholic liquor for human consumption).	Supply of service Supply of service

*Construction of a complex, building, civil structure or a part thereof, including a complex or building ***intended for sale*** where,

(a) Full / part of consideration received, before issue of completion certificate by competent authority – Subject to GST. GST is chargeable on the entireconsideration amount.

(b) Full consideration is received after issue of completion certificate by competent authority or after its first occupation, whichever is earlier – Notsubject to GST.

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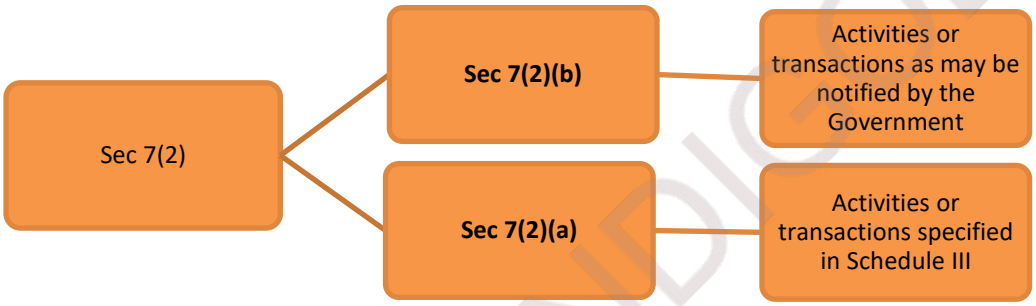


- The term construction includes additions, alterations, replacements, or remodelling of any existing civil structure.
- ***competent authority*** means the ***Government or any authority authorised*** to issue completion certificate under any law for the time being in force and in caseof non-requirement of such certificate from such authority from any of the following, namely :—
  - an architect
  - a chartered engineer
  - a licensed surveyor of the respective local body of the city

6. Negative list under GST [Section 7(2) + Schedule III]

6.1 Negative list

- Activities/transactions specified under Schedule III are termed "Negative list" under the GST regime. This schedule specifies transactions/ activities which shall be neither treated as supply of goods nor a supply of services.



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Schedule III

1. Services by an **employee to the employer** in the course of or in relation to his employment.
   - Amounts received by an employee from the employer on premature termination of contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment.
   - Services provided by casual worker to employer who gives wages on dailybasis to the worker are services provided by the worker in the course of employment.
   - Services provided outside the ambit of employment for a consideration would qualify as supply.
   - Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannotbe considered for providing services in the course of employment.
   - Gifts up to Rs.50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. However, gifts of value more than Rs. 50,000 made without considerationare supply and are subject to GST, when made in the course or furtheranceof business.
   - Employer shall be liable to pay GST on such gifts.

2. Services by **any Court or Tribunal** established under any law for the timebeing in force.
   - The term "Court" includes District Court, High Court and Supreme Court.

3. Functions performed by **Members of Parliament, Members of state legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.**
   - Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity like President, Vice President, Prime Minister, Chief Justice, Speaker of the Lok Sabha etc.
   - Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee.

4. Services of **funeral, burial, crematorium or mortuary** including transportation of the deceased.

5. **Sale of land** and, subject to paragraph 5(b) of Schedule II (construction service), sale of building.

Sale of building - if consideration is paid after receipt of completion certificate – No GST.

6. **Actionable claims**, other than specified actionable claims.
   - Specified actionable claim" as defined in section 2(102A) of the CGST Act, 2017 means the actionable claim involved in or by way of— (i) betting; (ii) casinos; (iii) gambling; (iv) horse racing; (v) lottery; or (vi) online money gaming
   - Online money gaming in which players pay or deposit money or Online money gaming money's worth, including virtual digital assets, in the expectation of winning money or money 's worth,

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including virtual digital assets 27 in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being the force.

- Online gaming offering of game on the internet or an electronic Online gaming network and includes online money gaming [Section2(80A)]
- Virtual digital asset shall have the same meaning as assigned to it in section 2(47A) of the Income-tax Act, 1961 [Section 2(117A)].

New points introduced in Section 7(2)(a):

- Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of Premium paid by the insured

- Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the gross reinsurer on reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

6.2 Sec 7 (2)(b) - Activities/transactions (Non-supplies) notified by the Government

- Government is empowered to notify the activities/ transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as the activities/transactions which shall be treated neither as a supply of goods nor a supply of services.
- In this regard, the Government has notified the services by way of any activity in relation to a function entrusted
  - to a ***Panchayat*** under article 243G of the Constitution or
  - to a ***Municipality*** under article 243W of the Constitution.

6.3 CBIC Clarifications

- CBIC has clarified that following activities/transactions are neither supply of goods nor supply of services.

1. ***Inter-State movement of various modes of conveyance***,
   - Inter-State movement of various modes of conveyance,
   - ***between distinct persons*** including – Trains, Buses, Tankers, Trucks, Trailers, Vessels, Containers, Aircrafts,
   - carrying goods or passengers or both or
   - for repairs and maintenance
   - such inter-State movement shall be treated 'neither as a supply of goods orsupply of service' and therefore not be leviable to GST.
   - GST is applicable on the value of the goods being carried in that conveyance.
   - If conveyance is being sent for further supply (selling / leasing etc) then GST is leviable on such supply.



- Applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairsand maintenance done for such conveyance.

2. Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]

- Inter-State movement of rigs, tools and spares, and all goods on wheels [likecranes]
- between distinct persons
- for repairs and maintenance
- such inter-State movement shall be treated 'neither as a supply of goods orsupply of service' and therefore not be leviable to GST.
- If such movement is for further supply (selling / leasing etc) then GST is leviable on such supply.
- Applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairsand maintenance done on such goods.

3. Grant of licence for alcoholic liquor

- Services by state government by way of granting license for alcoholic liquor for human consumption, shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to GST.
- Alcoholic liquor for human consumption is kept outside the purview of GST. And thus even granting license for a consideration of license fee is outside GST.
- State government license for any other goods or service will attract GST.

7. Supply – Additional Conditions

- **Supply by taxable person** – the person supplying should be a taxable person,the recipient need not be a taxable person. A taxable person is a person who isregistered or liable to be registered under section 22 or section 24. A person going for voluntary registration can also be taxable person.
- **Supply should be taxable** – Supply of goods or services or both which, is leviable to tax under the GST Act.

8. Powers of Central Government

- As per Section 7(3) of the CGST Act, 2017 Subject to the provisions of sub- sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—
  - a supply of goods and not as a supply of services; or
  - a supply of services and not as a supply of goods.

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9. Composite supply and Mixed supply

9.1 Composite supply

Composite supply [Sec 2(30)] - means a supply made by a taxable person to arecipient and

- Comprises two or more taxable supplies of goods or services or both, orany combination thereof.
- are naturally bundled and supplied in conjunction with each other, in theordinary course of business
- one of which is a principal supply.

Principal supply [Sec 2(90)] - means the supply of goods or services, —

- which constitutes the predominant element of a composite supply and
- to which any other supply forming part of that composite supply isancillary.

- A composite supply comprising of two or more supplies, one of which is a principal supply, ***shall be treated as a supply of such principal supply***.
- Thus will be taxed at the ***rate applicable for principal supply***.
- Whether the services are bundled in the ordinary course of business, would depend upon the ***normal or frequent practices followed in the area of business*** to which services relate.
- Some indicators of such practices are:
  - If large number of service recipient of such bundle of services reasonably expect such services to be provided as a package. (E.g., Supply of foods during long flight journey.)
  - Majority of service providers in a particular area of business provide similarbundle of services. (E.g.: Watching a movie on overnight bus journey)
  - If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service. (e.g. service of stay in a hotel is often combined with provision of breakfast)

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- The different elements are integral to one overall supply. If one or moreis removed, the nature of the supply would be affected.

8.2 Mixed supply

Mixed supply [Sec 2(74)] - means —

- Two or more individual supplies of goods or services, or any combinationthereof, made in conjunction with each other by a taxable person.
- for a single price
- where such supply does not constitute a composite supply.

- The individual supplies are independent of each other and are not naturallybundled.
- A mixed supply comprising of two or more supplies shall be treated as supply ofthat particular supply that **attracts highest rate of tax**.

Composite supply – Sec 8(a)	**Mixed supply Sec 8(b)**
• Consist of two or more supplies. • Naturally bundled • In conjunction with each other • One of which is principal supply • Tax liability shall be rate of principal supply • Example: Charger supplied alongwith mobile phones.	• Consist of two or more supplies for a single price • Artificially bundled. • Though can be supplied independently, still supplied together. • Tax liability shall be the rate applicable to the supply that attractshighest rate of tax • Example: A gift pack of chocolates, candies and balloons.

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10. Special cases (clarifications through circulars/ notifications)

- **Taxability of food supplied to Patient:**

  Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of health care and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable

- **Activity of Bus body building:**

  In the case of bus body building, there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case

- **Taxability of food supplied at movie theatres:**

  Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema also. The cinema operator:

  may run these refreshment/eating stalls/ kiosks/ counters/ restaurant themselves

  or

  they may give it on contract to a third party. The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services. Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

  It is hereby clarified that: supply of food or beverages in 'restaurant service' as long as: (a) the food or beverages are supplied by way of or as part of a service, and (b) supplied independent of the cinema exhibition service.

  where the sale of cinema ticket and a cinema hall is taxable as supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply

- **Sending artwork to galleries for exhibition** - If any artist sends his art work togalleries for exhibition, this inter state movement of art work will ***not be considered as supply*** as there is no consideration flowing from the galleries or Organisers of exhibition to the artist. Consideration will be paid only in case the artwork is sold to any interested buyer.

- **Retreading of tyres** - Pre-dominant element is process of retreading which is a ***supply of service***. Rubber used for retreading is an ancillary supply.
  However, Supply of retreaded tyres, where the old tyres belong to the supplier of

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retreaded tyres, is a ***supply of goods***.

- **Printing on letter heads, etc** - In case of supply of printed envelopes, letter cards,printed boxes, tissues, napkins, wall paper etc. by the printer using its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply ofgoods and therefore such supplies would constitute ***supply of goods.***

- **Printing of pamphlets, brochures etc** - In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is suppliedby the publisher or the person who owns the usage rights to the intangible inputswhile the physical inputs including paper used for printing belong to the printer,supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute ***supply of service.***

- **Servicing of cars** - In case of servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately, CBIC has clarified that the goods and services would be liable to ***tax at the rates as applicable to such goods and services separately.***

- **Gift/donation for charitable purpose** – where any gift or donation is paid to any charitable institution for charitable/philanthropic purpose, such payment is not subject to GST. If there is any commercial gain, to the payer and there is an obligation on the recipient to display the payer's name then it will fall under advertising services.

- **Free samples and gifts:** Samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST, except where the activity fallswithin the ambit of Schedule I of the CGST Act.
- **Buy one get one free offer:** It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly.

- **Taxability of 'tenancy rights' under GST** - Pagadi system, i.e. transfer of tenancyrights against tenancy premium, is prevalent in some States. In Pagadi system, the tenant acquires tenancy rights in the property against payment of tenancypremium (pagadi). The landlord may be owner of the property, but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with ownerof land, as laid down in their tenancy agreement.

It has been clarified that the activity of transfer of tenancy right against



consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST.

- **Perquisites provided by the employer to the employee in terms of contractual agreement entered into between the employer and the employee will not be subjected to GST.**

- In case of liquidated damages or compensation or penalty, GST would apply only when two conditions are satisfied i.e., **There must be an expressed or implied agreement or contract must exist and Consideration must flow in return to this contract/ agreement.**

Taxability of Liquidated Damages

- Performance is the essence of a contract.
- **Liquidated damages** do not constitute consideration for a supply and are not taxable.

Taxability of fines and penalties which facilitate Late Payment or Cancellation

These supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply.

- Naturally, such payments will not be taxable if the principal supply is exempt.

Taxability of Cheque dishonor fine/ penalty

- Cheque dishonor fine or penalty is not a consideration for any service and not taxable.

Taxability on Penalty imposed for violation of laws – no supply, no consideration, penalizing in nature, not taxable.

- Fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to tax.

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

Such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

Taxability of Late payment surcharge or Fee

It is an ancillary supply naturally bundled and supplied in conjunction with the principal supply, and therefore should be assessed as the principal supply

Taxability on Fixed charges for power/electricity

- Supply/Sale of electricity is an Exempt supply, so the principal Supply is an Exempt supply, hence the fixed charges or any other charges that are paid ancillary to it are also Not Taxable.

Taxability on Cancellation Charges

Facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit in such cases should be assessed as the principal supply.

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Illustrations

Illustration 1

Athiratha is a salaried employee and is planning to invest in stocks. He has opened a trading account with Sopana Brokers. During the month, Athiratha undertook future contracts (without a physical delivery option, but are cash settled on the expiry of the contract date), amounting to Rs. 35,00,000. Athiratha needs your advice whether such future contracts undertaken by him amount to supply and are liable to GST.

Illustration 2

a. Rudraksh Kapoor, owner of Rudraksh Publishing House, Ghaziabad, U.P., donated some money to a Divyaprakash Charitable Trust in the memory of his late father. The Divyaprakash Charitable Trust constructed a room in the school run by it from such donation and wrote "Donated by Rudraksh Kapoor in the memory of his father" on the door of the room so constructed. Examine whether the money donated by Rudraksh Kapoor is leviable to GST.

b. In the above question, if the Divyaprakash Charitable Trust had written on the door of the room constructed in the school run by it from the money donated by Rudraksh Kapoor "Donated by Rudraksh Publishing House, Ghaziabad, U.P.", would the given transaction/activity qualify as supply.

Illustration 3

a. Sudama Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers.

   Examine whether the disposal of computers by Sudama Associates qualifies as deemed supply under Schedule I of the CGST Act.

b. Prithvi Enterprises appoints Champak to procure certain goods from. the market. Champak identifies various suppliers who can provide the goods as desired by Prithvi Enterprises, and asks a supplier - Satya Manufacturers to send the goods and issue invoice directly to Prithvi Enterprises.

   You are required to determine whether Champak can he considered as an agent of Prithvi Enterprises in terms of Schedule I of the CGST Act.

Illustration 4

Mr. Rajesh Surana has a proprietorship firm in the name of Surana & Sons in Jaipur. The firm, registered under GST in the State of Rajasthan, manufactures taxable products. The firm also provides taxable consultancy services.

Mr. Rajesh Surana has provided the consultancy service to his brother - Mr. Akhilesh Surana (located in USA) without any consideration. The products manufactured by Mr. Akhilesh are similar to the ones manufactured by Mr. Rajesh Surana. Mr. Surana charges Rs. 3,00,000 for providing similar consultancy services to other independent customers located in USA.

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Compute the GST liability, if any, in the given case assuming the rate of CGST, SGST and IGST to be 9%, 9% and 18% respectively.

Illustration 5

Shivaji Pvt. Ltd., a registered supplier, supplies the Following goods and services for construction of buildings and complexes -

- excavators for required period at a per hour rate
- manpower for operation of the excavators at a per day rate
- soil testing and seismic evaluation at a per sample rate

The excavators are invariably hired out along with operators. Similarly, excavator operators are supplied only when the excavator is hired out.

For a given month, the receipts (exclusive of GST) of Shivaji Pvt. Ltd. are as follows:

- Hire charges for excavators- Rs 18,00,000
- Service charges for supply of manpower for operation of the excavator - Rs 20,000
- Service charges for soil testing and seismic evaluation at three sites - Rs 2,50,000

Compute the GST payable by Shivaji Pvt. Ltd. for the given month.

Assume the rates of GST to be as under: Hiring out of excavators- 12% Supply of manpower services and soil- testing and seismic evaluation services - 18%.

Illustration 6

Mrs. Kajal, a registered supplier of Jaipur (Rajasthan), has made the Following supplies in the month of January:

(i) Supply of a laptop along with the laptop bag to a customer of Mumbai for Rs 55,000 (exclusive of GST).

(ii) Supply of 10,000 kits (at Rs 50 each) amounting to Rs 5,00,000 (exclusive of GST) to Ram Fancy Store in Kota (Rajasthan). Each kit consists of 1 hair oil,1 beauty soap and 1 hair comb.

(iii) 100 kits are given as Free gift to Jaipur customers (all unrelated) on the occasion of Mrs. Kajal's birthday. Each kit consists of 1 hair oil and 1 beauty soap. Cost of each kit is Rs 35. Input tax credit has not been taken on the goods contained in the kit.

(iv) Event management services provided Free of cost to her brother (wholly dependent on her) For his son's marriage Function in Indore {Madhya Pradesh). Cost of providing said services is Rs 80,000.

(v) ,400 chairs and 100 coolers hired out to Function Garden, Ajmer (Rajasthan) For

(vi) Rs 3,30,000 (exclusive of GST) including cost of transporting the chairs and coolers From Mrs. Kajal's godown at Jaipur to Function Garden, Ajmer. Since Mrs. Kajal is not a GTA, transportation services provided by her are exempt vide Notification No.12/2017 CT (R) dated 28.06.2017.

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Assume rate of GST as under: -

Sr. No.	Particular	Rate of GST (%)
1	Laptop	18
2	Laptop Bag	28
3	Hair Oil	18
4	Beauty Soap	28
5	Hair Comb	12
6	Event Management Service	5
7	Service of renting of chairs and coolers	12
8	Transportation service	5

From the above information, examine each of the above supplies made by Mrs. Kajal for the month of January and determine the rate of GST applicable on the same.

Illustration 7

ABC Consultancy, registered In Mumbai, supplies technical consultancy services to Its clients. It has been providing technical services to XY Ltd., Mumbai since past two years. Consideration Is settled by XY Ltd. assignment wise. XY Ltd. paid Rs. 45 lakhs to ABC Consultancy on 10th January, 2021 on ABC consultancy agreeing to not provide similar technical services to any other business entity In India or abroad for a period of 8 years. ABC Consultancy is of the view that Rs. 45 lakhs is not chargeable to GST.

You are required to examine whether the view taken by ABC Consultancy is valid in law.

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CHARGE OF GST

Contents –

- Levy and collection of CGST/IGST [Sec 9]
- Reverse charge mechanism [Sec 9(3) & (4)]
- Tax payable by ECO [Sec 9(5)]
- Composition levy [Sec 10]
- Tax at concessional rate [Notification no. 2/2019]

1. Introduction

- To pave way for the introduction of Goods and Services Tax ("**GST**"), 101st Constitutional Amendment Act was passed.
- The very basis for the charge of tax in any taxing statute is the taxable event i.e. the occurrence of the event which triggers levy of tax. ***The taxable event under GST is Supply.***
- ***CGST and SGST/UTGST*** are levied on all ***intra-State supplies*** of goods and/or services while ***IGST*** is levied on all ***inter- State supplies*** of goods and/ or services.

2. Levy and collection of GST – Sec 9

- The provisions relating to levy and collection of CGST and IGST are contained in ***section 9 of the CGST Act, 2017 and section 5 of the IGST Act, 2017,*** respectively.

  Taxable supply [sec 2(108)]: means a supply of goods and/or services which is chargeableto tax under CGST Act.

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Sec 9 - Levy & collection of CGST

Sec 9 (1) - CGST shall be levied on all intra-State supplies ofgoods or services or both, except on the supply of alcoholic liquor for human consumption.

Sec 9 (2) - Tax on the supply of 5 Petroleum products shall belevied with effect from such date as may be notified by the Government.

Sec 9 (3) - The Government, may specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient.

Sec 9 (4) - The Government may specify a class of registered persons who shall, in respect of supply of specified categoriesof goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis.

Sec 9 (5) - The Government may specify categories of servicesthe tax on which shall be paid by the electronic commerce operator if such services are supplied through it.

- **Sec 9(1)**
  - CGST shall be levied on all intra-State supplies of goods or services or both.
  - The tax shall be collected in such manner as may be prescribed and shall be paid bythe taxable person.

> ***Taxable Person [sec 2(107)]:*** means a person who is registered or liable to be registered under section 22 or section 24.

  - Supply of alcoholic liquor for human consumption and undenatured extra neutral alcohol and rectified spirit used in manufacture of alcohol liquor for human consumption is outside the purview of GST law.
  - The value on which tax shall be computed shall be determined as per section 15.
  - Rates for CGST are rates as may be notified by the Government on the recommendations of the GST Council [Rates presently notified are 0%, 0.125%, 1.5%, 2.5%, 6%, 9% and 14%].
  - Maximum rate of CGST can be 20%.
  - On inter-State supplies of goods and/or services, (IGST) is levied on the transaction value under section 15 of the CGST Act.

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- IGST is the sum total of CGST and SGST/UTGST.
- Maximum rate of IGST can be 40%.

- **Sec 9(2)**
  - CGST/IGST on supply of the following items has not yet been levied.
  - It shall be levied with effect from such date as may be notified by the Government
  - on the recommendations of the Council
    (i) Petroleum crude
    (ii) High speed diesel
    (iii) Motor spirit (commonly known as petrol)
    (iv) Natural gas and
    (v) Aviation turbine fuel

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3. Tax payable by ECO [Sec 9(5)]

- **Electronic Commerce Operator (ECO) -** Any person who owns/operates / manages an electronic platform for supply of goods/services/both.

  Electronic Commerce Operator (ECO) [Sec 2(45) - means any person, who owns, operates or manages digital or electronic facility or platform for electronic commerce.

- Sometimes, ECO itself supplies the goods or services through its electronic portal. (E.g., Amazon)
- However, many a times, the products/services displayed on the electronic portal are actuallysupplied by some other person to the consumer. (E.g., OLX, Swiggy. Book my show)
- The Government may notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it.
- Such notification shall be made on the recommendations of the GST Council.
- In this regard, the notified services are:

1. Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab andmotorcycle; (E.g., OLA, Uber), omnibus or any other motor vehicle.

   In case of Omnibus, supplier is liable to pay to GST if supplier is company and if supplier is any person other than company then the ECO is liable to pay GST.

2. services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, ***except where the person supplying such service through electronic commerce operator is liable for registration***. (E.g., OYO)

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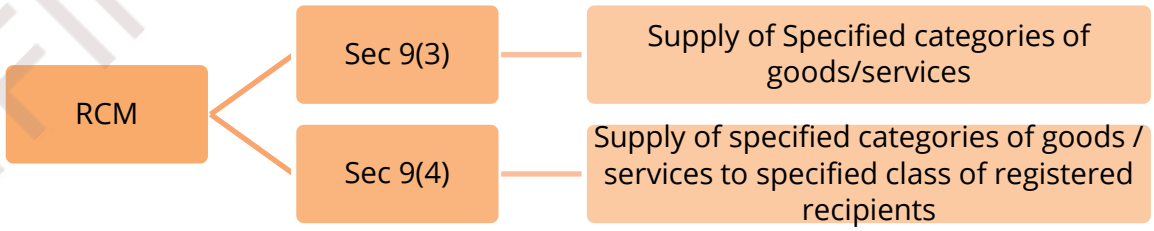
In case of **Transportation of passengers** – ECO is liable to pay GST,whether or not the driver is registered.
In case of **accommodation services & housekeeping services** – ECO isliable only if such service provider is not registered.

3. services by way of housekeeping, such as plumbing, carpentering etc., ***except where the person supplying such service through electronic commerce operator is liable for registration.*** (E.g., UrbanClap)
4. Supply of restaurant service e.g eating joints, the tax is payable by the ECO if such service is supplied through ECO PROVIDED the supplier is not a specified premises Specified premises is a hotel where there is accommodation of room priced more than 7500 per day. In such case, Section 9(5) will not apply.

- If ECO does not have a ***physical presence in the taxable territory***, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax.
- Where an ECO does not have a representative in the taxable territory, such ECO shall appointa person in the taxable territory for the purpose of paying tax and such person shall be liableto pay tax.

5. Tax payable under Reverse Charge Mechanism (RCM)

- CGST/IGST shall be ***paid by the recipient*** of goods or services or both, on reverse chargebasis, in the following cases:
  - Supply of goods or services or both, ***notified by the Government*** on the recommendations of the GST Council. **[Sec 9(3)]**
  - Supply of specified categories of goods or services or both by an ***unregistered supplier*** to specified class of registered persons. **[Sec 9(4)]**



- All the provisions of the CGST/IGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- Under indirect tax the burden of such tax has to be ultimately passed on to the recipient. Under reverse charge mechanism, only the compliance requirements, [i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.] have

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been shifted from supplier to recipient. The burden to pay GST ultimately lies on the recipient only.

5.1 Goods and services notified under reverse charge mechanism (RCM) – Sec 9(3)

5.1.1 Supplies of goods taxable under reverse charge

- Goods like cashew nuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, used vehicles, seized and confiscated goods, old and used goods, waste and scrap, raw cotton, etc. are taxable under reverse charge. [Not in syllabus-given only for information]

5.1.2 Supply of services taxable under reverse charge

- ***Notification No. 13/2017*** *CT (R) dated 28.06.2017* as amended has notified the following categories of supply of services wherein whole of the tax shall be paid on reverse charge basis.

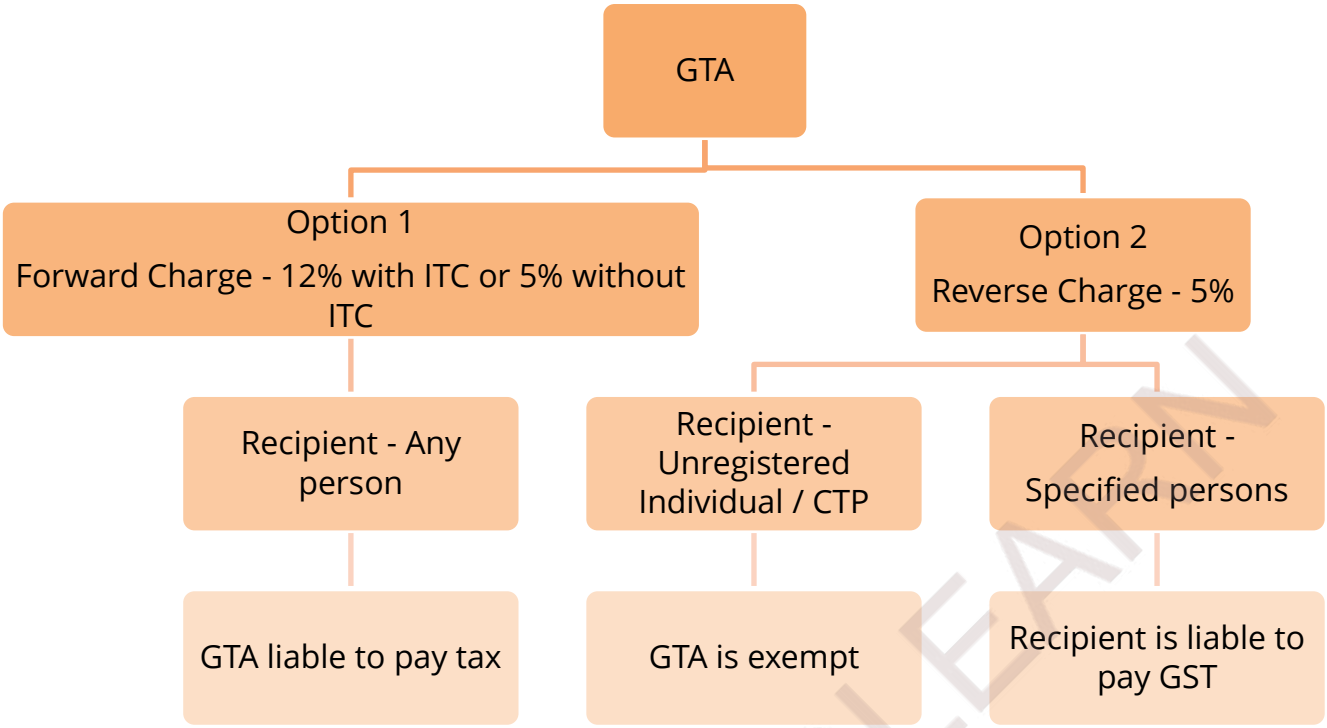
1. Supply of services by a ***Goods Transport Agency (GTA)*** in respect of transportation of goods by road.

> **Goods Transport agency (GTA) –** means any person,
> - provides service in relation to transport of goods by road and
> - issues consignment note, by whatever name called.

- In case of GTA provided services to specified persons, the recipient is required to pay GSTunder reverse charge.
- The following businesses (recipient of services) are covered under specified persons:
  1. Factory registered under the Factories Act,1948;
  2. A society registered under the Societies Registration Act, 1860 or under any other law
  3. A co-operative society established under any law;
  4. A GST registered person
  5. A body corporate established by or under any law; or
  6. A partnership firm whether registered or not (including AOP)
  7. Casual taxable person
- In case the recipient is an unregistered person including an unregistered casual taxableperson, then he is exempted from GST.
- The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives theservice for the purpose of this notification.
- RCM is made default for service provided by GTA except in the following cases.
- **RCM shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to a Department/ establishment of the CG/ SG/ UT; or LA; or Governmental agencies, which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.**
- **Further, RCM shall not apply if the supplier has taken registration under the CGST Act, 2017 and chose to pay tax on forward charge and the supplier has issued a tax invoice to the recipient charging CGST at the applicable rates and has made the prescribed declaration on such invoice issued by him.**

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2. Legal Services

- Supplied by an individual advocate including a senior advocate or firm of advocates, directlyor indirectly.
- To any business entity located in the taxable territory.

Legal service - means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority

3. Arbitrary service

- Services supplied by an arbitral tribunal
- Any business entity located in taxable territory.

Business entity - means any entity (Individual or organization, incorporated or not,carrying on business or profession.

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Arbitral / Arbitrary tribunal - means

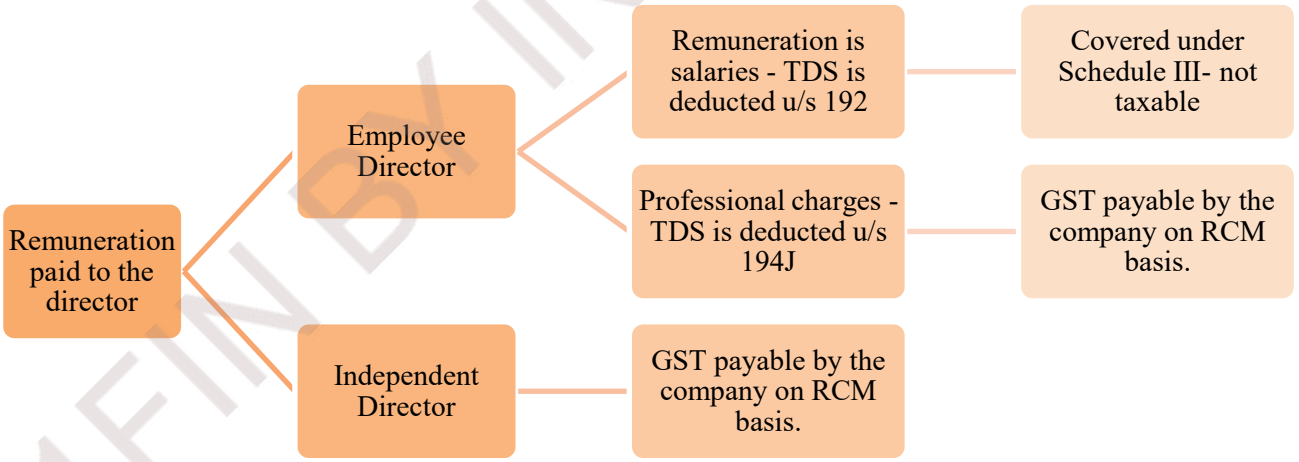
- Legally recognized panel of one or more adjudicators;
- Which is convened and sits to resolve a dispute
- By way of arbitration in a less formal environment than a court trial.
- Adjudicators are usually professional, experts in law and mediation.

4. Sponsorship service

- Services supplied by any person other than body corporate,
- To any body corporate or partnership firm located in a taxable territory.
- Limited Liability Partnership formed and registered under the provisions of the LimitedLiability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- Sponsorship services received by any person other than body corporate or firm, RCM will not apply.

5. Services supplied by a ***director of a company***/ body corporate to the said company/ bodycorporate.

- The company or a body corporate located in the taxable territory is liable to pay GST.
- Provided the director in not serving in the capacity of an employee.
- GST is payable on the sitting fees paid to the director.



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6. Services supplied by an ***insurance agent*** to any person carrying on insurance business.

7. Services supplied by a **recovery agent** to a banking company or a financial institution or anon- banking financial company.

8. Supply of services by any ***music composer, photographer, artist*** or the like.

- by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works.
- to a publisher, music company, producer or the like.
- Such publisher, music company, producer is liable to pay GST.

9. Supplier of services by an ***Author***

- by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a)of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.
- Publisher located in the taxable territory is liable to pay GST.
- However, the author can take registration under the CGST and ***choose to exercises the option to pay central tax*** on the services specified (i.e. copyright by author) under forward charge in accordance with Sec 9(1) of CGST Act, 2017 and to comply with all the provisions of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and
- He shall ***not withdraw the said option*** within a period of ***1 year*** from the date of exercising such option;
- The author has to file a declaration, in the form at Annexure I, within the time limit prescribedtherein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he chooses to exercise his option.
- The author makes a declaration, as prescribed in Annexure II on the invoice issued by him to the publisher.

10. Supply of services by the ***members of Overseeing Committee*** to Reserve Bank of India (RBI).

- Overseeing committee is a committee set up by RBI for advising on various functions of RBI. RBI is liable to pay GST for the services of such member.

11. Services supplied by individual ***Direct Selling Agents (DSAs).***

- The recipient is a banking company or a non-banking financial company, located in the taxable territory.
- RCM is applicable only in case services are provided by Individual DSA. Thus in case of services being provided by any body corporate or partnership firm/ LLP, GST is payable under forward charge mechanism.

12. Services provided by ***business facilitator*** to a banking company.

13. Services provided by an ***agent of business correspondent*** to business correspondent.

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14. ***Security services***

- Services provided by way of supply of security personnel.
- RCM is applicable only in case 3 conditions are satisfied:
  - The service provider is any person other than a company.
  - The recipient is a registered person, located in the taxable territory and
  - The recipient is not paying tax under composition scheme.

15. Services supplied by any person by way of ***transfer of development rights*** (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project.

- The supply is done by the land owner.
- To a developer/ promoter who undertakes the construction project
- The liability to pay tax on such transfer is of the developer/promoter.
- The agreement between the two parties is called the Joint Development agreement.

16. ***Long term lease of land*** (30 years or more) by any person for construction of a project.

- The supply is done by the land owner.
- To a developer/ promoter who undertakes the construction project
- Such transfer happens against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent.
- The liability to pay tax on such transfer is of the developer/promoter.
- The agreement between the two parties is called the Joint Development agreement.

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

Exemption of TDR, FSI, long term lease (premium) is withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. Insuch cases, the liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM).

17. ***Services supplied by the Central Government, State Government, Union territory or local authority to a business entity.***

- Any business entity located in the taxable territory is liable to pay GST
- The following services are **excluded** from RCM provision:
  1. Renting of immovable property, (provided the recipient is an unregistered person under CGST Act),
  2. Services by the Department of Posts;

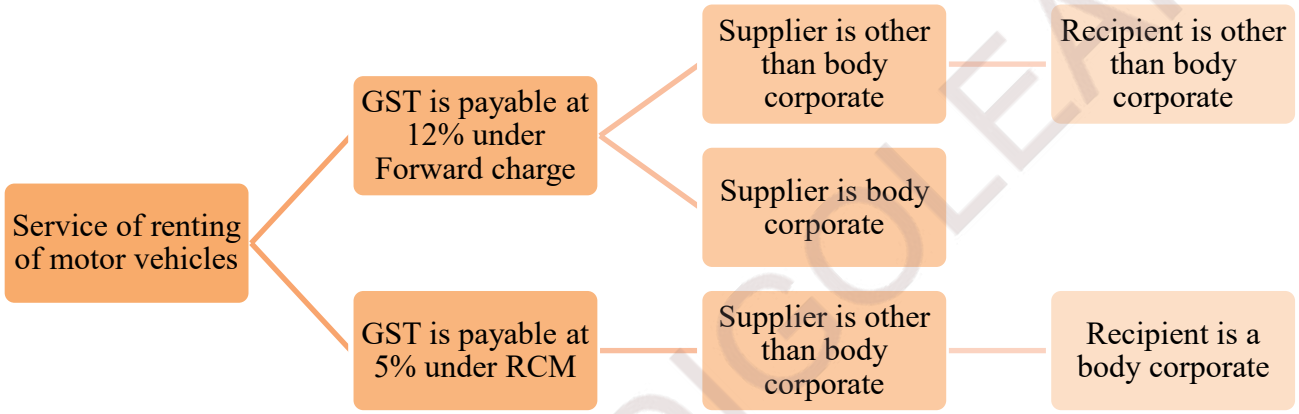
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3. services in relation to an aircraft or a vessel, inside or outside the precincts of aport or an airport;
4. Transport of goods or passengers.

18. Services provide by way of ***renting of a motor vehicle***

- Services provide by way of renting of a motor vehicle designed to carry passengers wherethe cost of fuel is included in the consideration charged from the recipient.
- Service is provided by any person other than a body corporate, who does not issue an invoicecharging CGST @ 6%
- The recipient is any body corporate located in the taxable territory
- The recipient is liable to pay GST @ 5%



- 5% GST means 2.5% CGST + 2.5% SGST/UTGST or 5% IGST
- 12% GST means 6% CGST + 6% SGST/UTGST or 12% IGST

It is clarified that where the body corporate hires the motor vehicle (for transport of employees etc.) for a period, the service is considered as 'services of renting of motor vehicles designed to carry passengers', and the body corporate shall be liable to pay GST on the same under RCM.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any period, the service would fall under 'passenger transport services' and the body corporate shall not be liable to pay GST on the same under RCM.

19. Services of ***lending of securities*** under Securities Lending Scheme 1997 of Securities and Exchange Board of India (SEBI).

The service provider is a Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme of SEBI.

The service recipient is a Borrower i.e. a person who borrows the securities under the schemethrough an approved intermediary of SEBI.

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- The lender gets consideration in the form of lending fees.
- The borrower is liable to pay GST.

20. *Service by the way of renting residential Dwelling to a registered person is chargeable under RCM*

21. *Service by way of renting of any property other than residential dwelling by any unregistered person to any registered person other than composition registered person is covered under RCM w.e.f 10th October 2024.*

5.1.3 Special points regarding GTA and Security services

- RCM shall not apply to
  - services provided by a **GTA**, by way of transport of goods in a goods carriage by road to and
  - services provided by way of **supply of security personnel** by any person other than a body corporate
- In case the recipient is
  - A Department/ establishment of the Central Government/ State Government/ Union territory; or
  - local authority; or
  - Governmental agencies,
- which has taken registration under the CGST Act only for the purpose of deducting taxunder section 51 and not for making a taxable supply of goods or services.

5.2 Goods and Services notified under reverse charge mechanism (RCM) – Sec 9(4)

5.2.1 GST rates in real estate sector

- The effective rate of GST on real estate sector for the new projects by promoters are as follows:
  - 1% without ITC on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value up to Rs.45 lakh).
  - 5% without ITC is applicable on construction of:
    - ✓ all houses other than affordable houses, and
    - ✓ commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

- **Conditions:** – Above tax rates shall be available subject to following conditions:
  - ITC shall not be available.
  - 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.

4.2.2 Sec 9(4)

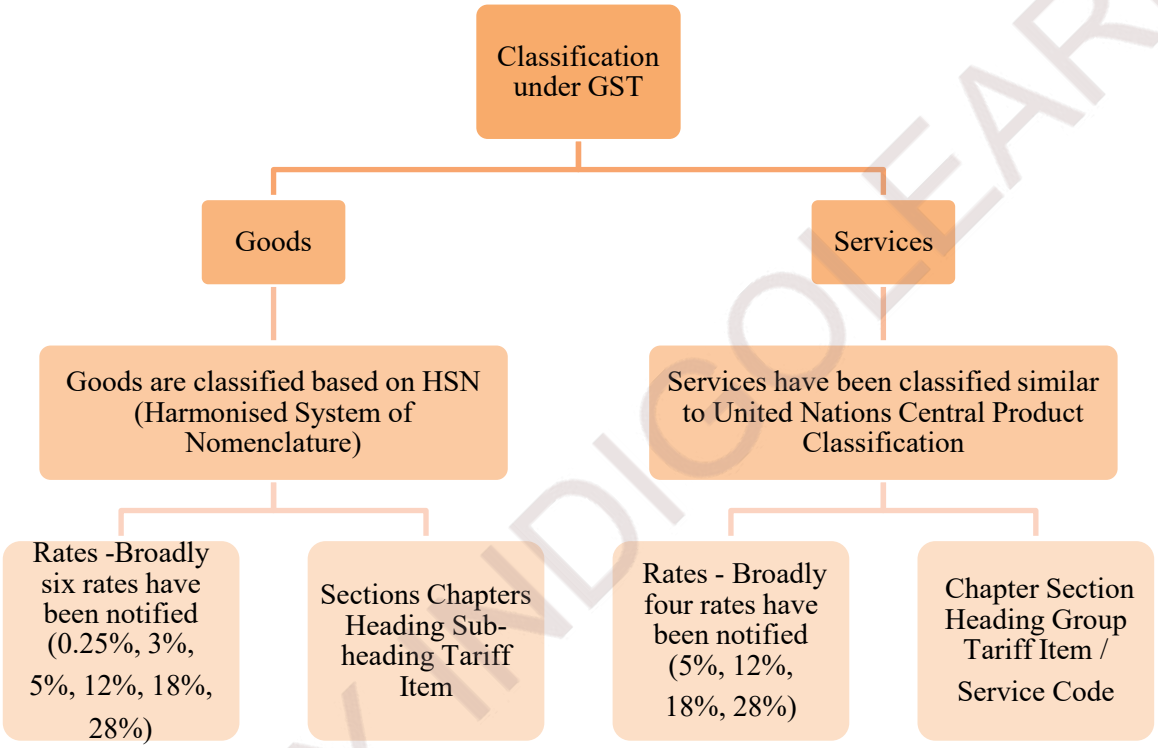
- Goods and Services notified under reverse charge mechanism (RCM) are related to the real estate sector as mentioned above:

1. If value of inputs and input services purchased from registered supplier is less

than80%, promoter has to pay GST on reverse charge basis, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

2. Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present
3. GST on capital goods shall be paid by the promoter on reverse charge basis, at theapplicable rates.

5. Classification of Goods and Services



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6. Composition levy [Sec 10]

- The composition levy is an alternative method of levy of tax ***designed for small taxpayers*** whose turnover is up to prescribed limit.
- The objective of composition scheme is to bring simplicity and to ***reduce the compliance cost*** for the small taxpayers. No elaborate accounts and records are to be maintained
- The scheme is ***voluntary and optional***. A registered person may opt to pay tax under sec 10in lieu of tax payable by him u/s 9(1).



6.1 Eligibility to opt Composition Scheme.

6.1.1 Turnover limit in case of composition levy for goods

- Any registered person with an ***aggregate turnover*** in a preceding financial year ***up to Rs. 1.5 crore*** shall be eligible for composition levy.
- The turnover limit for composition levy shall be ***Rs. 75 lakh in respect of 8 of the Special Category States*** namely:

• **Manipur**	• **Meghalaya**
• **Mizoram**	• Nagaland
• **Sikkim**	• Tripura
• **Arunachal Pradesh**	• Uttarakhand

- In case of Assam, Himachal Pradesh and Jammu and Kashmir, (which are also considered as special category states) the turnover limit will be Rs. 1.5 crore.

6.1.2 Turnover limit in case of composition levy for services

- A registered person opting for composition scheme for services should have an aggregate turnover up to Rs.50 lakh in the preceding FY and he can avail the benefit of said scheme in the current FY till the time his aggregate turnover in the current FY does not exceed Rs. 50 Lakhs.

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6.2 Aggregate turnover

Aggregate turnover [Sec 2(6)]

Includes	Excludes
- Value of all outward supplies - Taxable supplies - Exempt supplies - Exports - Inter-State supplies **of persons having the same PAN be computed on all India basis.**	- CGST/ SGST/ UTGST/ IGST/Cess - Value of inward supplies on which tax is payable under reverse charge - Value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of **interest or discount.**

- Exempted supplies includes Exempted goods/services or both which attracts nil rate of tax or wholly exempt from tax and includes non-taxable supply.
- Aggregate turnover includes supply on own account and on behalf of principal.
- Further, explanation 1 to section 10 clarifies that that for the purposes of computing aggregateturnover of a registered person for determining his eligibility to pay tax under section 10(1) and 10(2A) , aggregate turnover
  - ***includes*** value of supplies from the 1st April of a FY up to the date of his becoming liable for registration and
  - ***excludes*** value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
- The value of exports and inter-State supplies might be relevant only while determining the aggregate turnover of the preceding FY. These values are not relevant for determining the aggregate turnover of the current FY in which the composition supplier has opted for composition levy as he is not permitted to make inter-State supplies and exports in the said FY.

6.3 Rate of tax

6.3.1 Rates of tax in case of composition levy for goods

- A registered person, whose aggregate turnover in the preceding FY does not exceed Rs. ***1.5 crore***, may opt to pay tax calculated at the prescribed rates during the current FY, inlieu of the tax payable by him under regular scheme.
- The effective tax rate is

Supplier	Effective tax rate	Supply
Manufacturers	1% i.e. CGST 0.5% + SGST 0.5%	Taxable +Exempted
Traders	1% i.e. CGST 0.5% + SGST 0.5%	Only taxable
Restaurant and catering	5% i.e., CGST 2.5% + SGST 2.5%	Taxable +Exempted

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services		
Service Providers	6% i.e., CGST 3% + SGST 3%	

- Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on their goods and/ or services, etc. Since the rates are already fixed.

Category of registered persons	Rate of tax
Manufacturers, other than manufacturers of notified goods	**0.5%** of the turnover in the state/Union territory
Traders of goods	**0.5%** of the turnover of **taxable supplies** of goods and services in the State/Union territory
Suppliers of Restaurant and catering services	**2.5%** of the turnover in the State/Union territory

- Supplier of inter-State outward supplies of goods is not eligible for composition scheme. Thus there is no question of IGST.
- There is no restriction on composition supplier to receive inter-State inward supplies of goods.

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- There may also be cases where a manufacturer, trader or restaurant service provider is also engaged in supplying a small percentage of other services. To enable such taxpayers to availof the benefit of composition scheme, section 10(1) permits marginal supply of such other services for a specified value. This specified value is value not exceeding
    - 10% of the turnover in a State/Union territory in the preceding financial year
      Or
    - Rs. 5 lakh,

  whichever is higher.

6.3.2 Rates of tax in case of composition levy for services

- A registered person opting for composition levy for services shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.
- Turnover in State/ turnover in Union territory means the aggregate value of all taxable supplies and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory but excludes central tax, State tax, Union territory tax, integrated tax and cess and value of inward supplies on which tax is payable by a person on reverse charge basis.

6.4 Other compliances by the supplier opting for compositions scheme for goods as well as services.

- The registered person ***shall not collect any tax from the recipient*** nor shall he be entitled to
  any credit of input tax [Sec 10(4)]
- They are not required to raise any tax invoice, but ***simply need to issue a Bill of Supply*** wherein no tax will be charged from the recipient.
- Thus it is Mandatory to ***display on bill of supply*** of the ***words "composition taxable person, not eligible to collect tax on supplies".***
- It is also mandatory to display of the words "Composition Taxable Person" on every ***notice and signboard displayed*** at a prominent place at his principal place of business and at every additional place or places of business.

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- An eligible person opting to pay tax under the composition scheme shall ***pay tax quarterly and file statements quarterly.*** He shall also file a ***simple annual return.***
- ***Registration*** under GST law ***is compulsory*** for opting for the composition scheme
- He shall ***pay tax under section 9(3)/9(4)*** (reverse charge) on inward supply of goods orservices or both.
- If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of ***section 73 or 74of the CGST Act shall be applicable*** for determination of tax and penalty [Sec 10(5)].
- All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme.
- There is no restriction on composition supplier to receive inter-State inward supplies of goodsor services.
- ***Proviso to Section 10(1)*** clarifies that the value of supply of ***exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by wayof interest or discount***, shall not be taken into account in
    - Computing aggregate turnover in order to determine eligibility for composition schemeu/s 10(1) or u/s 10(2A)
    - Computing the limits of value of other services u/s 10(2) [i.e., 10% of the turnover ina State/Union territory in the preceding financial year or Rs.5 lacs whichever is higher]
    - Determining the value of turnover in a State or Union territory.

6.5 Who are not eligible for Composition Scheme

6.5.1 Who are not eligible for composition scheme for goods

1. Supplier of services other than services provided in section 10(1) [i.e. Restaurant and catering services]
2. Supplier of goods which are not leviable to tax. [i.e., alcohol liquor for human consumption and 5 petroleum products]
3. Supplier of inter-State outward supplies of goods or services.
4. Person supplying goods through an electronic commerce operator who is required to collecttax at source under section 52 – **However, composition scheme is allowed if they are engaged only in intra state supplies.**
5. Casual taxable person
6. Non-resident taxable person.

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7. Manufacturer of notified goods as
   (i) Ice cream and other edible ice,
   (ii) Pan masala,
   (iii) Tobacco and manufactured tobacco substitutes and
   (iv) Aerated water
   (v) Fly ash bricks or fly ash aggregate; Fly ash blocks
   (vi) Bricks of fossil meals or similar siliceous earths
   *(vii)*Building bricks
   *(viii)*Earthen or roofing tiles

   If the registered person is a trader of any of the above goods then he can opt forcomposition scheme.

6.5.2 Who are not eligible for composition scheme for services

1. Any person who is engaged in making any supply which is not leviable to tax under the said Act (E.g., Alcoholic liquor for human consumption and petroleum products)
2. Any person engaged in making any inter-State outward supply of goods or services or both.
3. A casual taxable person nor a non-resident taxable person.
4. Any person engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52
5. Any person engaged in making supplies of notified goods, namely
   (i) Ice cream and other edible ice whether or not containing cocoa,
   (ii) Pan masala,
   (iii) Tobacco and manufactured tobacco substitutes and
   (iv) Aerated water.
   (v) Fly ash bricks or fly ash aggregate; Fly ash blocks
   (vi) Bricks of fossil meals or similar siliceous earths
   *(vii)*Building bricks
   (viii) Earthen or roofing tiles

There is no restriction on composition supplier to receive inter-State inward supplies of goodsor services.

- With regard to the above, there are some differences between the composition scheme under Section 10(1) and Section 10(2A). They are as follows:

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Composition scheme u/s 10(1)	Composition scheme u/s 10(2A)
• A registered person who is engaged in making supply of goods not leviable to tax is not eligible to composition scheme. • Inter-State outward supply of goods or services is restricted. • Manufacturer of notified goods is restricted. • Casual taxable person or a non-resident taxable person is not eligible • Aggregate turnover during previous financial year did not exceed Rs. 150 lakhs	A registered person who is engaged in making any supply not leviable to tax is not eligible to Concession scheme. • A registered person who is engaged in making interstate outward supply of goods or services is not eligible. • Any supplier or manufacturer of notified goods is restricted. • Casual taxable person or a non-resident taxable person is not eligible • Aggregate turnover during previous financial year did not exceed Rs. 50 lakhs.

6.1 Opting for Composition Scheme

6.1.1 First time registration

- Any person who is not registered and applies for registration may opt to pay tax under composition levy ***at the time of registration.***
- He has to fill in Part B of the registration form, viz., FORM GST REG-01. The same shall be considered as an intimation to pay tax under composition levy.
- Such intimation shall be considered only after the grant of registration to the applicant and
- His option to pay tax under composition levy shall be ***effective from the date from which registration is effective***.
- Thus, a person applying for registration can opt for composition at any time of the financialyear.

6.1.2 Already registered under GST

- A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form on the GST Common Portal ***prior to the commencement of the FY*** for which said option is exercised.
- He shall also furnish the ***statement in prescribed form within 60 days*** from the commencement of the relevant FY.
- Any intimation in respect of any place of business in a State/UT shall be deemed to be anintimation in respect of all other places of business registered on the same PAN.
- The option to pay tax under composition levy shall be ***effective from the beginning of the FY***.

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6.1.3 Treatment of ITC

- Where any registered person who has availed of ITC opts to pay tax under Compositionscheme u/s 10(1) or u/s 10(2A)
  - He shall pay an amount equivalent to the ITC
  - in respect of inputs held in stock and inputs contained in semi-finished or finishedgoods held in stock and on capital goods
  - by way of debit in the electronic credit ledger or electronic cash ledger.
  - as if the supply made attracts the provisions of section 18(4) of the CGST Act and therules made thereunder.

Person	Can opt for composition levy	It shall be effective from
Person applying for registration	At any time during the year while applying for registration	The date from which registration is effective
Registered person	From the beginning of anyFY. So has to apply prior to the FY.	The beginning of said FY

6.2 Validity of composition levy

6.2.1 Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions

- The option to pay tax under composition scheme lapses from the day the registered person ceases to satisfy any of the prescribed conditions. Such as from the day on which aggregateturnover exceeds the specified limit (Rs.1.5 crore/ Rs.75 lakh) during the FY. [Sec 10(3)]
- Such person is required to pay tax under regular scheme under section 9(1) from that day.
- He shall issue tax invoice for every taxable supply made thereafter.
- He is required to ***file an intimation*** for withdrawal from the scheme in prescribed form ***within 7 days of the occurrence of such event***.
- The effective date from which such withdrawal shall take effect shall be the ***date indicated by him in his intimation***.
- But such date may not be prior to the commencement of the financial year in which suchintimation is being filed.

6.1.1 Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme

- The registered person who intends to withdraw from the composition scheme shall, beforethe date of such withdrawal, ***file an application in prescribed form***.
- The effective date from which withdrawal from the composition scheme shall ***take effect shall be the date indicated by him in his application.***
- But such date may not be prior to the commencement of the financial year in which suchapplication for withdrawal is being filed.

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6.1.2 Denial of option to pay tax under the composition scheme by tax authorities

- Where the proper officer has reasons to believe that the registered person was not eligible topay tax under composition scheme or has contravened the provisions of the CGST Act or provisions of this Chapter, he may issue a show cause notice (SCN) to such person.
- Upon receipt of reply to SCN, he shall pass an order either accepting the reply, or denying the option to pay tax under composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.
- In case of denial of option to pay tax under composition levy by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date, as may bedetermined by tax authorities.
- However, such effective date shall not be prior to the date of contravention of the provisionsof the CGST Act/ CGST Rules.
- In each of the above cases, such person may
  - furnish a statement
  - in prescribed form
  - containing details of the stock of
  - inputs and inputs contained in semi-finished or finished goods held in stock by him
  - on the date on which the option is withdrawn/denied,
  - within a period of 30 days
  - from the date from which the option is withdrawn/ or from the date of the orderdenying composition scheme.

Convert	Normal scheme [Sec 9(1) to Composition scheme [Sec 10]	Composition scheme [Sec 10] to Normal scheme [Sec 9(1)]
When can the registered person convert	Before the start of the financial year	Any time during the Financial year
ITC on the inputs (stock) held in hand on the date of conversion	Pay the credit already utilised	Avail credit
Form to be filed	ITC-03	ITC-01

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Illustration 1

M/S Sai Trading Company, an eligible registered dealer in goods making intra state supplies within the state of Andhra Pradesh, reported an aggregate turnover of Rs. 78 Lakhs in the preceding Financial Year

(i) Determine whether Sai Trading Company will be eligible for composition levy

(ii) Will your answer be different, if in the above scenario, M/s Sai Trading Company is making intra state supply within the state of Jammu and Kashmir?

Illustration 2

Decide which person is liable to pay GST in the following independent cases, where recipient is located in the taxable territory. Ignore the aggregate turnover and exemption available.

a. Mr Raghu provided sponsorship services to WE-WIIN Cricket academy an LLP

b. "Safe Trans", a Goods Transport Agency, transported goods of Kapil & Co., a partnership firm which is not registered under GST

Illustration 3

State person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:

(a) Services provided by an arbitral tribunal to any business entity.

(b) Sponsorship services provided by a company to an individual.

(c) Renting of immovable property service provided by the Central Government to a registered business entity.

Illustration 4

A person availing composition scheme in Haryana during a financial year crosses the turnover of Rs. 1.5 crore during the course of the year i.e. he crosses the turnover of Rs.

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1.5 crore in December?

Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

Illustration 5

Mohan Enterprises has two registered business verticals in Delhi. Its aggregate turnover for the preceding year for both the business verticals was Rs. 90 lakh. It wishes to pay tax under composition levy for one of the vertical in the current year while under normal levy for other vertical.

You are required to advice Mohan Enterprises, whether he can do so?

Illustration 6

Determine whether the supplier in the following cases are eligible for composition levy provided their turnover in preceding year does not exceed Rs. 1.5 crores:

(i) Mohan is engaged in providing only legal services in Rajasthan and is registeredin the same State.

(ii) Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighboring States.

Illustration 7

P Private Limited agrees to sponsor a sports event organized by Pink City Club in Jaipur. P Private Limited has paid an amount of Rs. 50,00,000 for such sponsorship of the sports event Consequently, said event was named after the brand name of P Private Limited. Examine who is the person liable to pay tax in the given case.

Illustration 8

Arpan Singhania is a director in Narayan Limited. The company paid him the sitting fee amounting to Rs. 25,000, for the month of January. Further, salary was paid to Arpan Singhania amounting to Rs. 1.5 lakh for the month of January on which TDS was also deducted as per

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applicable provisions under Income-tax law. Tapasya & Associates, in which Arpan Singhania is a partner, supplied certain professional services to Narayan Limited in the month of January for an amount of Rs. 2 lakhs. Discuss the person liable to pay tax in each of the supplies involved in the given case.

Illustration 9

M/s All-in-One, a partnership concern and a registered supplier under GST, is engaged in providing various services under one roof. The concern provides the following information pertaining to supply made/input services availed by it during the month of March 20XX:

	Particulars	Rs.
i	Provided Direct Selling Agent Service to Y bank Ltd.	4,00,000
ii	Provided Security services to ABC Pvt. Ltd, a registered person under GST	60,000
iii	Provided security services to PSR Trust, an unregistered person under GST	1,00,000
iv	Provided renting of motor vehicle to Amaze Tours Ltd. and supply value included cost of fuel	75,000
v	rovided renting of motor vehicle to Priti & Co., CA firm and supply value included cost of fuel	40,000
vi	Availed representational service from PB and Co., a law firm towards a Consumer Court case	70,000

Determine the GST liability of M/s All-in-One for the month of March, 20XX by giving necessary explanations for treatment of various items.

Rate of tax for both inward and outward supply is CGST /SGST@ 9% each except renting a vehicle, for which CGST /SGST@ 2.5% each is applicable.

M/s All-in-One commenced its business from February, 20XX. All the supplies are intra-State only.

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Illustration 10

Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. San jay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST. With reference to the provisions of IGST Act, 2017, determine who is liable to pay GST in this case? Would your answer be different, if D.T. Ltd. is located in New York (USA)? Also briefly state the statutory provisions involved.

Illustration 11

Examine whether the suppliers are eligible for composition levy under section 10 in the following independent cases in the beginning of the current financial year.

a) Technology Enterprises, registered in Jalandhar, Punjab, is engaged in manufacturing computer systems. Its aggregate turnover in the preceding financial year is Rs. 125 Lakhs. Technology Enterprises supplies the computer systems manufactured by it within the State of Punjab only. With a view to expand its business operations, it will also start providing the repairing services of computer systems in the current financial year.

b) M/s. Siddharth & Sons, registered in Delhi, owns a restaurant 'Tasty Foods' with a turnover of Rs. 112 Lakhs in the preceding financial year. In view of the growing customer demand, it will also start intra-State trading of juices in Delhi.

c) Sitaram Associates, registered in Sikkim, is engaged in running a food chain 'Veg. Kitchen' in the State. It has a turnover of Rs.73 lakhs in the preceding financial year. In the current

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financial year, it decides to shut down the food chain owing to huge losses being incurred in the said business. Instead, it will start providing intra-State architect services.

d) Deepti Services Ltd., registered in Uttarakhand, is exclusively providing hair styling services. It has turnover of Rs. 34 lakhs in the preceding financial year.

ill your answer be different, if Deepti Services Ltd. also start supplying beauty products along with providing hair styling services in the current financial year?

Illustration 12

M/s Heeralal and Sons, registered in Karnataka, has opted to avail the benefit of composition scheme under sub-sections (1) and (2) of section 10. It has furnished the following details for the quarter ended on 30th June

S. No.	Items	Rs.
(i)	Taxable turnover of goods within the State	15,00,000
(ii)	Exempted turnover of goods within the State	17,00,000
Total Turnover		**32,00,000**

Using the above information, calculate tax to be paid by the firm for quarter ended on 30th June in following independent situations:

i. M/s Heeralal and Sons is a manufacturer
ii. M/s Heeralal and Sons is a trader

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PLACE OF SUPPLY

Introduction:

The concept of place of supply is given under section 10 to 13 of IGST Act i.e., Chapter V of IGST Act. The place of supply provisions determine the place i.e., taxable jurisdiction where the tax should reach. The place of supply and the location of the supplier are the two determinants to ascertain the nature of supply i.e., whether a supply is intra-State or inter- State.

In other words, these two factors are required to determine whether a supply is subject to SGST/UTGST plus CGST in a given State/ Union Territory or else would attract IGST if it is an inter-State supply.

If an inter-State transaction is wrongly treated as intra -State or *vice-versa* and tax paid accordingly, the correct tax will need to be paid and refund claimed for tax wrongly paid. Though no interest is levied in such a case, procedural requirements increase and working capital gets blocked where the amount involved is huge. Hence, determining correct place of supply is of paramount importance.

Determining of place of supply for goods is not much complicated as compared to place of supply of services since services are intangible and can be provided form anywhere and anytime.

The various elements involved in a service transaction can be used as proxies to determine the place of supply. An assumption or proxy which gives more appropriate result than others for determining the place of supply, can be used for determining the place of supply. The same are discussed below:

(a) location of service provider;
(b) location of service receiver;
(c) place where the activity takes place/ place of performance
(d) place where the service is consumed; and
(e) place/person to which/whom actual benefit flows

Separate rules are given in the law in respect of B2B and B2C transactions.

Few relevant definitions:

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.

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Explanation.--For the purposes of this clause, the term "stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time [Section 2(3) of IGST Act]. The term conveyance has been defined in section 2(34) of the CGST Act to include a vessel, an aircraft and a vehicle.

- Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India; [Section 2(5)].

- Export of services means the supply of any service when

  (a) the supplier of service is located in India,
  (b) the recipient of service is located outside India,
  (c) the place of supply of service is outside India,

  (d) the payment for such service has been received by the supplier of service in convertible foreign exchange, and
  (e) the supplier of service and recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8 [Section 2(6)].

  As per Explanation 1 to Section 8, the following are treated as establishments of distinct persons:
  - an establishment in India and any other establishment outside India;
  - an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
  - an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory

- Fixed establishment means a place other than the place of business which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(7)]

- Import of goods with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India [Section 2(10)]

- Import of services means the supply of any service, where

  (a) the supplier of service is located outside India,
  (b) the recipient of service is located in India, and
  (c) the place of supply of service is in India [Section 2(11)].

- 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

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supplies such goods or services or both or securities on his own account [Section 2(13)]

- Location of the recipient of services means:
  - where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
  - where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
  - 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
  - in absence of such places, the location of the usual place of residence of the recipient [Section 2(14)].

- Location of the supplier of services means:

(a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
(b) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
(d) in absence of such places, the location of the usual place of residence of the supplier [Section 2(15)]

- Online information and database access or retrieval services means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,--

(i) advertising on the internet;
(ii) providing cloud services;
(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
(iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
(v) online supplies of digital content (movies, television shows, music and the like);
(vi) digital data storage; and
(vii) online gaming [Section 2(17)].

- Place of business includes

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A place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

A place where a taxable person maintains his books of account; or

A place where a taxable person is engaged in business through an agent, by whatever name called; {Section 2(85)}

- Supply shall have the same meaning as assigned to it in section 7 of the Central Goods and Services Tax Act [Section 2(21)]

- Recipient of supply of goods or services or both, means—
  - where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
  - where no consideration is payable for the supply of a service, the person to whom the service is rendered,
  - and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93) of the CGST Act].

- Supplier in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105) of the CGST Act].

- Usual place of residence [S. 2(113) of CGST]: Means- a) In case of an individual, the place where he ordinarily resides; b) In other cases, the place where the person is incorporated or otherwise legally constituted.

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5.1 PLACE OF SUPPLY OF GOODS [SECTIONS 10 AND 11 OF THE IGST ACT]

Sec 10(1) - Any other goods (i.e., other than imports and exports)

(a) If supply involves *movement* of goods, whether by supplier or recipient or by any other person

Location of goods at the time at which movement of goods terminates for delivery to recipient

[Example: In case of supply of goods by X of Mumbai to Y of Delhi, the place of supply shall be = Location at time of termination of movement for delivery to recipient viz. Mr. Y = Delhi]

(b) if goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, It shall be deemed that the said third person has received the goods and **Place of supply of such goods = Principal place of business of such third person**

[Example : If X Ltd. of Mumbai supplies goods to Y Ltd. of Delhi on directions of Z Ltd. of Chennai (Z Ltd. acting as agent or otherwise), then, Z Ltd. will be deemed to be recipient and place of supply = Location of Z = Chennai]

(c) If supply does not involve movement of goods, whether by the supplier or the recipient - Location of such goods at the time of the delivery to the recipient

[Example: XZ Ltd. (Mumbai, Maharashtra) opens a new branch office at Gurugram, Haryana. It purchases a building for office from KTS Builders (Gurugram) along with pre-installed office furniture and fixtures. Though there will be no GST liability on purchase of building, office furniture and fixtures will be liable to GST. Since there is no movement of office furniture and fixtures, the place of supply of such goods is their location at the time of delivery to the recipient (XZ Ltd.) i.e., Gurugram]

10(1)(ca): Where the supply of goods is made to an unregistered person, the place of supply would be the location as per the address of the said person recorded in the invoice and the location of the supplier where the address of the said person is not recorded in the invoice. An explanation has also been added to the said clause to clarify that recording the name of the State of the said person shall be deemed to be the recording of the address of the said person.

In case of supply through ECO where the billing address and delivery address is different then the POS shall be delivery address.

(d) Where the goods are assembled or installed at site - Place of such installation or assembly

[Example, if X Ltd of Hyd supplies goods to Y Ltd. of Hyd by installation or assembling at site of Y Ltd. at Delhi, then, place of supply = Delhi]

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(e) Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle - Location at which such goods are taken on board

[Example, if a flight departs from Mumbai to Chennai & food is supplied during flight to passengers, then, place of supply of food = Mumbai.]

Ex: Mr. X (New Delhi) boards the New Delhi-Kota train at New Delhi. He sells the goods taken on board by him (at New Delhi), at Jaipur during the journey. The place of supply of goods is the location at which the goods are taken on board i.e., New Delhi and not Jaipur where it is sold

Sec 10(2) Where the place of supply of goods cannot be determined - Determined in such manner as may be prescribed

5.2 PLACE OF SUPPLY OF SERVICES [SECTION 12 TO 14 OF THE IGST ACT]:

Place of Supply of Services if 'location of supplier' as well as 'location of recipient of services' is in India [Section 12 of the IGST Act]

Section 12(1): *The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.*

Section 12(2): The place of supply of services except the services specified in subsection 3 to 14 made to a registered person shall be the location of such person.

If made to any person other than registered person then the place of supply shall be location of the recipient where the address on record exists and location of supplier in other cases.

Recording of the name of State of the recipient on the tax invoice in respect of such supply of services shall be deemed as the address of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b) of IGST Act, 2017.

In respect of following cases of supplies to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in FORM GSTR-1/1A:-

(i) Supply of any such online/Digital Services
(ii) OIDAR services
(iii) Online money gaming

Sec 12(3) Services relating to immovable property/boat/vessel: **Services** Directly in

relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or By way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

By way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

Any services ancillary to the services referred in (a), (b) and (c),

♦ Location at which the immovable property or boat or vessel is located or intended to be located:

♦ If the location of the immovable property or boat or vessel is —

(i) **Located or intended to be located outside India** - place of supply shall be the location of the recipient

(ii) **Located in more than one State or Union territory** - Supply of services shall be treated as made in each of respective States or Union territories, in proportion to:

♦ Value for services separately collected or determined in terms of contract or agreement entered into in this regard or

♦ In absence of such contract or agreement, on such other basis as may be prescribed.

However, in case where the immovable property or boat or vessel is located in more than one State/ UT, the service is deemed to have been supplied in each of the respective States/ UT, proportionately in terms of value of services determined as per rule 4 in the following manner:

S. No.	Type of service in relation to immovable property	Factor which determines the proportionate value of service
(a)	Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ UT or both)	Number of nights stayed in such property [Refer Example 1]
(b)	All other services provided in relation to immovable property including • services by way of accommodation in	Area of the immovable property lying in each State/ UT [Refer Example 2]

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	any immovable property for organising any marriage or reception etc. • supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in 2 or more contiguous States or/and UT • services ancillary to services mentioned above	
(c)	Services by way of lodging accommodation by a house boat or vessel and its ancillary services	Time spent by the boat or vessel in each such State/ UT, to be determined on the basis of declaration made by the service provider [Refer Example 3]

Example 1: A hotel chain X charges a consolidated sum of Rs.30,000/- for stay in its two establishments in Delhi and Agra, where the stay in Delhi is for 2 nights and the stay in Agra is for 1 night. The place of supply in this case is both in the Union territory of Delhi and in the State of Uttar Pradesh and the service shall be deemed to have been provided in the Union territory of Delhi and in the State of Uttar Pradesh in the ratio 2:1 respectively. The value of services provided will thus be apportioned as Rs.20,000/- in the Union territory of Delhi and Rs.10,000/- in the State of Uttar Pradesh.

Example 2: There is a piece of land of area 20,000 square feet which is partly in State S1 say 12,000 square feet and partly in State S2, say 8000 square feet. Site preparation work has been entrusted to T. The ratio of land in the two states works out to 12:8 or 3:2 (simplified). The place of supply is in both S1 and S2. The service shall be deemed to have been provided in the ratio of 12:8 or 3:2 (simplified) in the States S1 and S2 respectively. The value of the service shall be accordingly apportioned between the States.

Example 3: A company C provides the service of 24 hours accommodation in a houseboat, which is situated both in Kerala and Karnataka in as much as the guests board the house boat in Kerala and stay there for 22 hours but it also moves into Karnataka for 2 hours (as declared by the service provider). The place of supply of this service is in the States of Kerala and Karnataka. The service shall be deemed to have been provided in the ratio of 22:2 or 11:1 (simplified) in the states of Kerala and Karnataka, respectively. The value of the service shall be accordingly apportioned between the States.

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Sec 12(4) Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery - Location where the services are actually performed

Sec 12(5) Services in relation to training and performance appraisal to—

(a) A registered person - Location of such person

(b) An unregistered person - Location where the services are actually performed

Sec 12(6) Supply of services provided by way of—

♦ Admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and

♦ Services ancillary thereto - Place where the event is actually held or where the park or such other place is located

Sec 12(7) Services provided by way of—

(a) Organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or

(b) Services ancillary to organization of any of the events or services referred to in clause (a), or

(c) Assigning of sponsorship to such events

(i) Registered person - Location of such person

(ii) Unregistered Person

♦ Place where event is actually held

♦ Held outside India, then, location of the recipient.

(iii) 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 - Place of supply of such services shall be taken as being in each of respective States or Union territories in proportion to:

♦ Value for services separately collected or determined in terms of the contract or agreement entered into in this regard or,

♦ In absence of such contract or agreement, on such other basis as may be prescribed.

In the absence of any such contract or agreement, the value is determined in accordance with rule 5 by the application of generally accepted accounting principles.

Example: An event management company E has to organize some promotional events in States S1 and S2 for a recipient R (unregistered). 3 events are to be organized in S1 and 2 in S2. They charge a consolidated amount of Rs.10,00,000 from R. The place of supply of this service is in both the States S1 and S2. Say the proportion arrived at by the application of generally accepted accounting principles is 3:2. The service shall be deemed to have been provided in the ratio 3:2 in S1 and S2 respectively. The value of services provided will thus be apportioned as Rs. 6,00,000/- in S1 and Rs. 4,00,000/- in S2.



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Sec 12(8) Services by way of:

♦ Transportation of goods,

♦ Including by mail or courier

(i) Registered person - Location of such person

(ii) Unregistered person - Location at which such goods are handed over for their transportation

Sec 12(9) Supply of passenger transportation service

Return journey is a separate journey: 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.

(i) Registered person - Location of such person

(ii) Unregistered person - Place where the passenger embarks on the conveyance for a continuous journey

(iii) If 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 - Place of supply of such service shall be determined in accordance with the provisions of section 12(2) [i.e., general rule].

Explanation: Return journey shall be treated as separate journey even if the right to passage for onward and return journey is issued at same time.

Sec 12(10) Services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle - Location of the first scheduled point of departure of that conveyance for the journey

Sec 12(11) Telecommunication services including—

Data transfer, broadcasting, Cable and direct to home television (DTH) services

To any person—

(a) In case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna - Location where telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services

LC in more than one State/UT : If 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, then, Place of supply = Being in each of 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.

If the leased circuit is installed in more than one State/ UT and a consolidated amount is charged for supply of services, the place of supply is deemed to be in



each of the respective States/ UT in proportion to the value of services determined in terms of the contract or agreement entered into in this regard . In the absence of any such contract or agreement, the value is determined in accordance with rule 6 in proportion to the number of points lying in the State/ UT.

The number of points in a circuit is determined in the following manner-

S. No.	Number of Points	Examples
(i)	In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points	Example 1: A company T installs a leased circuit between the Delhi and Mumbai offices of a company C. The starting point of this circuit is in Delhi and the end point of the circuit is in Mumbai. Hence, one point of this circuit is in Delhi and another in Maharashtra. The place of supply of this service is in the Union territory of Delhi and the State of Maharashtra. The service shall be deemed to have been provided in the ratio of 1:1 in the Union territory of Delhi and the State of Maharashtra, respectively.
(ii)	Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point	Example 2: A company T installs a leased circuit between the Chennai, Bengaluru and Mysuru offices of a company C. The starting point of this circuit is in Chennai and the end point of the circuit is in Mysuru. The circuit also connects Bengaluru. Hence, one point of this circuit is in Tamil Nadu and two points in Karnataka. The place of supply of this service is in the States of Tamil Nadu and Karnataka. The service shall be deemed to have been provided in the ratio of 1:2 in the States of Tamil Nadu and Karnataka, respectively. Example 3: A company T installs a leased circuit between the Kolkata, Patna and Guwahati offices of a company C. There are 3 points in this circuit in Kolkata, Patna and Guwahati. One point each of this circuit is, therefore, in West Bengal, Bihar and Assam. The place of supply of this service is in the States of West Bengal, Bihar and Assam. The service shall be deemed to have been provided in the ratio of 1:1:1 in the States of

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		West Bengal, Bihar and Assam, respectively.

(b) In case of mobile connection for telecommunication and internet services provided on post-paid basis - Location of billing address of the recipient of services on the record of the supplier of services

(c) In cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—

(i) Through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher - Address of selling agent or re-seller or distributor as per record of the supplier at the time of supply;

(ii) By any person to the final subscriber - location where such prepayment is received or such vouchers are sold;

(iii) If such pre-paid service is availed or recharge is made through internet banking or other electronic mode of payment - Location of recipient of services on the record of the supplier of services

(d) In other cases

(i) General address of recipient as per the records of the supplier of services

(ii) If such address is not available - location of supplier of services

(e) If address of the recipient as per the records of the supplier of services is not available, Place of Supply = Location of the supplier of services

Sec 12(12) Banking and other financial services, including stock broking services to any person - Location of recipient of services on records of supplier of services, but, if location of recipient of services is not on the records of the supplier, place of supply shall be the location of the supplier of services.

Sec 12(13) Insurance services

(i) Registered person - Location of such person

(ii) Unregistered person - Location of recipient of services on the records of the supplier of services

Sec 12(14) Advertisement services to —

- Central Government,
- A State Government,
- A statutory body or
- A local authority

Meant for the States or Union territories identified in the contract or agreement

♦ Place of supply is taken as being in each such States or Union territories

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♦ Value of such supplies specific to each State or Union territory shall be in proportion to :

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.

Manner of determining proportionate value Of service in the absence of a contract or agreement

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories (where the advertisement is broadcasted/ run /played/disseminated) is computed in accordance with rule 3 Of the IGST Rules as under:

S.NO	TYPE OF ADVERTISEMENTS	**Value of service attributable to dissemination in different States/Union territories where the advertisement is broadcasted/ run / played/disseminated**
1.	Advertisements Newspapers Publications.	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in each State/Union Territory
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory
3.	Advertisements in hoardings (Other than those on trains)	Amount payable for the hoardings located in each State/ Union territory
4.	Advertisements in train	Amount attributable to each State/Union territory calculated in the ratio of length of the railway track in each of such State/Union territory, for that train
5.	Advertisements on the back of utility bills of oil and gas companies, etc.	Amount payable to each State/Union territory for the advertisements on bills pertaining to consumers having billing addresses in each of such State/Union territory
6.	Advertisements on railway tickets	Amount attributable to each State/Union territory calculated in the ratio of number of Railway Stations in each of such State/Union territory
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each

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		State/Union territory
8.	Advertisements on television channels	Amount attributable to each State/Union territory calculated basis the viewership of such channel in each of such State/ Union territory which shall be derived as under: a) Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. b) Figures for the last week of a given quarter is used for calculating viewership for the succeeding quarter. c) Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, is calculated in ratio of the populations of that State/Union territory, as determined in the latest Census. d) The ratio of the viewership figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination that State or Union territory
9.	Advertisements on cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/Union territory
10.	Advertisements on internet It is deemed that such service is provided all over India.	Amount attributable to each State/Union territory calculated basis the internet subscribers in each of such State/ Union territory which shall be derived in the following manner: a) Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). b) Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers

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		for the succeeding financial year. c) Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the subscriber figures for State/union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census. d) The ratio of the subscriber figures for each State or Union territory so calculated, when applied to the amount payable for the service, shall represent the portion of the value attributable to the dissemination in that State or Union territory
11.	Advertisements through SMS	Amount attributable to each State/union territory calculated on the basis of the telecom subscribers in each of such State/ Union territory. a) Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter. b) Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census.

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Illustration 1.1

Mr. Z, a supplier registered in Hyderabad (Telangana), procures goods from China anddirectly supplies the same to a customer in US.

With reference to the provisions of GST law, examine whether the said activity of supplyof goods by Mr. Z to customer in US is taxable under GST.

If yes, determine the place of supply of the same.

Illustration 1.2

Priyank of Pune, Maharashtra enters into an agreement to sell goods to Bisht of Bareilly,Uttar Pradesh.

- While the goods were being packed in Pune godown of Priyank, Bisht got an orderfrom Sahil of Shimoga, Karnataka for the said goods.
- Bisht agreed to supply the said goods to Sahil and asked Priyank to deliver thegoods to Sahil at Shimoga.

You are required to determine the place of supply(ies) in the above situation.

Illustration 1.3

The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states.

What will be the place of supply of construction services?

Illustration 1.4

Quickdeal Enterprises (Ahmednagar, Gujarat) opens a new branch office at Hissar, Haryana.

It purchases a building for office from Ruhani Builders (Hissar) along with pre-installedoffice furniture and fixtures.

Determine place of supply of the pre-installed office furniture and fixtures

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Illustration 2

Musicera Pvt. Ltd., owned by Nitish Daani - a famous classical singer - wishes to organise a 'Nitish Daani Music Concert' in Gurugram (Haryana).

- Musicera Pvt. Ltd. (registered in Ludhiana, Punjab) enters into a contract with an event management company, Supriya (P) Ltd. (registered in Delhi) for organising thesaid music concert at an agreed consideration of Rs.10,00,000.
- Supriya (P) Ltd. books the lawns of Hotel Dumdum, Gurugram (registered inHaryana) for holding the music concert, for a lump sum consideration of Rs.4,00,000.
- Musicera Pvt. Ltd. fixes the entry fee to the music concert at Rs.5,000.
- 400 tickets for 'Nitish Daani Music Concert' are sold.
- You are required to determine the CGST and SGST or IGST liability, as the case maybe, in respect of the supplie(s) involved in the given scenario.
- Will your answer be different if the price per ticket is fixed at Rs.450?

Note: Rate of CGST and SGST is 9% each and IGST is 18%.

All the amounts given above are exclusive of taxes, wherever applicable

Illustration 3

Damani Industries has recruited Super Events Pvt. Ltd., an event management company of Gujarat, for organising the grand party for the launch of its new product at Bangalore.Damani Industries is registered in Mumbai.

Determine the place of supply of the services provided by Super Events Pvt. Ltd. toDamani Industries.

Will your answer be different if the product launch party is organised at Dubai?

Illustration 4

Supra Events, an event management company at New Delhi, organizes an award function for Chirag Diamond Merchants of Varanasi (registered in U.P.), at Mumbai.

Determine place of supply of the service supplied by Supra Events.

Will your answer be different, if the award function is organised at Mauritius instead of Mumbai?

Illustration 5

Mr. Murthy, an unregistered person and a resident of Pune, hires the services of M/s SunLtd. an event management company registered in Delhi, for organising of the new product launch in Bengaluru.

(i) Determine the place of supply of services provided by M/s Sun Ltd.
(ii) What would your answer be in case the product launch takes place in Bangkok?

What would your answer be in case Mr. Murthy is a registered person and product launches take place in Bengaluru and Bangkok?

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Illustration 6

Determine the place of supply for the following independent cases under the IGST Act,2017:

- Mega Events, an event management company at Kolkata, organises two award functions for Shagun Jewellers of Chennai (Registered in Chennai) at New Delhi andat Singapore.
- Crown Planners (Bengaluru) is hired by Dr. Banta (unregistered person based inKochi) to plan and organise his son's wedding at Mumbai.

Will your answer be different if the wedding is to take place at Malaysia?

Illustration 7

PQ', a statutory body, deals with the all the advertisement and publicity of the Government.

It has issued a release order to 'Moon Plus' channel (registered in State A') for telecasting an advertisement relating to one of the schemes of the Government in themonth of September 20XX.

- The advertisement will be telecasted in the States of 'A', 'B', 'C', 'D' and 'E'. The total value of the service contract entered into between Moon Plus' and "PQ' is 10,00,000 (exclusive of GST).
- You are required to determine the place of supply of the services in the instant caseas also the value of supply attributable to the States of 'A', 'B, C, D' and 'E'.
- Further, compute the GST liability (CGST & SGST or IGST, as the case may be) of 'Moon Plus' as also advise it as to whether it should issue one invoice for the entirecontract value or separate State-wise invoices.

The other relevant information is given hereunder:

States	**Viewership figures of 'Moon Plus' channel in the last week of June 20XX as provided by the Broadcast Audience Research Council**
A	50,000
B + C	1,00,000
D + E	50,000
States	**Population as per census (in crores)**
A	50
B	180
C	20
D	100
E	25

CGST	SGST	IGST
9%	9%	18%



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Illustration – MCQ1

M/s. Build well Engineering Consultants, located and registered in Gurugram, Haryana provided consultancy services to M/s. Taj India Ltd., (located and registered in Mumbai,Maharashtra) for its hotel to be constructed on land situated in Dubai.

Determine the place of supply of consultancy services provided by M/s. Build wellEngineering Consultants to M/s. Taj India Ltd.:

a) Gurugram, Haryana
b) Mumbai, Maharashtra
c) Dubai
d) None of the above

Illustration – MCQ 2

Mr. Salman Khan, a resident of Mumbai, has booked a Videocon D2H connection at hisother home in Delhi.

- His friend Shah Rukh Khan, is resident of Kerala, paid the charges for Salman's D2H connection in Delhi at the time of actual installation. Mr. Shah Rukh Khan went to Kolkata after making the payment.
- Both Salman Khan and Shah Rukh Khan are not registered in GST.

Determine the place of supply of D2H service provided by Videocon to Mr. SalmanKhan:

a) Mumbai
b) Kerala
c) Delhi
d) Kolkata

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EXEMPTIONS

Contents –

- Power of Government to grant exemption
- Services exempt from tax

1. Introduction

- For determining the liability to pay the tax, one needs to further check whethersuch supply of goods and/or services are exempt from tax.
- under GST, a supply not leviable to tax is also included within the purview of 'exempt supply'.

> ***Exempt supply [Sec 2(47)]*** - Supply of any goods or services or both
>
> - which attracts nil rate of tax or
> - which may be wholly exempt from tax and
> - includes non-taxable supply Whether as principal, agent or in any other capacity,

> ***Non-taxable supply [Sec 2(78)]*** - Supply of any goods or services or both Which is not leviable to tax under CGST Act or under the IGST Act.

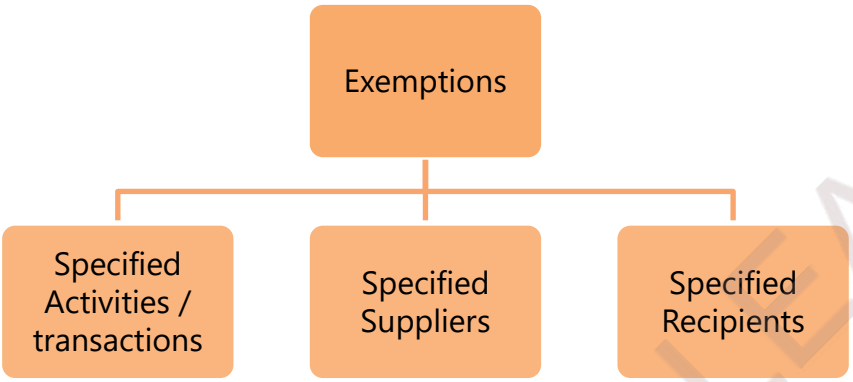
- Exemption under GST may be provided in any of the following manner:
  - Exemption in respect of specified activities or transactions - Consequently,the status of the supplier or recipient becomes immaterial.
  - Exemption is given to specified suppliers only – Here, the status of recipient becomes immaterial.
  - Exemption is given to specified recipient only - Here, the status of supplierbecomes immaterial.

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- Exemption is given only when activities or transactions are carried out by specified suppliers for specified recipients only.

- Under GST, essential goods/services, i.e., public consumption products/services, have been exempted - Items such as unbranded atta/ maida/ besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST. (Not in syllabus. Only for information)
- Further, essential services like health care services, education services, etc. have also been exempted.



2. Power to grant exemption from GST [Sec 11]

2.1 Exemption notification

- GST law empowers the ***Central Government or State Government*** as the case may be to grant exemption from tax.
- The exemption is granted on ***recommendation of the GST Council.***
- Exemption can be from ***whole of the tax or part of the tax***.
- It is granted in ***public interest***.
- Exemption can be granted to ***goods or services or both*** of any specified description.
- It is either granted by way of issuance of ***notification or by a special order*** in case of the circumstances of an exceptional nature.
- It is either granted ***absolutely*** [i.e. unconditional exemption; exemption is not subject to any conditions] ***or conditionally*** [i.e. exemption is subject to specified conditions].
- The ***absolute/ unconditional*** exemption is ***mandatory*** in nature.
- However, where the exemption is ***conditional,*** it is at the ***option*** of the registered person whether to avail the same or not.
- The exemption granted by way of notification is ***effective*** from such date as maybe ***specified in such notification***.
- The special order is issued under ***circumstances of an exceptional nature*** to bestated in such order.
- Similar provisions granting power to exempt IGST have been provided under section 6 of the IGST Act.

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- where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the ***registered person*** supplying such goods or services or both ***shall not collect the tax, in excess of the effective rate,*** on such supply of goods or services or both.

2.2 Explanation to notification

- Wherever the Government feels that there is a need to
  - clarify the scope or
  - applicability of any notification/order issued under this section,
- It can issue an ***explanation within 1 year of issue of said notification/ order.***
- Such explanation shall have effect as if it was there when first such notification/ order was issued, i.e. explanation so inserted would be ***effective retrospectively***.
- It is hereby clarified that the ***explanation so inserted*** for a particular entry in thenotification, ***is effective from the inception of the entry in notification*** and not from the date from which the notification (that inserted said explanation) becomes effective.
- Example - Principal Notification No. 11/2017 CT (R) dated 28.06.2017 came into force with effect from 01.07.2017. Thereafter, a new entry – Entry no. 3(vi) was inserted w.e.f. 21.09.2017. Subsequently, an explanation was also inserted with respect to entry no. 3(vi) by issue of a notification on 26.07.2018 [i.e., within 1 yearof the insertion of entry 3(vi)]. Although the effective date mentioned in the notification which inserted said explanation was 27.07.2018, said explanation willbe effective from the inception of entry 3(vi) in notification i.e. 21.09.2017 and not27.07.2018.

3. Services exempt from tax

- ***Notification No. 12/2017 dated 28.06.2017*** has exempted the various serviceswholly from CGST. Each of the entries of the exemption notification have been discussed below.

3.1 Services related to charitable and religious activities

3.1.1 Services by charitable institutions

- Services by an entity
  - registered under section 12AA or 12AB of the Income-tax Act, 1961
  - by way of charitable activities.

  are exempt from whole of GST.

- 'Charitable activities' is defined under Income tax act 1961.

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Charitable activities – The term 'charitable activities' means activities relating to-

(i) Public Health by way of -

(A) Care or counselling 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

(iii) Advancement of educational programmes/skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) Preservation of environment including watershed, forests & wildlife.

- There could be many other services provided by such charitable and religious trusts which are not covered by the definition of charitable activities and hence, suchservices would attract GST. For instance, grant of advertising rights to a person on the premises of the charitable/religious trust or on publications of the trust, or granting admission to events, functions, celebrations, shows against admission tickets or fee etc. would attract GST.

Services provided to charitable or religious trusts are not outside the ambit of GST. Unless specifically exempted, all goods and services supplied to charitable or religious trusts are leviable to GST

- **Arranging yoga and meditation camp by charitable trusts** - Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the **primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of religion, spirituality or yoga.**
- However, if it merely or primarily provides accommodation or serves food and drinks against consideration in any form including donation, such activities will be taxable. Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.

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3.1.2 Services by a person by way of Conduct of any religious ceremony

- Religious ceremonies are life-cycle rituals including special religious poojas conducted in terms of religious texts by a person so authorized by such religious texts. Occasions like birth, marriage, and death involve elaborate religious ceremonies.

3.1.3 Services by a person by way of renting of precincts of a religious place

- Services by a person by way of renting of precincts of a religious place meant forgeneral public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under Income-tax Act.
- However the **following are subject to GST**:
  1. Renting of ***rooms*** where charges ***are*** Rs.***1,000 or more per day***;
  2. Renting of ***premises,*** community halls, kalyanmandapam or open area, andthe like where charges are ***Rs.10,000 or more per day***;
  3. Renting of ***shops*** or other spaces for business or commerce where charges are ***Rs. 10,000 or more per month***.

- Renting of premises, community halls, kalyana mandapam or open area can be for any purpose and not merely for religious ceremonies. The rent is exempt as long as it is less than Rs.10,000 per day.

> ***Religious place*** – means a place which is primarily meant for conduct of prayersor worship pertaining to a religion, meditation, or spirituality.

> ***Precincts*** – The immovable property located in the immediate vicinity and surrounding of the religious place and owned by the religious place or under the same management as the religious place, may be considered asbeing located in the precincts of the religious place and extended the benefit of above exemption.

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- Activities other than - conduct of religious ceremony and renting of precincts of religious place - will be taxable irrespective of the manner or the name in which the consideration is received.
- **For example,** if donation is received with specific instructions/mutual understanding between the donor and the receiver that religious place will host an advertisement promoting business of the donor, such donation will be subject to GST. However, if donation is received without such instructions or without a *quid pro quo* in the form of supply of any goods or services or both by the receiver to the donor, it shall not be subject to GST.

3.1.4 Services by a specified organisation in respect of a religious pilgrimage facilitated by the Government of India, under bilateral arrangement.

- Religious Yatras/pilgrimage organised by any charitable or religious trust are not exempt. Only such services of religious pilgrimage as are provided by ***specified organization*** in respect of a religious pilgrimage facilitated by the Government of India (GoI), under bilateral arrangement are exempt from GST.
- ***specified organization*** as referred herein means:
  - Kumaon Mandal Vikas Nigam Limited (KMVN), a Government of Uttarakhand Undertaking.
  - Haj Committee of India' or 'State Haj Committee including Joint State Committee'.
- KMVN organises religious pilgrimage to Kailash Mansarovar and Haj committee organised religious pilgrimage to Haj.

3.1.5 Services by way of training or coaching in recreational activities relating to Arts or Culture, by an Individual, (or) Sports by charitable entities registered under section 12AA or 12AB of the Income-tax Act.

- Training or coaching relating to all forms of arts, culture by Individual is covered under this entry, namely, dance, music, painting, sculpture making, literary activities, theatre etc of any school, tradition or language
- Training or coaching in Sports by Charitable entities registered under Section 12AA or 12AB is exempt.
- Training or coaching in recreational activities in areas other than arts, culture or sports is outside the purview of this entry.

3.2 Services related Agriculture activities

3.2.1 Services by way of loading, unloading, packing, storage and warehousing of rice.

- The services provided by way of loading, unloading, packing, storing and warehousing of rice by one person to another is exempt from GST.
- The said services provided ***only with respect to rice*** is covered.



3.2.2 Services by way of warehousing of minor forest produce.

Minor forest produce – means Non-timber forest produce of plant origin and will include bamboo, canes, fodder, leaves, gums, waxes, dyes, resins and many forms of food including nuts, wild fruits, honey, lac, tusser etc.

3.2.3 Services relating to cultivation of plants and rearing of all life forms

- 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.
- The above entry ***includes*** activities like breeding of fish (pisciculture), rearing of silk worms (sericulture), cultivation of ornamental flowers (floriculture) and horticulture, forestry, etc.
- 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 are also exempt.
- The processes of grinding, sterilizing, extraction packaging in retail packs of agricultural products, which make the agricultural products marketable in retail market, would NOT be covered in this entry.
- Agricultural Extension Services (AES) have been defined to mean the application of scientific research and knowledge to agricultural practices through farmer education or training.
- The main objective of AES is to transmit latest technical know-how to farmers. It also focuses on enhancing farmers' knowledge about crop techniques and

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help them to increase productivity. This is done through training courses, kisan call centres, farm visits, on farm trials, kisan melas, kisan clubs, advisory bulletins and the like.

- Agricultural Produce Marketing Committee or Board means any committee or board set up under a State Law for the time being in force for purpose of regulating the marketing of agricultural produce. They are set up in most of the States.
- Any service provided by such bodies which is ***not directly related to cultivation of plants*** and rearing of all life forms of animals, except the rearing of horses, ***will be liable to tax*** e.g. renting of shops or other property for commercial purposes.
- With regard to agriculture produce the following should be noted:
  - Green tea leaves and not tea is the "agricultural produce" eligible for exemption.
  - Similarly Coffee beans and not Coffee is the agriculture produce.
  - Jaggery is also not an agricultural produce.
  - Pulses (dehusked or split) are also not agricultural produce. However, whole pulse grains such as whole gram, rajma etc. are covered in the definition ofagricultural produce.

3.2.4 Services by way of storage/ warehousing of cereals, pulses, fruits and vegetables

- Services by way of storage/ warehousing of cereals, pulses, fruits and vegetables.

3.2.5 Carrying out an intermediate production process

- 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.

  Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested.

3.2.6 Services by way of artificial insemination of livestock (other than horses).

- Services by way of artificial insemination of livestock (other than horses) is exempt.

3.3 Medical services / Health care services

- Services by a veterinary clinic in relation to health care of animals and Birds isexempt.
- Services by way of health care services by a
  - Clinical establishment
  - An authorised medical practitioner or
  - Para-medics.

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- Services provided by way of transportation of a patient in an ambulance - Transportation of a patient in an ambulance by any person other than clinical establishment/ authorized medical practitioner/ para-medics is exempt.

Health care services means

- Any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and
- Includes services by way of transportation of the patient to and from a clinical establishment,
- But does not include 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.

Recognised systems of medicine in India:

- Allopathy
- Yoga
- Naturopathy
- Ayurveda
- Homeopathy
- Siddha
- Unani
- Any other system of medicine that may be recognized by Central Government

- Diagnostic or investigative services of diseases provided by pathological labs arenot liable to GST.
- Paramedics are trained health care professionals, for example, nursing staff, physiotherapists, technicians, lab assistants etc.
- Rent of rooms provided to in-patients in hospitals is exempt.
- Hospitals hire senior doctors/ consultants/ technicians independently. Such persons do not have any contract with the patient. Hospitals pay them consultancy charges and there is no employer-employee relationship between them. Services provided by such senior doctors/ consultants/ technicians, whetheremployees or not, are healthcare services which are exempt from GST.
- Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the hospitals from outdoor caterers.
- When outsourced, there is no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC.
- Food supplied to the in-patients as advised by the doctor/nutritionists is a part ofcomposite supply of healthcare and not separately taxable. Other supplies of food by a hospital to outpatients (not admitted) or their attendants or visitors are taxable.
- Supply of services other than healthcare services such as renting of shops, auditoriums in the premises of the clinical establishment, display of

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advertisements etc. will be subject to GST.

- Health care service of IVF to treat infertility is also exempt.
- This exemption is available even when the said services are provided by religious or charitable trust.
- Services by way clinical establishment charging above Rs. 5,000 per day for the room to a person is NOT Exempt. However, exemption will apply in case of ICU, ICCU, CCU and NICU.

3.4 Construction services

3.4.1 Services provided by way of pure labour contracts

- 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.***
- **Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana** (hereinafter referred to as PMAY) is a programme launched by the Ministry of Housing and Urban Poverty Alleviation (MoHUPA) which envisions provision of Housing for All by 2022 when the nation completes 75 years of its independence.
- The mission seeks to address the housing requirement of urban poor including slum dwellers through following, *inter alia*, programme verticals:
  - Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource.
  - Promotion of Affordable Housing for weaker section through credit linked subsidy.
  - Affordable Housing in Partnership with Public & Private sectors.
  - Subsidy for beneficiary-led individual house construction/enhancement.

- The term 'original works' means-
  - all new constructions;
  - all types of additions and alterations to abandoned or damaged structures on land that are required to make them workable;
  - erection, commissioning or installation of plant, machinery or equipment or structures, whether prefabricated or otherwise.

3.4.2 Services supplied by Electricity Distribution Utilities

- Services supplied by ***Electricity Distribution Utilities*** by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network ***upto the tube well of the farmer or agriculturalist for agricultural use.***

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3.4.3 Services by way of pure labour contracts of construction, erection,

- 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.***
- The term 'residential complex' means any complex comprising of a building or buildings, having more than one single residential unit.
- Further, 'single residential unit' means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

3.5 Service of transportation of passengers

3.5.1 Service of transportation of passengers through rail, inland waterways etc.

- Service of transportation of passengers, ***with or without accompanied belongings***, by—
  - railways in a class ***other than***—
    - ✓ first class; or
    - ✓ an air-conditioned coach;
  - metro, monorail or tramway;
  - inland waterways;
  - public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and
  - metered cabs or auto rickshaws (including e-rickshaws).

  In case of metered cabs or auto rickshaws (including e-rickshaws), no exemption shall apply for service supplied through an electronic commerce operator (ECO), and notified under section 9(5) of the CGST, 2017

- To qualify for exemption under this entry, the public transport by a vessel between places located in India should not be predominantly for tourism purposes.

  - Normal public ships or other vessels that sail between places located in India would be covered in this entry even if some of the passengers on board are using the service for tourism because predominantly, such service is not for tourism purpose.

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- However, services provided by leisure/charter vessels/a cruise ship, predominant purpose of which is tourism, would not be covered in here even if some of the passengers in such vessels are not tourists.

- **E-rickshaw:** means a special purpose battery powered vehicle of power not exceeding 4000 watts, having three wheels for carrying goods or passengers as the case may be.
- **Metered cab:** means any contract carriage on which an automatic device, of the type and make approved under the relevant rules by the State Transport Authority, is fitted which indicates reading of the fare chargeable at any moment. But does not include radio taxi.

3.5.2 Services provided to the Central Government, by way of transport of passengers at an RCS airport.

- Services provided to the Central Government,
- by way of transport of passengers with or without accompanied belongings,
- by air, embarking from or terminating at an ***RCS (Regional Connectivity Scheme) airport***, against consideration in the form of ***viability gap funding***.
- However, nothing contained in this entry shall apply on or after the expiry of a ***period of 3 years*** from the date of commencement of operations of the RCS airport as notified by the Ministry of Civil Aviation.
- Under RCS, the underserved Airports of India are aimed to be connected to key airports through flights that will cost INR 2,500 for per hour flight.

3.5.3 Transport of passengers, by air in economy class, from or to specified airports, contract carriage or stage carriage.

- Transport of passengers, with/ without accompanied belongings, by –
  - Air in economy class, embarking from or terminating in an airport located in the State of ***Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;***
  - Non-air-conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter orhire; or
  - Stage carriage other than air- conditioned stage carriage.
- **Radio taxi:** means a taxi including a radio cab, by whatever name called, which isin two-way radio communication with a central control office and is enabled for tracking using the Global Positioning System or General Packet Radio Service.
- **Stage carriage**: means a motor vehicle constructed or adapted to carry more than 6 passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey.
- Contract carriage includes maxi cab and motor cab



"However, nothing contained in 2nd and 3rd point mentioned above shall apply to services supplied through an electronic commerce operator (ECO), and notified under section 9(5) of the CGST, 2017

3.6 Services by way of transportation of goods

3.6.1 Services by way of transportation of goods by road

- Services by way of transportation of goods by road ***except the services of***
  - A goods transportation agency (GTA);
  - A courier agency;
- The nature of service provided by 'Express Cargo Service' falls within the scopeand definition of the courier agency.
- Courier agency means door-to-door transportation of time-sensitive documents, goods or articles.
- Goods transport agency (GTA) has been defined in the Notification to mean any person who:
  - provides service in relation to **transport of goods by road** and
  - **issues consignments note**, by whatever name called.
- Issuance of a consignment note is the *sine-qua- non* for a supplier of service to be considered as a GTA. If a consignment note is issued, it indicates that the lienon the goods has been transferred (to the transporter) and the transporter becomes responsible for the goods till its safe delivery to the consignee.
- Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. As a result the services provided bysuch individual transporters are exempt from GST.
- ***Consignment note*** - means a document, issued by a GTA against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is ***serially numbered,*** and contains:
  1) the name of the consignor and consignee,
  2) registration number of the goods carriage in which the goods are transported,
  3) details of the goods transported,
  4) details of the place of origin and destination,
  5) gross weight of the consignment;
  6) GSTIN of the person liable for paying tax whether consignor, consignee orGTA
  7) other particulars as prescribed for a tax invoice

3.6.2 When is GTA service exempt

- GTA services provided to an ***unregistered person [including unregistered casual taxable person]*** are ***exempt*** from GST.
- GTA services provided to ***registered casual taxable*** person and following persons, even if unregistered under GST law, are ***liable to tax***:

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1) A factory registered under Factories Act,
2) Society registered under Societies Act,
3) Co-operative society,
4) Body corporate and
5) Partnership firm including AOP

- Services provided by a GTA, by way of transport of goods in a goods carriage, is ***exempt when provided to***, -
  1) A Department or Establishment of the Central Government or State Government or Union territory; or
  2) Local authority; or
  3) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.
- If any intermediary and ancillary service such as, loading/ unloading, packing/unpacking, transhipment and temporary warehousing, which are provided in the course of or in relation to transportation of goods by road, and charges, if any, for such services are included in the invoice issued by the GTA, such service would form part of the GTA service, being a composite supply, and would not be treated as a separate supply.
- However, if such incidental services are provided as separate services and charged separately, whether in the same invoice or separate invoices, they shall be treated as separate supplies.
- Renting of trucks and other vehicles with operator for a specified time period is not service by way of transportation of goods by road and shall be taxable. Same point will apply even to transport of minerals within mining area by vehicles deployed with driver for a specific duration of time.

3.6.3 GTA services exempt for specified goods and in specified cases

- Transportation of the following goods by a GTA in a goods carriage is exempt
  1) Agricultural produce
  2) Milk, salt and food grain including flours, pulses and rice
  3) Organic manure
  4) *Newspaper or magazines registered with the Registrar of Newspapers
  5) Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
  6) Defence or military equipments.

3.6.4 Services by way of transportation by rail or a vessel

- Services by way of transportation by rail or a vessel from one place in India to another of the following goods –
  1) Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;
  2) Defence or military equipments;

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3) Newspaper or magazines registered with the Registrar of Newspapers;
4) Agricultural produce;
5) Milk, salt and food grain including flours, pulses and rice; and
6) Organic manure.

3.7 Banking and financial services

3.7.1 Services by way of extending deposits, loans or advances

- Services by way of 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) is exempt from GST.
- Interest charged on outstanding credit card balances has been specifically excluded. Hence, the same is liable to GST.
- This entry would not cover investments by way of equity or any other manner where the investor is entitled to a share of profit.
- ***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.
- ***Examples*** – Interest on Fixed deposit, savings deposit, overdraft facility, mortgages or loans with collateral security, corporate deposits etc.
- ***Service charges/ fees, documentation fees, broking charges, administrative charges,*** entry charges or such like fees or charges collected over and above interest on loan, advance or a deposit are not exempt and thus, represent taxable consideration.
- ***Invoice discounting/ cheque discounting*** or any other similar form of discounting is ***covered*** only to the extent consideration is represented by way of discount as such discounting is a manner of extending a credit facility or a loan.
- ***Any interest/ delayed payment charges*** charged to clients for delay in payment of brokerage amount/ settlement obligations/ margin trading facility, is ***exempt from GST*** since settlement obligations/ margin trading facilities are transactions which are in the nature of extending loans or advances.
- ***Additional/ penal interest on the overdue loan*** - In cases where the Equated Monthly Instalment (EMI) is not paid at the scheduled time, there is a levy of additional/ penal interest on account of delay in payment of EMI.
    - If the purchase is in the nature of instalment purchase and the buyers pays the interest to the seller on delayed payment of instalment, such interest would be included in the value of supply.

- However If the purchase is made out of loan taken from any party where loan repayment is made in instalments and interest is payable by the buyer

on delayed payment of such instalment, it is covered under the exemption entry. As long as the levy of additional/ penal interest satisfies the definitionof "interest" as mentioned above, the same cannot be treated as consideration for liquidated damages. Consequently, transaction of levy of additional/ penal interest does not fall within the ambit of Schedule II of theCGST Act, 2017 i.e. "agreeing to the obligation to refrain from an act, or totolerate an act or a situation, or to do an act. Instead it is exempt from GST.

3.7.2 Services by way of inter se sale or purchase of foreign currency

- Services by way of inter se sale or purchase of foreign currency amongst banks orauthorised dealers of foreign exchange or amongst banks and such dealers is exempt from GST.
- Such services ***provided to general public will not be covered*** in this entry as thisentry only covers sale and purchase of foreign exchange between banks and authorized dealers of foreign exchange or between banks and such dealers.

3.7.3 Services provided to Basic Saving Bank Deposit (BSBD) account holders

- Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY) is exempt.

3.7.4 Services by an acquiring bank

- Services by an acquiring bank, to any person in relation to settlement of an amount ***upto Rs. 2,000 in a single transaction*** transacted through credit card, debit card, charge card or other payment card service.
- **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.

3.7.5 Services by an intermediary of financial services

- Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).

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- The intermediary of financial services in IFSC is a person,-
  - who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or
  - who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or
  - who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or
  - who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.

3.8 Education Services

3.8.1 Services *provided by* an educational institution

- Services provided by an educational institution
  - to its students, faculty and staff; and
  - by way of conduct of entrance examination against consideration in the form of entrance fee; ***are exempt.***

  Educational institution means an institution providing services by way of,-

  (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; {Only course recognized by Indian Law}
  (iii) education as a part of approved vocational education course

- In order to be covered under the above mentioned exemption, the education service should be delivered as part of curriculum for obtaining a qualification recognized by any law for the time being in force.
- Examples :
  - Conduct of degree courses by colleges, universities or institutions – ***Eligible for exemption***
  - Training given by private coaching institutes – ***Not eligible for exemption*** – as such training does not lead to grant of a recognized qualification
- Education as a part of a prescribed curriculum for obtaining a qualification recognized by a law of a foreign country – ***Not eligible for exemption*** – as only a course recognized by an Indian law is covered herein.
- An ***approved vocational education course means***
  - A course run by an ITI/ ITC affiliated to the National Council for Vocational

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Training (NCVT) or State Council for Vocational Training (SCVT) offering courses in designated trades notified under the Apprentices Act, 1961.

- A Modular Employable Skill Course, approved by NCVT, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

- The Modular Employable Skills is the minimum skill set which is sufficient forgainful employment or self- employment in the world of work.

- ***Private ITIs qualify as an educational institution*** if the education provided by these ITIs is approved as vocational educational course as defined above. servicesprovided by a private ITI only in respect of ***designated trades notified under Apprentices Act, 1961 are exempt*** from GST.
- Exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITIs.
- Private coaching centres or other unrecognized institutions, though self- styled as educational institutions, would not be treated as educational institutions under GST and thus cannot avail exemptions available to an educational institution.

- The following services provided by an educational institutions which are providing pre-school education and education up to higher secondary school or equivalent or education leading to a qualification recognised by law, are fully exempt:
    - Lodging/boarding in hostels
    - Catering services / Mess facilities
    - Incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being.
- If catering is one of the service provided by educational institutions then it is exempt
- If catering service is provided by any person other than educational institutions, then GST would apply. However, when the service is provided to educational institution providing pre school education or education upto higher secondary school or equivalent then the said service would be exempt.

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- where ***a course in a college leads to dual qualification only one of which is recognized by law***, Service in respect of each qualification would be assessed separately.
    - Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately.
    - If an artificial bundle of service is created by clubbing two courses together,when only single fee is charged for both, only one of which leads to a qualification recognized by law it shall be treated as a mixed supply as per sec 8. The taxability will be determined by the supply which attracts highestrate of GST.

- **IIMs** - All the IIMs fall under purview of "educational institutions" as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force.

Courses offered by IIMs	Applicability of GST
Long duration programs (1 year ormore) for which they award diploma/ degree certificate duly recommendedby Board of Governors.	All services provided in such case is exempt from levy of GST
short duration/ short term programs (less than 1 year) for which they award participation certificate to the executives/ professionals. These participation certificates are not any qualification recognized by law.	GST is payable on the services provided in such case.

- ***Fees charged from prospective employers*** - Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses/MNCs, who come to the institutes for recruiting candidates through campus interviews in relation to campus recruitments. Such services shall also be liable to tax.
- Maritime courses approved by DG Shipping - Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958. Thus ***the courses conducted by them are exempt.***

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3.8.2 Services *provided to* an educational institution, by way of-

- Services provided to an educational institution which is engaged in providing services by way of pre-school education and education up to higher secondary school or equivalent, by way of –
  - transportation of students, faculty and staff;
  - catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
  - security or cleaning or house-keeping services performed in such educational institution; is ***exempt.***

> Where output services are exempted, the educational institutions cannot avail credit of tax paid on the input services.

- Services provided to an educational institution by way of
  - services relating to admission to, or conduct of examination by, such institution;
  - supply of online educational journals or periodicals, ***is exempt, p***rovided such educational institution is not providing services by way of
    - ✓ pre-school education and education up to higher secondary school or equivalent; or
    - ✓ education as a part of an approved vocational education course

- Regarding services provided to private ITIs, only services relating to admission toor conduct of examination received by a private ITI in respect of such designatedtrades are exempt. All other services provided to such institutions is liable to GST.

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Exempt input services	
Educational institution providing pre-school education and education upto higher secondary school or equivalent	1. Transportation of students, faculty and staff.
	2. Catering, including any mid-day meals scheme sponsored by Government
	3. Security or cleaning house-keeping services performed in such educational institution;
	4. services relating to admission to, or conduct ofexamination by, such institution
Educational institution providing education as a part of curriculum for obtaining recognised qualification	1. Services relating to admission to or conduct of examination by, such institution.
	2. Supply of online educational journals or periodical
Educational institution providing education as a part of approved vocational education course	1. Services relating to admission to, or Conduct of examination by, such institution

Note: Services of affiliation provided by Central or State Educational Board or Council or any other similar body, by whatever name called, to a school established, owned or controlled by the Central or State Government, Union Territory, Local Authority, Governmental Authority or Government Entity is exempt.

3.9 Services provided by Government

3.9.1 Function entrusted to a municipality and Panchayat.

- Services by governmental authority by way of ***any activity in relation to any function entrusted to a***
  - ***municipality*** under article 243 W of the Constitution
  - ***Panchayat*** under article 243G of the Constitution.
  - is exempt.
- **Governmental authority**: means an authority or a board or any other body
  - set up by an Act of Parliament or a state Legislature; or

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- established by any Government

with 90%, or more participation by way of equity or control, to carry out any function entrusted to a

- Municipality under article 243W of the Constitution or
- Panchayat under article 243G of the Constitution.

- Government entity includes a society, trust or corporation.
- ***Regulatory bodies/agencies***, for instance, Competition Commission of India, Press Council of India, Directorate General of Civil Aviation, Forward Market Commission, Inland Water Supply Authority of India, Central Pollution Control Board, Securities and Exchange Board of India, ***do not fall under the definition of Government.***

3.9.2 Services by Government which are taxable

- Services by the Central Government, State Government, Union territory or localauthority are exempt except the following services—
  1) Services by the Department of Posts and Ministry of Railways (Indian Railways)
  2) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
  3) Transport of goods or passengers; or
  4) Any service, other than services covered under entries (1) to (3) above, provided to business entities

- Services provided by Police/security agencies of Government to PSU/private business entities ***are not exempt*** from GST.
  - Such services are taxable supplies and the recipients are required to pay the tax under reverse charge mechanism on the amount of consideration paid to Government.

3.9.3 Services by Government to Business entity

- Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 is exempt.
- However the following services ***are not included in the above entry***:
  1) Services by the Department of Posts and Ministry of Railways (Indian Railways)

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2) Services in relation to an aircraft or a vessel, inside or outside the precinctsof a port or an airport;
3) Transport of goods or passengers; or
4) Services by way of renting of immovable property.

- 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 similararrangements in respect of immovable property.
- GST on services supplied by the Central Government, State Government, Union territory or local authority to a business entity [**whose turnover exceeds *such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act***] is **payable under reverse charge** by such business entity.

3.9.4 Services by Government to Government

- Services provided by the Central Government, State Government, Union territoryor local authority to another Central Government, State Government, Union territory or local authority is exempt.
- However the following services ***are not included in the above entry***:
  1) Services by the Department of Posts and Ministry of Railways (Indian Railways)
  2) Services in relation to an aircraft or a vessel, inside or outside the precinctsof a port or an airport;
  3) Transport of goods or passengers; or

  Thus the above services are taxable.

3.9.5 Where the consideration does not exceed Rs.5,000.

- Services provided by Central Government, State Government, Union territory ora local authority where the consideration for such services does not exceed 5,000 is exempt.
- However the following services ***are not included in the above entry***:
  4) Services by the Department of Posts and Ministry of Railways (Indian Railways)
  5) Services in relation to an aircraft or a vessel, inside or outside the precinctsof a port or an airport;
  6) Transport of goods or passengers; or

  Thus, the above services are taxable irrespective of value.

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- Further, in case where continuous supply of service is provided the exemption shall apply only where the consideration charged for such service does not exceed Rs. 5,000 in a Financial Year.

3.9.6 Supply of service for consideration in the form of grants

- Supply of service by a Government Entity
  - to Central Government, State Government, Union territory, local authorityor
  - 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 is exempt.

3.9.7 Services by an old age home

- Services by an old age home run by:
  - ✓ Central Government, State Government or
  - ✓ an entity registered under section 12AA of the Income-tax Act, 1961
  - to its residents (aged 60 years or more)
  - against consideration upto Rs.25,000 per month per member,
  - provided that the consideration charged is inclusive of charges for boarding,lodging and maintenance is exempt.

3.9.8 Service provided by Indian railways to individuals by way of

- ✓ Sale of platform tickets
- ✓ Facility of retiring rooms or waiting rooms
- ✓ Cloak room services
- ✓ Battery operated car services

3.9.9 Service provided by one division under Indian railways to another division under Indian railways

3.9.10 Services to Public Sector Undertakings (PSUs)

- Services supplied by Central Government, State Government, Union territory
  - to their undertakings or
  - Public Sector Undertakings(PSUs)
  - by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions is exempt.

3.9.11 Services provided by way of registration etc.

- Services provided by the Central Government, State Government, Union territory or local authority by way of-
  - registration required under any law for the time being in force;

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- testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, including fire license, required underany law for the time being in force is exempt.

3.9.12 Issuance of passport, visa, driving license, & certificates

- Services provided by the Central Government, State Government, Union territoryor local authority by way of issuance of
  - passport,
  - visa,
  - driving license,
  - birth certificate or death certificate

3.9.13 Services by way of tolerating non- performance of a contract

- Services provided by the Central Government, State Government, Union territoryor 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 is exempt.
- Tolerating non- performance of a contract is an activity or transaction which is treated as a supply of service as per Schedule II of CGST Act and the person is deemed to have received the consideration in the form of fines or penalty and is,accordingly, required to pay tax on such amount.
- However, in case of supplies made to Government, services [provided by Government] by way of tolerating the non-performance of contract by the supplier of service is covered under the exemption.

3.9.14 Services by way of assignment of right to use natural resources

- Services provided by the Central Government, State Government, Union territory or local authority by wayof
  - assignment of right to use natural resources
  - to an individual farmer for
    - ✓ cultivation of plants and
    - ✓ rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products is exempt.

3.9.15 Services by way of deputing officers

- Services provided by the Central Government, State Government, Union territoryby 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 is exempt.

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3.9.16 Services supplied by a State Government

- Services supplied by a State Government
  - to Excess Royalty Collection Contractor (ERCC)
  - by way of assigning the right to collect royalty
  - on behalf of the State Government on the mineral dispatched by the mining lease holders is exempt.
- Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession.
- At the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of GST deposited by mining lease holders on royalty is more than the GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty.
- And where such amount of GST paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as isequal to the amount of GST paid by the mining lease holders and the ERCC shallpay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.

3.10 Services by way of sponsorship of sporting events

- Services by way of sponsorship of sporting events is exempt when organised -
  - (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
  - (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, ParalympicCommittee 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 Kreeda Aur Khel Abhiyaan Scheme.

3.11 Skill Development services

3.11.1 National Skill Development Corporation

- Any services provided by, _
  - a) the National Skill Development Corporation set up by the Government of India;
  - b) the National Council for Vocational Education and training
  - c) an awarding body recognised by the National Council for Vocational Education and Training
  - d) an assessment agency recognised by the National Council for Vocational Education and Training
  - e) a Training Body accredited with an Awarding Body that is recognised by the National Council for Vocational Education and Training

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f) a training partner approved by the National Skill Corporation.

in relation to

1. National Skill Development Program or any other Scheme implemented by National Skill Development Corporation (or)
2. a vocational Skill Development Course under the National Skill Certification and Monetary Reward Scheme (or)
3. any National Skill qualification framework aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

3.11.2 Skill Development Initiative Scheme.

- 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 is exempt.

3.11.3 Deen Dayal Upadhyaya Grameen Kaushalya Yojana

- Services provided by training providers (Project implementation agencies)
  - under Deen Dayal Upadhyaya Grameen Kaushalya Yojana (DDUGKY)
  - 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 is exempt.

3.12 Service by way of right to admission to various events

3.12.1 Exempt irrespective of admissions charges

- Services by way of admission to
  1) A museum, national park, wildlife sanctuary, tiger reserve or zoo.
  2) Protected monument so declared under the Ancient Monuments and Archaeological Sites & Remains Act 1958 or any of the State Acts, for the time being in force.

3.12.2 Exempt when admission charges are not more than Rs. 500

- Services by way of admission to
  1. Circus, dance, or theatrical performance including drama or ballet;
  2. Award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
  3. Recognised sporting event;
  4. Planetarium,

- ***With regard to the events or places as referred above, exemption is applicable only when the consideration for right to admission is not more than Rs.500 per person.***
- Recognised sporting event means any sporting event organised by a recognised sports body where the participating team or individual represent any district,

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state, zone or country.

- **Recognised sports body includes means:**
  - National sports federation, or its affiliated federations.
  - 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
  - Central Civil Services Cultural and Sports Board
  - Indian Olympic Association
  - Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme.
  - Sports Authority of India
  - International Olympic Association or a federation recognised by the International Olympic Association.
  - A federation or a body which regulates a sport at international level and itsaffiliated federations or bodies regulating a sport in India.

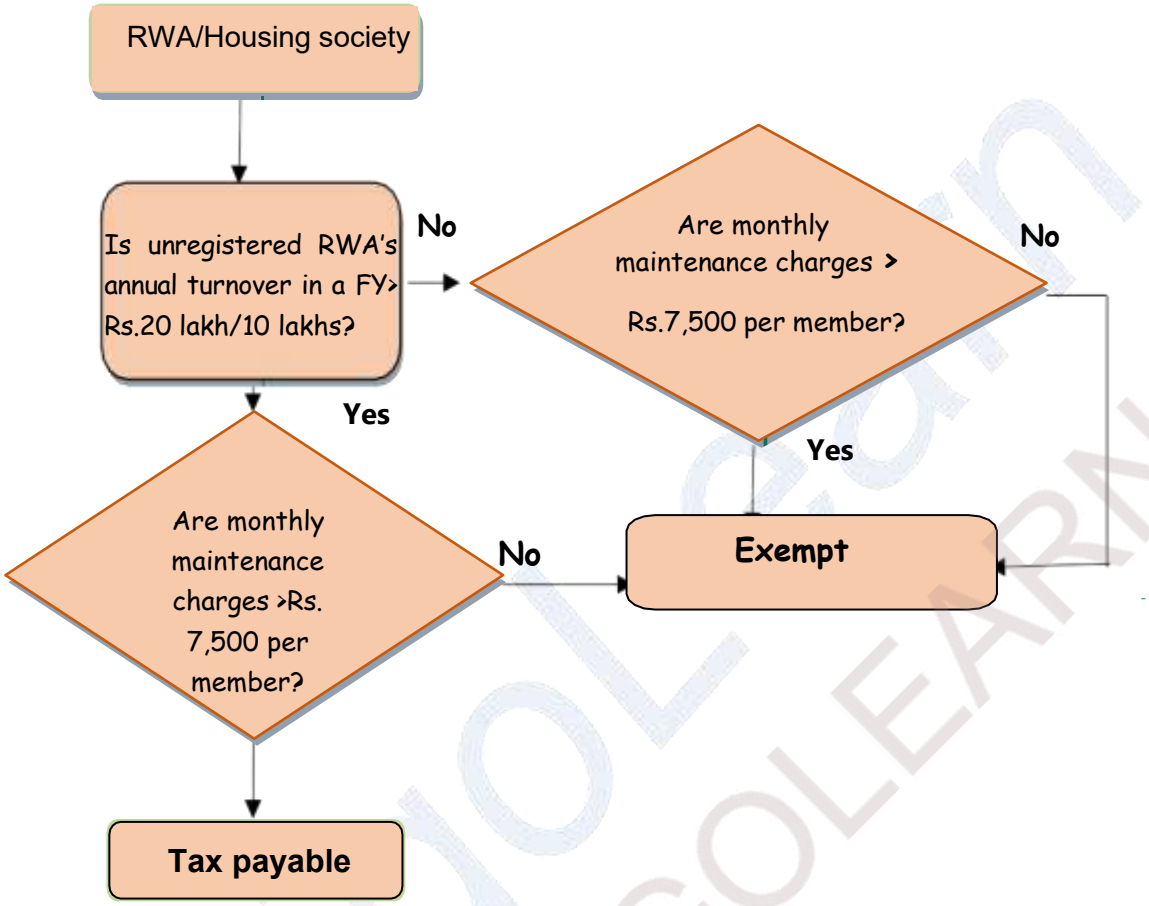
3.13 Services by an unincorporated body or a non- profit entity

3.13.1 Services to its own members

- 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 –
  - as a trade union
  - for the provision of carrying out any activity which is exempt from the levy of Goods and Services Tax; or
  - up to an amount of Rs.7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex is exempt.
- A Co-operative Housing Society is a collective body of persons, who stay in a residential society and as a collective body, they supply certain services to its members, like collecting statutory dues from its members and remitting to statutory authorities, maintenance of the building, security etc.
- Service provided by a Housing Society [Resident Welfare Association (RWA)] to its members is treated as service provided by one person to another. Thus it wouldattract the levy of GST and the housing society would be required to register (if its aggregate turnover is above the applicable threshold limit for registration) andcomply with the GST Law, unless specifically exempted.
- An RWA is not required to obtain registration even though the amount of maintenance charges exceeds Rs.7500/- per month per member but the aggregate turnover of the RWA in a financial year does not exceed the thresholdlimit for registration.

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- It is important to note that RWA is entitled to take ITC of GST paid by them on capital goods (generators, water pumps, lawn furniture etc.), goods (taps, pipes, other sanitary/hardware fillings etc.) and input services such as repair and maintenance services, used by it for making supplies to its members and use suchITC for discharge of GST liability on such supplies where the amount charged forsuch supplies is more than Rs.7,500 per month per member.
- A person who owns 2 or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. Consequently, the ceiling of Rs.7500/- per month per member shall be applied separately for each residential apartment owned by him.

3.13.2 Services related to specified activities

- Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-
  - activities relating to the welfare of industrial or agricultural labour or farmers; or
  - promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,

  to its own members against consideration in the form of membership fee upto an amount of Rs.1000/- per member per year.

3.14 Leasing services

3.14.1 Services by way of granting of long term lease of 30 years, or more

- Upfront amount (called as premium, salami, cost, price, development charges or by any other name)
  - payable in respect of service by way of granting of ***long term lease of 30 years, or more)***
  - of industrial plots or plots for development of infrastructure for financial business,
  - provided by the State Government Industrial Development Corporations orUndertakings or by any other entity having 20% or more ownership of Central Government, State Government, Union territory
  - to the industrial units or the developers
  - in any industrial or financial business area is exempt.
- Aforesaid exemption is admissible irrespective of whether such upfront amount is payable/paid in one/more instalments, provided the amount is determined upfront.
- ***<u>Conditions for exemption</u>***
  - The leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial businessarea.
  - State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard.
  - In case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee/ buyer/ owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged

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for the long-term lease of the plots but for the exemption contained herein,along with the applicable interest and penalty.

- The lease agreement entered into by the respective parties for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lesseesubject to above condition and that the parties to the said agreements undertake to comply with the same

3.15 Legal services

Services provided by	Legal services is exempt if provided to
An arbitral tribunal	1) Any person other than a business entity; or 2) Business entity with an aggregate turnover up to such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017; 3) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity.
A partnership firm of advocates or an individual as an advocate other than a senior advocate,	
A senior advocate by way of legal services	
A partnership firm of advocates or anindividual as an advocate other than a senior advocate,	An advocate or partnership firm of advocates providing legal services

- ***Legal service:*** means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.
- ***Senior advocate:*** An advocate may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Senior advocates shall, in the matter of their

practice, be subject to such restrictions as the Bar Council of India may, in the interest of the legal profession, prescribe.

- Thus, legal services provided to a business entity with an aggregate turnover exceeding ***such amount in the preceding FY as makes it eligible for exemption from registration under the CGST Act, 2017*** are liable to GST. Further, tax is payable by the business entity on such services under reverse charge.

3.16 Life insurance business services

- 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 is exempt.
- 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 is exempt.
- Services of life insurance provided or agreed to be provided by the ***Naval Group Insurance Fund*** to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government is exempt.
- Services of life insurance provided/agreed to be provided by the ***Central Armed Police Forces*** (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.
- Services of life insurance business provided under following schemes are exempt -
    1) Janashree Bima Yojana;
    2) Aam Aadmi Bima Yojana;
    3) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of Rs.2,00,000;
    4) Varishtha Pension Bima Yojana;
    5) Pradhan Mantri Jeevan Jyoti Bima Yojana;
    6) Pradhan Mantri Jan Dhan Yogana;
    7) Pradhan Mantri Vaya Vandan Yojana.

3.17 General insurance business services

- Services of general insurance business provided under following schemes –
    1) Hut Insurance Scheme;
    2) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna[28];
    3) Scheme for Insurance of Tribals;

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4) Janata Personal Accident Policy and Gramin Accident Policy;
5) Group Personal Accident Policy for Self-Employed Women;
6) Agricultural Pumpset and Failed Well Insurance;
7) Premia collected on export credit insurance;
8) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture;
9) Jan Arogya Bima Policy;
10) Pradhan Mantri Fasal Bima Yojana (PMFBY);
11) Pilot Scheme on Seed Crop Insurance;
12) Central Sector Scheme on Cattle Insurance;
13) Universal Health Insurance Scheme;
14) Rashtriya Swasthya Bima Yojana;
15) Coconut Palm Insurance Scheme;
16) Pradhan Mantri Suraksha BimaYojna;
17) 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.
18) Bangla Shasya Bima – Insurance to protect the interest of farmers (West Bengal government)

3.18 Services by way of reinsurance/ retrocession

- Services by way of reinsurance of the insurance schemes specified under both lifeinsurances and general insurance mentioned above are exempt.

3.19 Services provided by specified bodies

- Services by the ***Employees' State Insurance Corporation*** to persons governed under the Employees' State Insurance Act, 1948 are exempt.
- Services provided by the ***Employees Provident Fund Organisation*** to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952 are exempt.
- Services by ***Coal Mines Provident Fund Organisation*** to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 are exempt.
- Services by ***National Pension System*** (NPS) Trust to its members against consideration in the form of administrative fee are exempt.

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3.20 Pension schemes

- Services by way of collection of contribution under the Atal Pension Yojana isexempt.
- Services by way of collection of contribution under any pension scheme of the State Governments is exempt.

3.21 Performance by an artist

- Services by an artist by way of a performance in folk or classical art forms of-
  - music, or
  - dance, or
  - theatre,

  if the ***consideration*** charged for such performance is ***not more than Rs.1,50,000*** are exempt from GST.
- Thus, if consideration from such activities exceeds Rs.1,50,000, entire consideration is subject to GST.
- Further, all other activities by an artist in other art forms e.g. western music or dance, modern theatres, performance of actors in films or television serials wouldbe taxable.
- Similarly activities of artists in still art forms e.g. painting, sculpture making etc. are taxable.
- However, 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.

3.22 Business facilitator/correspondent

- Services by the following persons in respective capacities are exempt-
  1) Business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;
  2) Any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (1); or
  3) Business facilitator or a business correspondent to an insurance company in a rural area.
- BCs/BFs help villagers to open bank accounts and provide other banking services to them. They act as an intermediary between the bank and its customers. Banks,in turn, pay commission/ fee to the BCs/BFs.
- All agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.

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- Hence, banking company is the service provider to the ultimate customer in the BF model/BC model. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via BF/BC.
- It is important to note that for the purpose of availing exemption from GST underthis Entry, services provided by a BF/BC to a banking company in their respectiveindividual capacities should be with respect to accounts in a branch located in the***rural area*** of the banking company.
- The banking company is the person liable to pay GST under reverse charge in respect of commission/fees charged for the taxable services provided by BF toa banking company in respect of services other than those mentioned above. Similarly, GST on taxable services provided by an agent of BC to BC is payable under reverse charge by the BC other than those covered under exemption.

3.23 Services provided to Government

- Pure services (excluding works contract service or other composite supplies involving supply of any goods) or
- Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply
  - provided to the Central Government, State Government or Union territory or local authority
  - by way of any activity:
    - ✓ in relation to any function entrusted to a Panchayat under article 243G of the Constitution or
    - ✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution.
- Supply of '***pure services***' means supply of services without involving any supply of goods. Further, '***composite supply of goods and services***' to Government is exempted in which value of supply of goods constitutes not more than 25% of value of such composite supply.
- 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.
- Services provided to the Central Government, State Government, Union territoryunder ***any insurance scheme*** for which total premium is paid by the Central Government, State Government, Union territory is exempt.
- Services provided to the Central Government, State Government, Union territory administration under ***any training programme for which 75% or more of the total expenditure*** is borne by the Central Government, State Government, Union territory administration is exempt.

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3.24 Other exempt services

- Services by way of **granting National Permit to a goods carriage** to operate through-out India/ contiguous States.
- Services by way of ***transfer of a going concern***, as a whole or an independent part thereof is exempt.

  Transfer of a going concern means transfer of a running business which is capable of being carried on by the purchaser as an independent business, but shall not cover mere or predominant transfer of an activity comprising a service.
- Services by way of ***renting of residential dwelling*** for use as residence is exempt. This entry shall also cover renting of residential dwelling to a registered person provided he is a proprietor and has rent the property in his personal capacity for use as his own residence and renting is on his own account and not that of the proprietorship concern.
  - This point shall not apply to accommodation services for students in student residences and also to accommodation services provided by Hostels, camps, paying guest accommodation and like

- Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a minimum continuous period of ninety days.
- Service by way of access to a road or a bridge on payment of ***toll charges*** is exempt.
- ***Transmission/distribution of electricity by an electricity transmission*** / distribution utility is exempt.
  - However, in this regard CBIC has clarified that the other services provided by DISCOMS (distribution companies) to consumer against charges are ***liable to GST*** such as,-
    1. Application fee for releasing connection of electricity;
    2. Rental Charges against metering equipment;
    3. Testing fee for meters/transformers, capacitors etc.;
    4. Labour charges from customers for shifting of meters or shifting of service lines;
    5. charges for duplicate bill
- Supply of services by way of providing metering equipment on rent, testing for meters/ transformers/ capacitors etc, releasing electricity connection, shifting of meters or service lines, which are ancillary or incidental to supply of transmission or distribution of electricity provided by electricity transmission or distribution utilities to their consumers.
- Services provided by an ***incubatee up to a total turnover of Rs.50 lakh*** in afinancial year is exempt subject to the following conditions, namely:-
  - The total turnover had not exceeded Rs.50 lakh during the preceding financial year; and

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- A period of 3 years has not elapsed from the date of entering into anagreement as an incubatee.

Incubatee: means an entrepreneur located within the premises of a Technology Business Incubator (TBI)/ Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India (NSTEDB) and who has entered into an agreement with the TBI/STEP to enable himself to develop and produce hi-tech and innovative products.

- Research and development services against consideration received in the form of grants supplied by a Government Entity or a research association, university or college or other institution notified under Section 35 of Income Tax Act {It must be notified at the time of supply of service}
- Taxable services, provided or to be provided, by a TBI/STEP recognised by NSTEDB or ***bio- incubators recognised by the Biotechnology Industry Research Assistance Council***, under the Department of Biotechnology, Government of India (BIRAC) is exempt.
- Services by way of ***collecting or providing news*** by
  - an independent journalist,
  - Press Trust of India or
  - United News of India is exempt.
- Services of ***public libraries*** by way of lending of books, publications or any other knowledge-enhancing content or material is exempt.
- Services by an organiser to any person in respect of a ***business exhibition held outside India*** is exempt.

- 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 is exempt.
- 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*** is exempt.
- Services by a ***foreign diplomatic mission*** located in India is exempt.
- Services by way of ***providing information under the RTI Act (***Right to Information Act, 2005) is exempt.
- Services provided ***to a recognised sports body*** is exempt when provided by-
  1. An individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body;
  2. Another recognised sports body.
  - However, services by individuals such as *selectors, commentators, curators*, *technical experts are taxable.* The service of a player to a franchisee which isnot a recognized sports body is also taxable.
- Services by way ***of public conveniences*** such as provision of facilities of

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bathroom, washrooms, lavatories, urinal or toilets is exempt.

- Services provided by a ***banking company to Basic Saving Bank Deposit (BSBD) account holders*** under Pradhan Mantri Jan Dhan Yojana (PMJDY) is exempt.
- Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of ***rehabilitation, therapy or counselling*** and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centres established by Central Government, State Government or Union territory or an entity registeredunder section 12AA or 12AB of the Income-tax Act, 1961 is exempt.

- Services by way of giving on ***hire motor vehicle*** is exempt if provided to –

1. A state transport undertaking (STU), a motor vehicle meant to carry more than 12 passengers.

   This exemption is applicable to services provided to State Transport Undertaking and not to other departments of Government or local authority.

   Generally, such State Transport Undertakings/ Corporations are established with a view to providing public transport facility to the commuters. If transport undertakings hire the buses on lease basis from private persons on payment of consideration, the services by payment of tax. However, supplies of motor vehicles to Government Departments other than the STUsare taxable.
2. A local authority, an Electrically operated vehicle (EOV) meant to carry morethan 12 passengers;
   EOV means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 which is run solely on electrical energy derived from an external source or from one/more electrical batteries fitted to suchroad vehicle.
3. A goods transport agency, a means of transportation of goods
4. A person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.

- Satellite launch services is exempt.
- Intra-state supply of services by way of
  - grant of license or lease to explore or mine petroleum crude or natural gas or both
  - for so much of the central tax as is leviable on the consideration
  - paid to ***central government in the form of central government's share of profit***
  - as defined in the contract entered into by the central government in this behalfis exempt.

New exemptions:

1. Service by the Department of Posts by way of Post Card, inland letter, book post and ordinary post (envelopes weighing less than 10 gms)

2. Service provided to Governmental Authority by way of water supply, public health, sanitation conservancy, solid waste management and slum improvement and upgradation.

3. Services of insurance provided by the Motor vehicle Accident Fund. constituted under section 164B of the Motor Vehicles Act. 1988, against contributions made by insurers out of the premiums for third party insurance of motor vehicles.

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Illustration 1

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

Particulars	Gross Amount (Rs.)
Fees charged for Yoga camp conducted by a charitable trust registered under Section 12AA of the Income-tax Act, 1961	50,000
Amount charged by business correspondence from banking company for the services provided to the rural branch of a bankwith respect to Savings Bank Account	1,00,000
Amount charged by cord blood bank for preservation of stem cells	5,00,000
Amount charged for service provided by commentator to a recognized sports body	5,20,000

Illustration 2

Examine whether GST is exempted on the following independent supplies of services:

(i) Service provided by a private transport operator to Scholar Boys Higher Secondary School in relation to transportation of students to and from theschool.

(ii) Services provided by way of vehicle parking to general public in a shopping mall.

Illustration 4

Examine whether GST is payable in the following independent supply of services:

(I) Indiana engineering college, a recognised educational institution, has conducted an entrance text examination for various courses run by it and charged entrance fee from the applicants.

(ii) Ramfal Lalaji, an agriculturist, has stored sugarcane in a warehouse. He has taken fumigation services in the said warehouse from Gupta Pest Control Co. for which, he paid consideration of Rs. 6,000.

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Illustration 5

Examine whether supply of food and drink in the following independent cases is exemptfrom GST:

(I) "Smart kids" is a play school located in Delhi. It has outsourced the catering services for supply of food and drink in the canteen of play school to BTV Caterers, Delhi for a consideration of Rs. 8 lakhs per annum.

(ii) Wellness Hospital, a clinical establishment located in Tirupati, is specialized in diabetic treatment. The hospital has its own canteen-Tasty foods. The canteen serves thefood and drink to the in-patients as advised by the doctors/ nutritionists of the hospital.

Apart from this, others (who are not admitted) or attendants or visitors of the in- patients also take food and drink from the canteen.

Illustration 6

Examine whether GST is payable in the following independent supply of services:

(I) Teja & Co, a tour operator, provides services to a foreign tourist for tour conducted in Jammu & Kashmir and received a sum of Rs. 3,00,000

(ii) Ms. Poorva acts as a Team Manager for Indian Sports League (ISL), a recognised sports body, for a Tennis tournament organised by Multi brand retail company and received a remuneration of Rs. 2,00,000.

Illustration 7

Decide with reason whether the following independent services are exempt under CGST act, 2017:

(I) M/s Fast Trans, a goods transport agency, transported relief materials meant for victims of Kerala flood being a natural disaster, by road from Delhi to Ernakulam for a Limited Co.

(ii) Kenya enterprise, an event organizer, provided services to Breathing Wall Ltd. by way of organizing a business exhibition at Pragati Maidan in New Delhi as part of Make in India Initiative.

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Illustration 8

Decide with reason whether the following independent services are exempt under CGST act, 2017:

(I) Gokul Residence Welfare Association received Rs. 9,000 per month as contribution from each member for sourcing of goods and services from third person for common use of its members.

(ii) Mr. Vikalp, a performing artist, has received Rs.1,58,000 from performance of classical dance and Rs. 90,000 from acting in TV serial during the month of June,2018.

Illustration 9

JP Charitable institution, an entity registered under Section 12AA of Income tax Act, 1961 and registered in GS, has furnished you the following details with respect to activities undertaken by it during the month of January,

You are required to compute its taxable value of GST from the information given below, assuming that the rate of GST is 18%.

Brief reason should be part of your answer.

Particulars	Amount excl. GST (Rs.)
Membership fee received from members	1,00,000
Amount received from advancement of educational programs relating to abandoned or orphaned or homeless children	4,00,000
Amount received for renting of commercial property owned by trust	5,00,000
Amount received for counselling of thermally ill people	3,50,000
Fees charged for Yoga camp conducted by trust	2,00,000
Amount received relating to preservation of forest & wildlife	6,00,000

Illustrations 10

Decide with reason whether the following independent supplies are exempt under CGSTact, 2017:

(i) Amith, runs a fair price shop, and earns Rs.30,000 as consideration from government for sale of food grains.

(ii) Determine taxability:

a. Mr. X, a resident has given a part of his residence by way of renting to Mr. Y for

residential purpose.

b. What would be your answer if house is given for commercial purpose?

(iii) Mr. A, a priest charged, Rs. 51,000 for services provided to B for conduct of his marriage ceremony.

(iv) Determine taxability:

a. Tirupati temple provides accommodation service wherein the room rent is Rs. 900 per day.

b. What would be your answer if the room rent is Rs. 1,100 per day?

(v) Mr. Akash, travel by air from Hyderabad to Sikkim and Airlines Co. charged Rs. 10,000. Will GST apply on Rs. 10,000?

(vi) Service by way of goods being transported through rail or vessel

Relief materials to flood affected areas.
Newspapers or magazines registered with the registrar of Newspapers.
Milk
Defence or Military equipment
Chemical fertilizers
Cotton ginned or bailed

(vii) Mr. Mohan, an independent journalist, working for Press Trust of India. Andprovide services by way of collecting or providing News.

(viii) A News reporter attends a press conference of Ministers or a visit to Police station or a Crime scene for collection of News to be delivered to various Newspapers or TV Channels.

(ix) Mr. Lal applied for a passport and paid a fee of Rs 1,500 at the passport office. Will GST apply on Rs. 1,500?

(x) PVR Cinema's charges Rs. 200 as application charges for exhibition of a film.

Illustration 11

Sarva Sugam Charitable Trust, a trust registered under section 12AB of the Income – Tax Act, 1961, provides the following information relating to supply of its services for the month of August:

Particulars	Amount
Renting of residential dwelling for use as a residence to an unregistered person	18,00,000
Renting of rooms for devotees (Charges per day Rs. 750)	6,00,000
Renting of Kalyan mandapam (Charges per day Rs. 15,000)	12,00,000
Renting of halls and open space (Charges per day Rs. 7,500)	10,75,000
Renting of shops for business (Charges per month Rs. 9,500)	4,75,000
Renting of shops for business (Charges per month Rs. 12,000)	7,50,000

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Compute the GST liability of Sarva Sugam Charitable Trust for the month of August assuming that the above amounts are exclusive of GST and rate of GST, wherever applicable, is 18%.

Note: The rooms/Kalyana mandapam/halls/open space/shops owned by the trust are located within the precincts of a religious place, meant for general public, owned by the trust.

Illustration 12

Brahmi Foundation, Noida is registered as a trust under section 12AB of the Income-tax Act, 1961. With effect from 01.08.2017, it intends to offer its guest houses to the pilgrims visiting the Noida shrine at Rs. 900 per day and their marriage hall at Rs. 12,000 per day. They want to know whether these will attract GST liability. Advise them suitably.

Illustration 13

Mr. Nagarjun, a registered supplier of Chennai, has received the Following amounts in respect of the activities undertaken by him during the month of September:

S. No.	Particulars	Amount {Rs)
(i)	Amount charged for service provided to recognized sports body as selector of national team.	50,000
(ii)	Commission received as an insurance agent from insurance company	65,000
(iii)	Amount charged as business correspondent for the services provided to the urban branch of a nationalized bank with respect to savings bank accounts.	15,000
(iv)	Service to Foreign diplomatic mission located in India.	28,000
(v)	Funeral services.	30,000

He received the services from unregistered goods transport agency for his business activities and paid freight of Rs. 45,000 (his aggregate turnover of previous year was Rs. 9, 90,000).

Note: All the transactions stated above are intra-State transactions and also are exclusive of GST.

You are required to calculate gross GST liability (ignoring ITC provisions) of Mr. Nagarjun for the month of September assuming that the rate of GST, wherever applicable, is 18% except the GTA services where the rate of GST is 5% (GTA not opted for FCM). Working notes should Form part of your answer.

Illustration 14

Swasthya Nursing Home, a clinical establishment, offers the following services:

i. Rooms provided to the in-patients where the room charges per day are Rs. 6,500.



ii. Plastic surgery conducted to repair left lip of a new born baby.

iii. Air ambulance· services to transport critically ill patients from distant locations to Swasthya Nursing Home.

iv. Supply of food to the in-patients as per the advice of the doctor/nutritionist from its restaurant Annapurna Bhawan - located in the basement of Swasthya Nursing Home. The food is prepared by its employees and nothing is outsourced to any third-party vendors.

v. Homeopathic medical treatment.

vi. Swasthya Nursing Home. also operates a cord blood bank which provides services in relation to preservation of stem cells.

Determine whether GST is payable in respect of each of the above services provided by Swasthya Nursing Home.

Illustration 15

Shiva Medical Centre, a Multi-speciality hospital, is a registered supplier in Mumbai. It hires senior doctors and consultants independently, without entering into any employer-employee agreement with them. These doctors and consultants provide consultancy to the in-patients - patients who are admitted to the hospital for treatment - without there being any contract with such patients. In return, they are paid the consultancy charges by Shiva Medical Centre.

However, money actually charged by Shiva Medical Centre from in-patients is higher than consultancy charges paid to the hired doctors and consultants. The difference amount retained by the hospital, i.e. retention money, includes charges for providing ancillary services like nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure, etc.

The Department took a stand that senior doctors and consultants are providing services· to Shiva Medical Centre and not to patients. Hence, their services are not health care services and must be subject to GST. Further, GST is applicable on the retention money kept by Shiva Medical Centre.

You are required to examine whether the stand taken by the Department is correct

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TIME OF SUPPLY

Contents –

- Time of supply of goods [12(1)] and Services [13(1)]
- Time of supply under forward charge [12(2)] & [13(2)]
- Time of supply under reverse charge [12(3)] & [13(3)]
- Time of supply of vouchers exchangeable for goods [12(4)] & [13(4)]
- Time of supply in residual cases[12(5)] & [13(5)]
- Addition in value by interest, late fees etc. [12(6)] & [13(6)]

1. Introduction

- Provisions relating to 'time of supply' provide answers to questions that arise with respect to the time when the liability to pay CGST and SGST/UTGST (intra- State supply) and IGST (inter-State supply) arises.
- Though the liability to pay tax arises at the time of supply, the same can be paid to the Government by the due date prescribed with reference to the said 'time of supply'. For instance, if time of supply of a given supply is 25th May, the tax leviable thereon would be payable latest by 20th June, which is the due date prescribed in the CGST Act.
- The CGST Act provides separate provisions for time of supply for goods and services vide sections 12 and 13.

1.1 Definitions

- **Invoice or tax invoice**
  Invoice means the tax invoice referred to in section 31 [Section 2(66)].
- **Recipient of supply** of goods or services or both, means—
  - where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - where no consideration is payable for the supply of goods, the person to whomthe goods are delivered or made available, or to whom possession or use of thegoods is given or made available; and

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- where no consideration is payable for the supply of a service, the person to whom the service is rendered,

Supplier

Person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].

Voucher

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 [Section 2(118)].

2. Time of supply of goods

- **Sec 12(1)** - The liability to pay tax on goods shall arise at the time of supply as determined in terms of the provisions of this section.

2.1 Time of supply under forward charge [Sec 12(2)]

- **Sec 12(2)(a)** – The time of supply of goods that are taxable under forward charge,is the earlier of the following two dates:
  - Date of issue of invoice by the supplier or
  - Last date on which the invoice ought to have been issued in terms of section 31
- **Section 148** - In exercise of the powers conferred by section 148, the Central Government, on the recommendation of the GST Council, has issued *NotificationNo. 66/2017 CT dated 15.11.2017* to specify that a registered person ***(excluding composition supplier)*** should ***pay GST*** on the outward supply of goods at the time of supply ***as specified in section 12(2)(a).***
- All taxpayers under forward charge (except composition suppliers) are ***not required to pay GST at the time of receipt of advance in relation to supply of goods.***
- The entire GST shall be payable only when the invoice for the supply of such goods is issued or ought to have been issued.

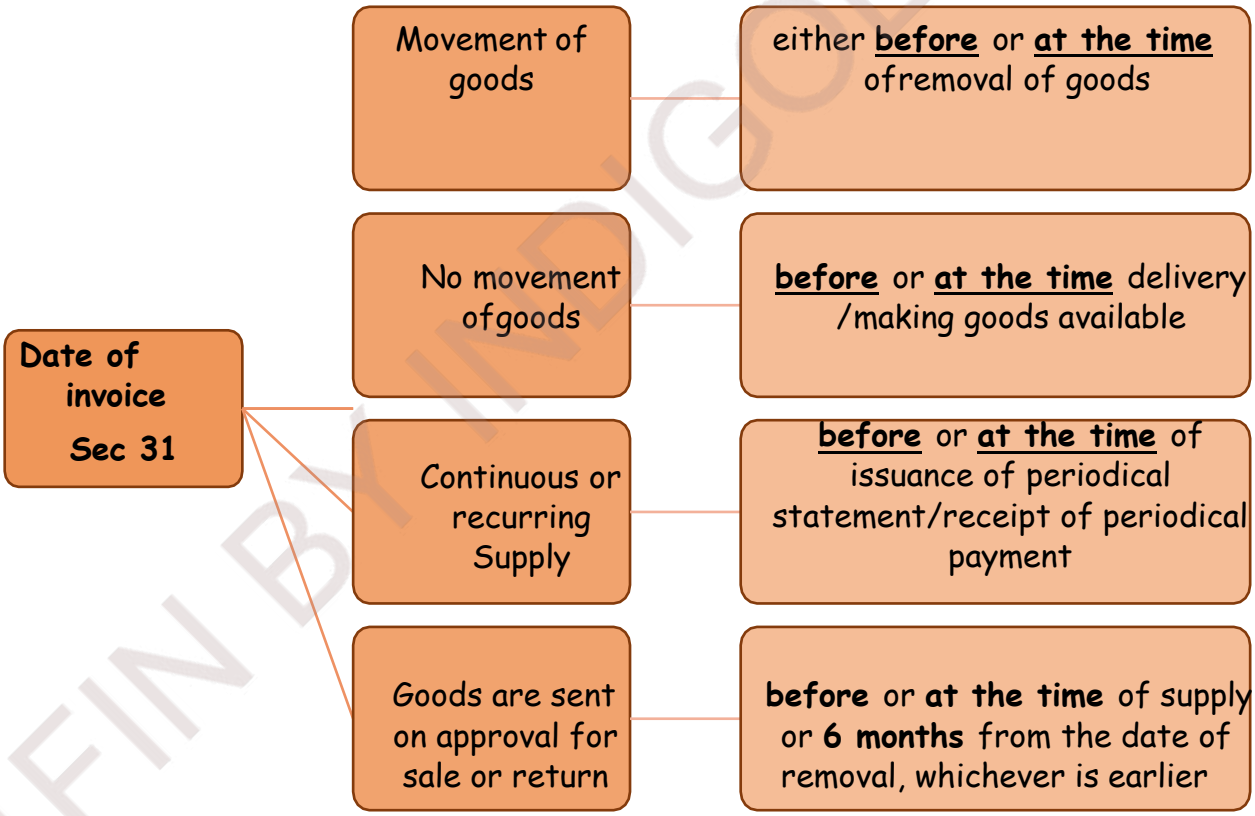
> The relief of not paying GST at the time of receipt of advance is available only in case of supply of goods and not for supply of services.

- "Date of receipt of payment" in the above situation refers to
  - the date on which the payment is recorded in the books of account ofthe entity (supplier of goods) that receives the payment, or

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- the date on which the payment is credited to the entity's bank account, whichever is earlier.

- **Time limit for issuance of invoice for supply of goods under section 31 -**
  - As per section 31(1), the invoice needs to be issued either **before** or **at the time** of removal of goods (where supply involves movement of goods) or delivery of goods/ making goods available to recipient (in any other case).
  - In case of continuous supply of goods, the invoice should be issued **before** or **at the time** of issuance of periodical statement/receipt of periodical payment [Section 31(4)]
  - In case of goods sent or taken on approval for sale or return, invoice should be issued **before** or **at the time** of supply or **6 months** from the date of removal, whichever is earlier [Section 31(7)]



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Continuous supply of goods [Section 2(32): - means

- a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis
- under a contract
- whether or not by means of a wire, cable, pipeline or other conduit, and
- for which the supplier invoices the recipient on a regular or periodic basis and
- includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify

2.2 Time of supply under reverse charge [Sec 12(3)]

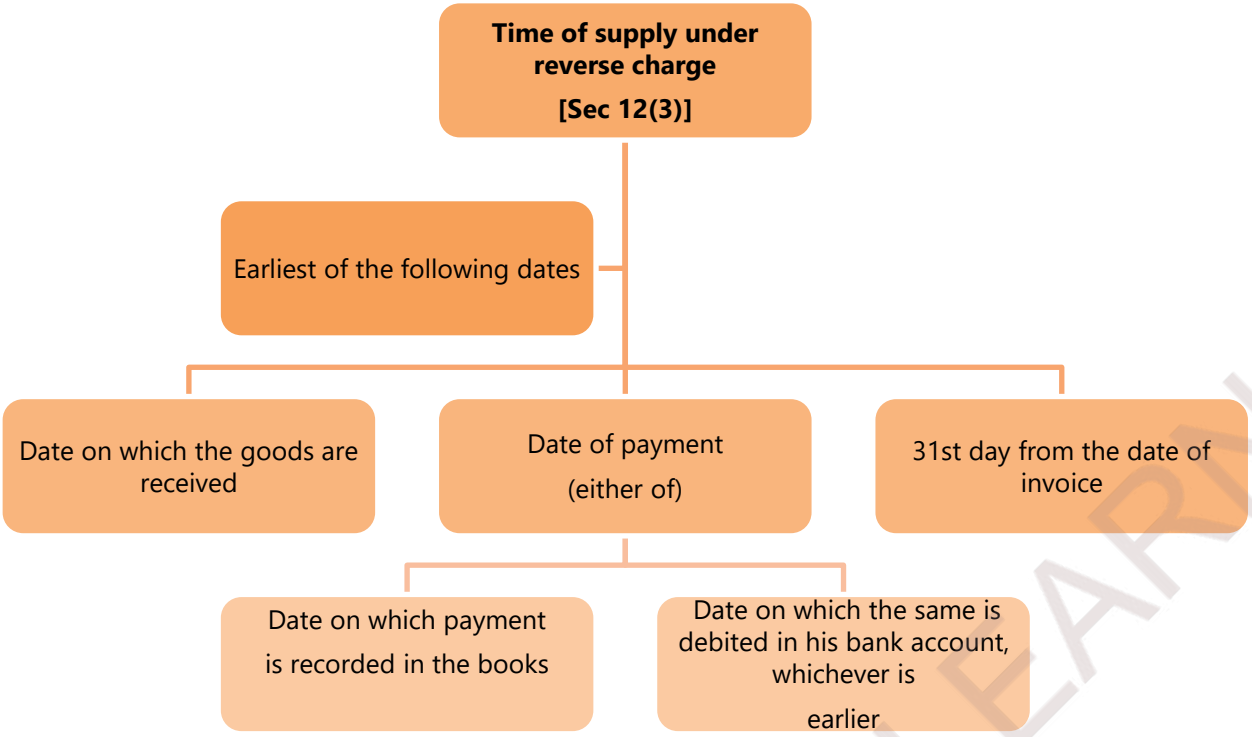
The time of supply of goods on which GST is payable on reverse charge basis under sub-sections (3) and (4) of section 9 of CGST Act will be the earliest of the following dates:

- Date on which the goods are received, or
- Date on which payment is recorded in the books of account of the recipient,or the date on which the same is debited in his bank account, whichever is earlier, or
- Date immediately following 30 days from the date of issue of invoice (or document by some other name in lieu of invoice) by the supplier.

- If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of goods in the books of accountof the recipient of supply.
- ***The relief of not paying GST at the time of receipt of advance is available only in case of supply of goods, the tax on which is payable under forward charge. In case of reverse charge, GST is payable at the time of payment, if payment is recorded/made before receipt of goods (advance payment).***

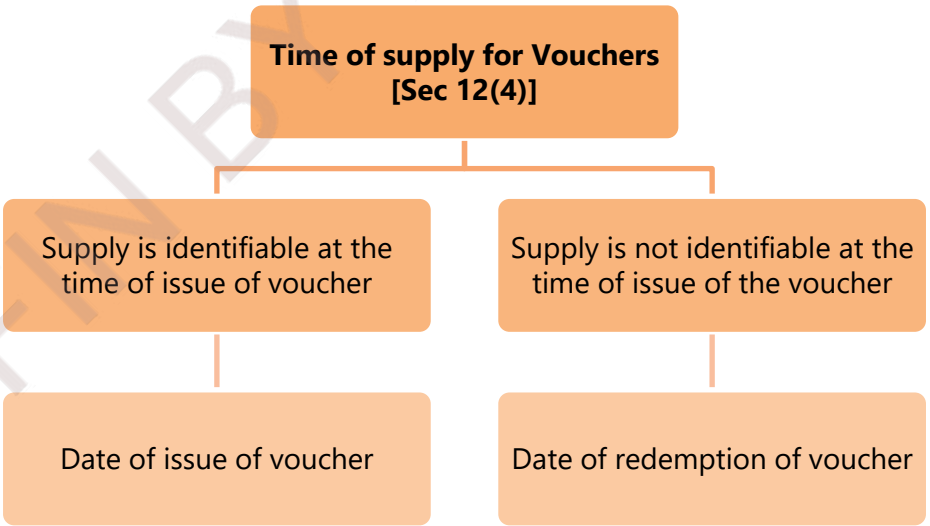
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2.3 Time of supply of vouchers exchangeable for goods [Section 12(4)]

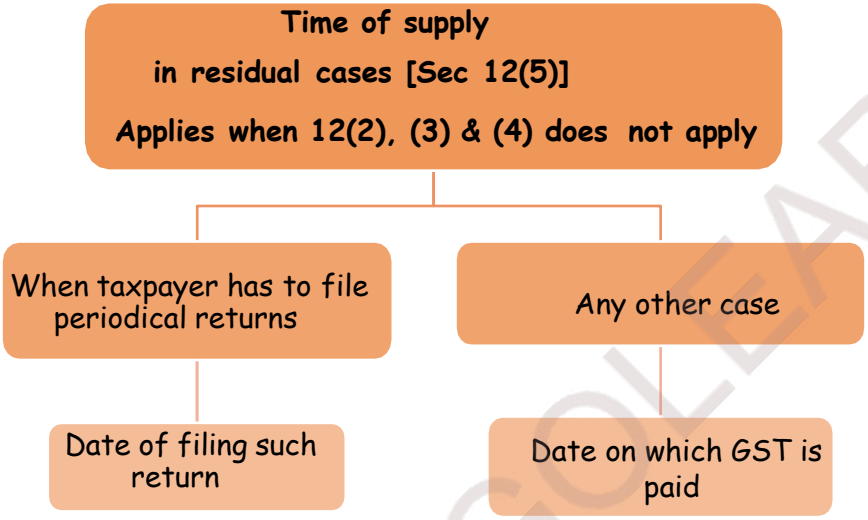
- Vouchers are instruments that can be exchanged as payment for goods or servicesof the designated value.
- As per the definition, they are instruments, that certain persons (potential suppliers) are obliged to accept as consideration, part or full, for goods and/or services. The instrument or its related documentation sets out the terms and conditions of use, the goods and/or services covered, and the identity of the potential suppliers of such goods and/or services.



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2.4 Time of supply of goods in residual cases [Section 12(5)]

- If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 12, in the following manner:
  - Due date for filing of the periodical return, or
  - In any other case, date on which GST is paid.



2.5 Time of supply in case of enhancement in value on account of interest/late fee etc. for delayed payment of consideration [Section 12(6)]

- Commercially, most of the contract of supplies stipulate payment of interest/late fee/penalty etc. in case of payment of consideration beyond the agreed time period. Such interest/late fee/penalty etc. is includible in value of taxable supply.
- Section 12(6) prescribes that time of supply in case of addition in value on accountof interest/ late fee/penalty for delayed payment of consideration for goods is the***date on which the supplier receives such addition in value.***

3. Time of supply for Services [Sec 13]

- **Sec 13(1)** - The liability to pay tax on services shall arise at the time of supply, as determined in terms of the provisions of this section.
- Section 13 must be read with section 31 and rule 47 of CGST Rules, which prescribe in detail the date on which tax invoice for a supply of service must be issued in various situations.

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3.1 Time of supply of services under reverse charge [Section 13(3)]

- The time of supply of service on which GST is payable on reverse charge basis ***(except on services received from associated enterprises located outside India)*** under sub-sections (3) and (4) of section 9 is determined in terms of section13(3)(a) and (b).
- The time of supply for such service will be the earlier of the following:
  - Date of payment, or
  - Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier if invoice is required to be issued by Supplier.
  - Date of issue of invoice if invoice is required to be issued by recipient.
- If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.
- "Date of payment" in the above situation refers to the date on which the paymentis recorded in the books of account of the entity that receives the service (recipientof service), or the date on which the payment is debited from the entity's bank account, whichever is earlier.
- **Import of services between associated enterprises -** In the case of service received from an associated enterprise located outside India, the time of supply will be
  - Date of payment for the service, or
  - Date of entry of the service in the books of account of the recipient, whichever is earlier.

3.2 Time of supply of service under forward charge [Section 13(2)]

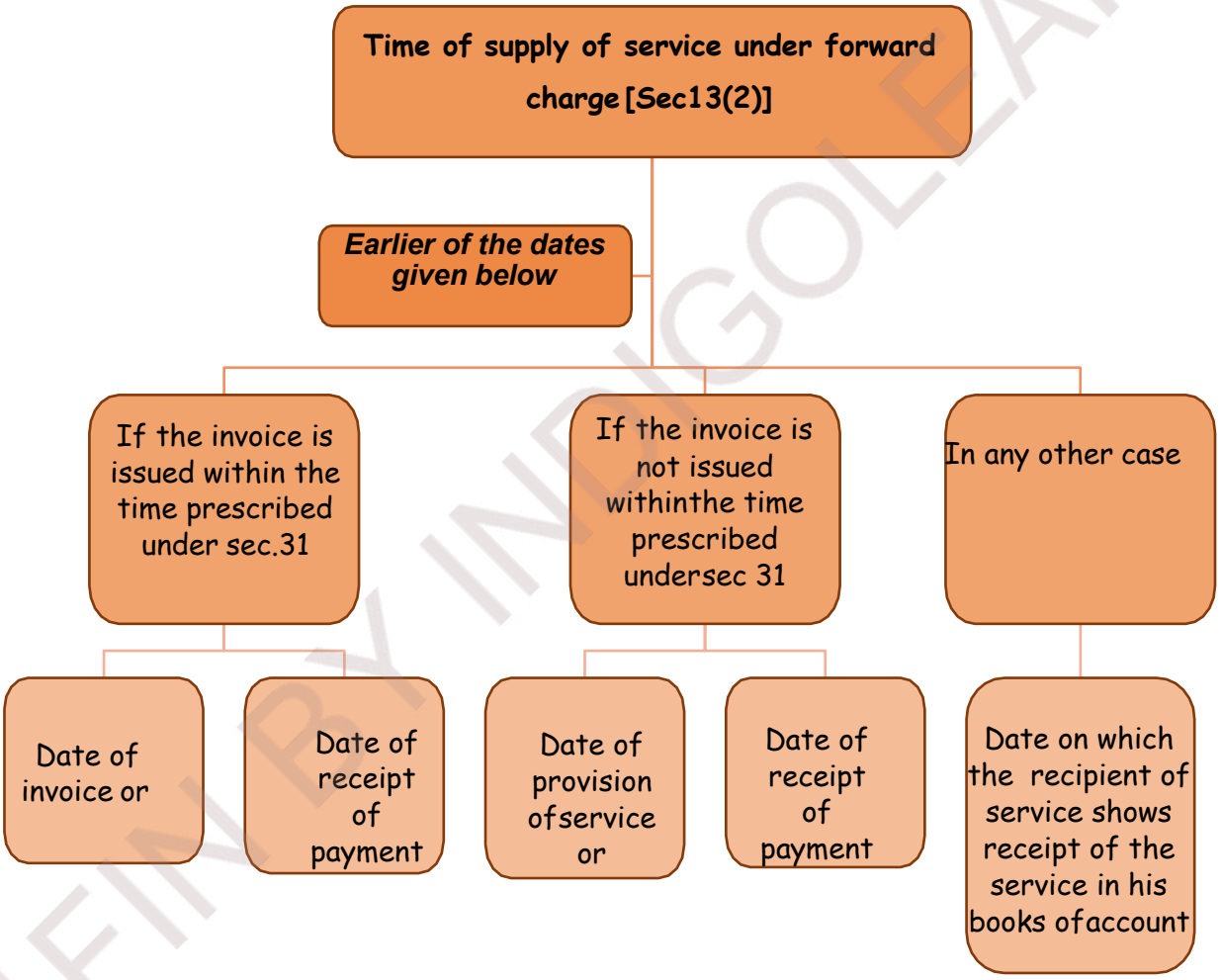
- For supply of service on which the supplier is liable to pay tax, the time of supply will be the earlier of the dates given below:
  - if the invoice is issued within the time prescribed under section 31;
    - ✓ Date of invoice or
    - ✓ Date of receipt of payment (to the extent the invoice or payment covers the supply of services),
  - if the invoice is not issued within the time prescribed under section 31,
    - ✓ Date of provision of service or
    - ✓ Date of receipt of payment (to the extent the payment covers the supplyof services)

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- If the above two conditions are not applicable, the time of supply will be
  - ✓ Date on which the recipient of service shows receipt of the service in his books of account.

- "Date of receipt of payment" in the above situation refers to
  - Date on which the payment is recorded in the books of account of the entity (supplier of service) that receives the payment, or
  - Date on which the payment is credited to the entity's bank account, whichever is earlier.
- Where a part of the consideration is paid in advance or invoice is issued for part payment, the time of supply will not cover the full supply. The supply shall be deemed to have been made to the extent it is covered by the invoice or the partpayment.



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Time of Supply in case of services related to the construction and maintenance of National Highway Projects by the National Highways Authority of India (NHAI) under the Hybrid Annuity Mode (HAM) model:

1. In the HAM model, the concessionaire is responsible for the construction of new roads and the operation and maintenance (O&M) of these roads over a period
2. The HAM contract is a single agreement covering both construction and O&M services
3. This arrangement qualifies as a 'Continuous supply of services'
4. The tax liability on the concessionaire under the HAM contract arises at the time of issuance of the invoice or receipt of payment, whichever is earlier if the invoice is issued on or before the due date.
5. If the invoice is not issued on or before the due date, the tax liability arises on the date of provision of service (due date of payment) or the date of receipt of payment, whichever is earlier.

3.3 Time limit for issuance of invoice for supply of services under section 31

- As per section 31(2) read with rule 47 of CGST Rules, the tax invoice needs to be issued ***either before the provision of service or within 30 days*** (45 days in case of insurance companies/ banking companies/ financial institutions includingNBFCs) ***from the date of supply of service***.
- In case of insurance companies/ banking companies/ financial institutions including NBFCs/ telecom companies/ notified supplier of services making taxable supplies 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*** [Second proviso to rule 47]
- In case of continuous supply of services, the invoice should be issued either
  (i) on/ before the due date of payment or
  (ii) before/ at the time when the supplier of service receives the payment, if the due date of payment is not known
  (iii) on/ before the date of completion of the milestone event when the payment is linked to completion of an event [Section 31(5)].

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Continuous supply of Services [Section 2(33): - 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 3 months with periodic payment obligations and
- includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify.

- In case of cessation of supply of services before completion of supply, the invoice (to the extent of the supply made before such cessation) should be issued ***at the time when the supply ceases*** [Section 31(6)]

3.4 Time of supply of vouchers exchangeable for services [Section 13(4)]

- The term voucher has already been explained under the Heading "Time of Supply of Goods".
- The time of supply of vouchers that are exchangeable for services is stipulated as the
  - Date of issue of the voucher if the supply is identifiable at that point, or
  - Date of redemption of the voucher in other cases.

3.5 Residual case [Section 13(5)]

- If the situation is not covered by any of the provisions discussed above, the time of supply is fixed under sub-section (5) of section 13, in the following manner:
  - Date on which periodical return for the period is required to be filed, or
  - In any other case, date on which GST is paid.

3.6 Enhancement of value on account of interest/late fee etc. for delayed payment of consideration [Section 13(6)]

- The provisions for time of supply in case of addition in value by way of interest, late fee/penalty for delayed payment of consideration are the same for goods and services.
- Section 13(6) prescribes that time of supply in case of addition in value by way of interest/ late fee/penalty for delayed payment of consideration for a service is the
  - Date on which the supplier receives such addition in value.

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Illustration 1

Royal Sweet Co., Delhi, a registered supplier, has furnished the details of the following few transactions which took place in November, 20XX:

S.No.	Date	Particulars	Date of Invoice	Amount (Rs.)
I.	11.11.20XX	Payment made to an advocate in Delhi	07.07.20XX	1,25,000
II.	20.11.20XX	Paid sitting fees to Director from Haryana for meeting in Delhi on 15.10.20XX [Inter-State supply]	15.10.20XX	75,000

Assume the rates of taxes to be as under:-

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

You are required to compute GST [CGST, SGST/IGST, as the case maybe] payable for the month of November, 20XX along with time of supply of the afore mentioned activities.

Illustration 2.1

Explain the meaning of the term "date of receipt of payment" as per section 13 of theCGST Act,2017.

Illustration 2.2

M/s. Ramchandra Associates has received some taxable services from Mohan Dalal (P) Ltd. on 12.01.20XX by making a cash payment of Rs. 5,00,000 on same day.

Payment was entered in the books of accounts of

- M/s. Ramchandra Associates on 16.01.20XX
- Mohan Dalal (P) Ltd. on 20.01.20XX.

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Invoice was issued by Mohan Dalal (P) Ltd. on 18.01.20XX. Determine the time of supplyin the given case.

Illustration 3

Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No	Date of receipt of goods	Date of payment by recipient of goods	Date of issue of invoice by supplier of goods
(i)	July 1	August 10	June 29
(ii)	July 1	June 25	June 29
(iii)	July 1	Part payment made on June 30 and balance amount paid on July 20	June 29
(iv)	July 5	Payment is entered in the books of account on June 28 and debited in recipient's bank account on June 30	June 1
(v)	July 1	Payment is entered in the books of account on June 30 and debited in recipient's bank account on June 26	June 29
(vi)	August 1	August 10	June 29

Illustration 4

Determine the time of supply in the following cases assuming that GST is payable under reverse charge:

S. No	Date of payment by recipient of services	Date of issue of invoice by supplier of services
(i)	August 10	June 29
(ii)	August 10	June 1
(iii)	Part payment made on June 30 and balance amount paid on September 1	June 29
(iv)	Payment is entered in the books of account on June 28 and debited in recipient's bank accounton June 30	June 1

(v)	Payment is entered in the books of account on June 30 and debited in recipient's bank accounton June 26	June 29

Illustration 5

Kabira Industries Ltd engaged the services of a transporter for road transport of a consignment on 17th June

- and made advance payment for the transport on the same date, i.e., 17th June.
- However, the consignment could not be sent immediately on account of a strike inthe factory, and instead was sent on 20th July.
- Invoice was received from the transporter on 22nd July.

What is the time of supply of the transporter's service?

Note: Transporter's service is taxed on reverse charge basis

Illustration 6

Raju Pvt Ltd. receives the order and

- advance payment on 5th January for carrying out an architectural design job.
- It delivers the designs on 23rd April. By oversight, no invoice is issued at that time, and it is issued much later, after the expiry of prescribed period for issue of invoice.

When is the time of supply of service?

Illustration 7

Investigation shows that 150 cartons of ceramic capacitors were dispatched on 2nd August, but no invoice was made, and the cartons were not entered in the accounts.

There was no evidence of receipt of payment.

What is the time of supply of 150 cartons for the purpose of payment of tax?

Illustration 8

An order is placed on Ram & Co. on 18th August for supply of a consignment of customised shoes.

- Ram & Co. gets the consignment ready and informs the customer and issues the invoice on 2nd December.

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- The customer collects the consignment from the premises of Ram & Co. on 7th December and electronically transfers the payment on the same date,
- which is entered in the accounts on the next day, 8th December

What is the time of supply of the shoes for the purpose of payment of tax?

Illustration 9

Sodexo **meal coupons** are sold to a company on 9th August for being distributed to the employees of the said company.

The coupons are valid for six months and can be used against purchase of food items. The employees use them in various stores for purchases of various edible items on different dates throughout the six months.

What is the date of supply of the coupons?

Illustration 10

A firm of advocates

- issues invoice for services to ABC Ltd. on 17th Feb.
- The payment is contested by ABC Ltd. on the ground that on account of negligence of the firm, the company's case was dismissed by the Court for non-appearance, which necessitated further appearance for which the firm is billing the company.
- The dispute drags on and finally payment is made on 3rd November.

Identify the time of supply of the legal services.

Note: Legal services are taxable on reverse charge basis.

Illustration 11

Modern Security Co. provides service of testing of electronic devices. In one case, it tested a batch of devices on 4th and 5th September but could not raise invoice till 19th November because of some dispute about the condition of the devices on return.

The payment was made in December.

What is the method to fix the time of supply of the service?

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Illustration 12 (May 2018)

M/s Mansh and Vansh Trading Company, a registered supplier, is liable to pay GST under forward charge.

Determine time of supply from the following information furnished by it:

Goods supplied on	3rd Oct
Invoice issued on	5th Oct
Payment received on	9th Oct

Illustration 13

XYZ & Co., a firm of chartered accountants issued invoice rendered to Mr.A on 7th September 2017.

Determine time of supply in the following independent cases:

1. Provision of service completed on 1st August 2017
2. Provision of service completed on 14th August 2017
3. Mr. A made payment on 3rd August 2017 where provision of service wasremaining to be completed
4. Mr. A made payment on 15th September 2017 provision of service was remainingto be completed

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VALUE OF SUPPLY

Contents –

- Value of supply made to unrelated person with price as sole consideration
- Inclusions to value of supply
- Exclusions to value of supply
- Treatment of discount

1. Introduction

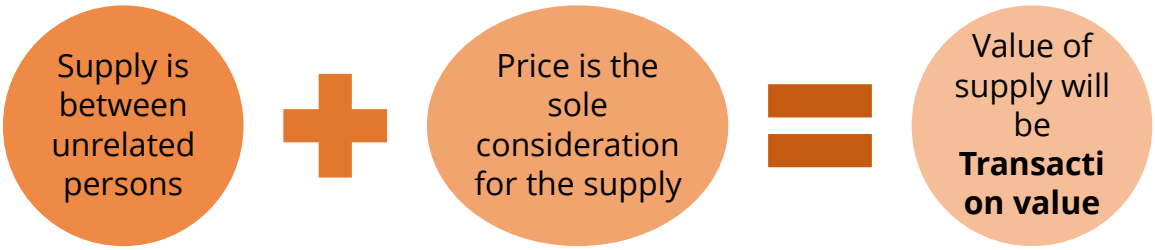
- GST is payable
  (i) on supply of goods and / or services for a consideration in the course of or furtherance of business;
  (ii) on certain supplies made without a consideration as specified in Schedule I to the CGST Act.
- GST is an ***ad valorem levy***, i.e., it is levied as a ***percentage of the value of supply*** of goods and/or services,
- ***Section 15*** of the CGST Act provides ***common provisions for determining the value of supply*** of goods and services.
- It provides the mechanism for determining the value of a supply which is made between unrelated persons and when price and only the price is the sole consideration for the supply.
- ***When value cannot be determined under section 15*** as also in certain specific cases, the same is determined using ***Chapter IV: Determination of Value of Supply of CGST Rules.***
- Supplies made solely for non-monetary consideration, or for part monetary consideration and part non-monetary consideration, or involving additional consideration, or to related persons, or for specific classes of supply are dealt section 15(4) & (5) read with the Chapter IV: Determination of Value of Supply of CGST Rules.

2. Supplies to unrelated persons where price is the sole consideration [Sec 15(1)]

- When a transaction of supply of goods / services is made
  - between two persons who are not related to each other and
  - price is the sole consideration for the supply,

  the value of supply is the ***Transaction value***.

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Transactions value - The price actually paid or payable for the said supply of goods or services or both.

- It includes the amount already paid at the time the supply is being valued for tax, as well as the amount payable and not yet paid at that time.
- The word 'payable' refers to price that is agreed to be paid for the goods / services.
- Persons including legal persons deemed as related persons if.
  - Such persons are officers or directors of one another's business
  - Such persons are legally recognised partners in business
  - Such persons are employer & employee
  - A third person controls (directly/indirectly) or own/ holds ≥ 25% voting stock/ shares of both of them
  - One of them controls (directly/indirectly) the other
  - A third person controls (directly / indirectly) both of them
  - Such persons together control (directly/indirectly) a third person
  - Such persons are members of the same family
  - One of them is the sole agent/sole distributor/sole concessionaire of the other.

- ***Consideration [Sec 2(31)*** - in relation to the supply of goods or services or both includes –
  - any ***payment*** made or to be made, whether in ***money or otherwise***,
  - 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
  - A ***deposit*** given ***shall not be considered as payment*** made for such supply
  - ***unless the supplier applies*** such deposit as consideration for the said supply.

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3. Inclusions in value [Section 15(2)]

3.1 Taxes other than GST & GST Compensation Cess [Section 15(2)(a)]

Any taxes, duties, cesses, fees and charges levied under any law for the time being in force ***except the CGST Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier,*** are includible in the value of supply.

- In case of inter-State sale liable to IGST, the value of supply will include taxes other than IGST and the GST Compensation Cess in terms of third proviso to section 20 of IGST Act.
- In effect, ***all the taxes, duties etc. which are not subsumed in GST form part of the taxable value*** for the purpose of levying GST.
- For instance, if a supplier of goods pays municipal tax in relation to the goods being supplied and charges the same separately, such tax will form part of the value of supply.
- For the purpose of determination of value of supply under GST, tax collected at source ***(TCS) under the provisions of the Income Tax Act, 1961 would not be includible*** as it is an interim levy not having the character of tax.

3.2 Payments made to third parties [Section 15(2)(b)]

- Payments made to third parties by the recipient on behalf of the supplier in relation to the supply is included in the value of supply.
- If the customer makes direct payment of some of the supplier's liabilities to the third parties, and the supplier does not include this amount in his bill, it will still form part of the value of the supply.
- Amount paid by the recipient to third parties will be added to the value under this clause only when the supplier is under ***contractual liability*** to make payment to such third parties and the said payment is in relation to such supply.

3.3 Incidental expenses [Section 15(2)(c)]

- Incidental expenses, such as, commission and packing charged by the supplier or anything else done by the supplier in relation to the supply at the time of or before delivery of goods or supply of services must be added to value.
- Examples of Incidental expenses which are added to the value of supply if billed to the recipient of supply -
  - Commission
  - Inspection or certification charges
  - Installation and testing charges at the recipient's site
  - Weighment charges, loading charges, designing charges etc. incurred before/at the time of supply
  - Outward freight, transit insurance - Where the supplier agrees to deliver the goods at the buyer's premises and arranges for transport and insurance, the contract of supply becomes a composite supply; and GST is payable thereon at the

same rate as applicable for the relevant goods. However, if the contract for supply is on ***ex-factory basis*** where buyer pays the outward freight and insurance, the ***same will not be included*** in the value of supply of goods.

3.4 Interest, late fee or penalty for delayed payment [Section 15(2)(d)]

- Any interest, late fee, penalty or any other charges charged for delay in payment by supplier from the recipient shall form part of the value of supply.
- ***Time of supply for such interest/ late fee/ penalty is the date when such amount is received by the supplier.***

3.5 Subsidies [Section 15(2)(e)]

- Subsidy is a sum of money given to keep the price of a service or commodity low.
- only subsidies directly linked to the price of goods/services are added to the value. ***Except*** those given by the
  - State Government or
  - Central Government
- If the subsidy is given by a person or entity other than the State or Central Government, it does not lower the value.

4. Exclusion of discounts from value [Section 15(3)]

- Numerous kinds of discounts are given by the suppliers to their customers namely, trade discounts, cash discounts, quantity/volume/performance discounts etc.
- Not all discounts offered by the supplier to their customers are allowed as a deduction from the value. Only such discounts which satisfy the conditions prescribed in section 15(3), are allowed as deduction from the value.
- The essence of the conditions prescribed in section 15(3) is that the price as established at the time of supply should form the basis of value.

4.1 Discounts given before or at the time of supply and shown in the invoice. [Sec 15(3)(a)]

- Example for such discount can be discounts that are offered for making the payment at the time of supply itself. Such discounts are thus, recoded in the invoice and thus, GST is charged on the gross value less discount recorded in the invoice.

Note:

No claim bonus provided by the Insurance Company is recorded in the Invoice can be reduced as per Section 15(3)(a).

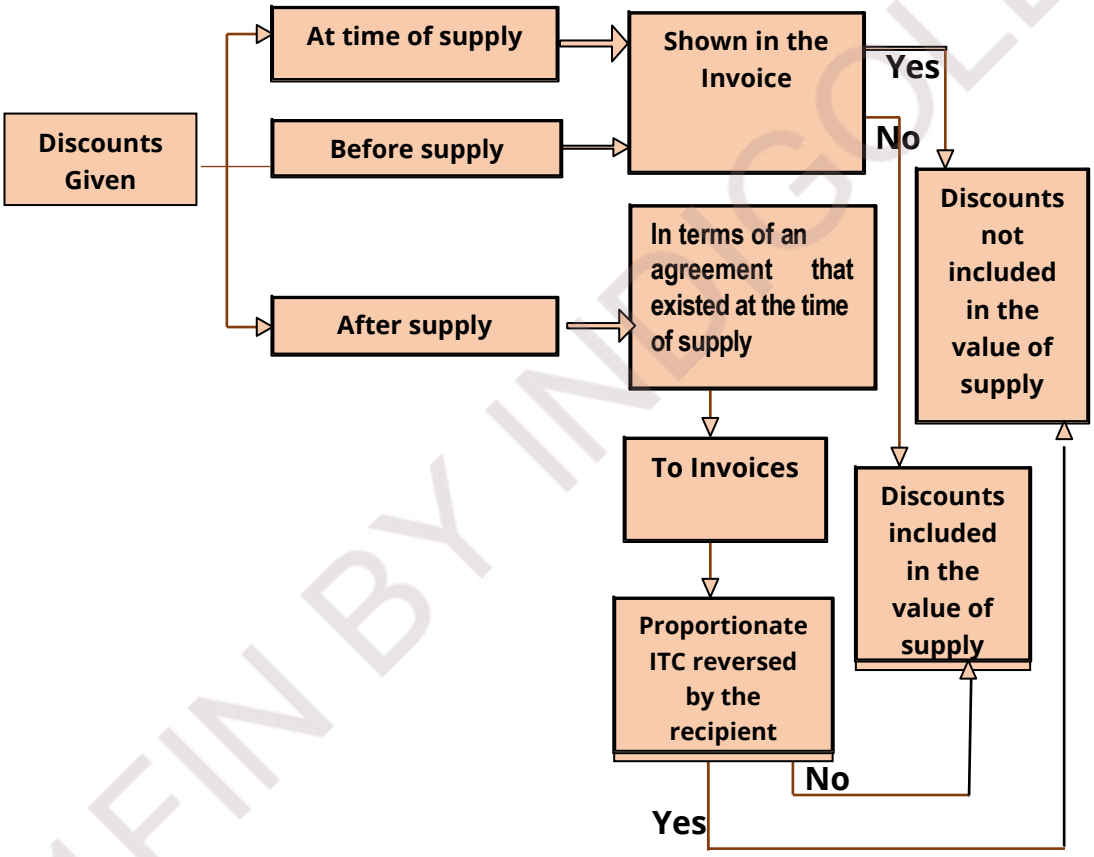
4.2 Post supply discounts [Sec 15(3)(b)]

- In case of quantity/volume/performance/cash discount, the supplier is not aware before/at the time of supply as to whether the buyer would purchase the requisite quantity within the stipulated time or would make the payment within the stipulated time. Therefore, in such cases, the discount cannot be recorded in the invoice.

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- In such cases, initially the GST is paid on the gross value indicated in the invoice without considering the discount.
- The supplier, however, passes the discount to the buyers subsequently by issuing credit notes.
- Post supply discounts, i.e., ***the discounts that are given after supply is made***, are ***allowed as a deduction from the value of supply*** if the following two conditions are satisfied:
  - ***Discount is in terms of an agreement*** that existed at the time of supply and can be worked out invoice-wise; **and**
  - ***Proportionate input tax credit is reversed by the recipient*** - The buyer would have availed input tax credit (ITC) of GST payable on the gross value specified in the invoice. Thus, when a credit note is issued to him by the supplier for the discount, the buyer will reverse the proportionate credit; consequent to which, the supplier's output tax liability will be reduced by the same amount.



4.3 Other discounts

- **Staggered discounts ('Buy more, Save more' offers):**
  - In case of staggered discounts, rate of discount increases with increase in purchase volume.
  - Such discounts are shown on the invoice itself.
  - Such discounts are ***excluded*** to determine the value of supply.
- **Periodic/year ending discounts/volume discounts:**

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- These discounts are offered by the suppliers to their stockists, etc. Such discounts are established in terms of an agreement entered into at or before the time of supply
- though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been affected and generally at the year end.
- Such discounts are passed on by the supplier through credit notes.
- Such discounts are excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount.

- **Secondary discounts**:
  - These are the discounts which are not known at the time of supply or are offered after the supply is already over.
  - Such discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in section 15(3)(b) are not satisfied.

It may be noted that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in section 15(3)(b) are not satisfied.

5. When transaction value cannot be applied

- Section 15(4) lays down that where sub-section (1) is not applicable, that is,
  - if the transaction is with a related party, and/or
  - price is not the sole consideration for the supply of goods / services,
  - then the value will be determined in the manner as stipulated in the rules for valuation
- Further, section 15(5) lays down that in respect of ***certain notified supplies*** also, the value will be determined in the manner as stipulated in the rules for valuation.

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Illustration 1

AKJ Foods Pvt. Ltd. gets an order for supply of processed food from a customer.

The customer wants the consignment tested for gluten or specified chemical residues. AKJ Foods Pvt. Ltd. does the testing fee for the same from the customer.

AKJ Foods Pvt. Ltd. argues that such testing fees should not form part of the consideration for the sale is a separate activity.

Is his argument correct in the light of section 15?

Illustration 2

A philanthropic association makes a substantial donation each year to a reputed private management institution to substitute the education of law income group students who have gained admission there.

The fee for these individuals is reduced thereby, coming to Rs.3 lakh a year compared toRs.5 lakh a year for other students.

What would be the value of the service of coaching and instruction provided by the institution to the low-income group students?

Illustration 3

Mezda Banners, an advertising firm, gives an interest-free credit period of 30 days forpayment by the customer.

Its customer ABC paid for the supply, 32 days after the supply of service. Mezda Bannerswaived the interest payable for delay of two days.

The Department wants to add interest for two days as per contract. Should notional interest be added to the value?

Illustration 4

Crunch Bakery Products Ltd sells biscuits and cakes through its dealers, to whom it charges the list price minus standard discount and pays GST accordingly.

When goods remain unsold with the dealers, it offers additional discounts on the stock as an incentive to push the sales.

Can this additional discount be reduced from the price at which the goods were sold and concomitant tax adjustments made?

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Illustration 5

Raman Ltd., a registered supplier in Mumbai (Maharashtra), has supplied goods to Sahil Traders and Jaggi Motors Ltd. located in Ahmedabad (Gujarat) and Pune (Maharashtra) respectively. Raman Ltd. has furnished the following details for the current month:

S.No	Particulars	Sahil Traders (Rs.)	Jaggi Motors (Rs.)
(i)	Price of the goods (including GST)	20,000	15,000
(ii)	Packing Charges	600	
(iii)	Commission	400	
(iv)	Weighment Charges		1,000
(v)	Discount for prompt payment (recorded in the invoice)		500

- Items given in points (ii) to (v) have not been considered while arriving at the priceof the goods given in point (i) above.

Compute the GST liability (CGST & SGST or IGST as the case may be) of Raman Ltd. for the given month. Assume the rates of taxes to be as under:

Particulars	Rate of Tax
Central Tax (CGST)	9%
State Tax (SGST)	9%
Integrated Tax (IGST)	18%

Illustration 6

Red Pepper Ltd., Delhi, a registered supplier, is manufacturing taxable goods. It provides the following details of taxable Inter-State supply made by it for the month of March, 20XX.

Particulars	Amount (Rs.)
List price of goods supplied inter-state (exclusive of taxes)	15,00,000
Subsidy received by Central Govt. for supply of taxable goods to Govt.School	2,10,000
Subsidy received by an NGO for supply of taxable goods to an old agehome	50,000
Tax levied by Municipal Authority	20,000
Packing charges	15,000
Late fee paid by the recipient of supply for delayed payment of invoice	6,000

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- The list price of the goods takes into account the two subsidies received.
- However, the other charges / taxes/ fees are charged to the customers over andabove the list price.

Calculate the value of taxable supply made by M/s Red Pepper Ltd. for the month of March 20XX. Rate of IGST is 18%.

Illustration 7

Kamal Book Depot, a wholesaler of stationery items, registered in Mumbai, has received order for supply of stationery items worth Rs. 2,00,000 on 12th November 20XX from another local registered dealer, Mr. Mehta, Mumbai.

Kamal Book Depot charged the following additional expenses from Mr. Mehta:

	Particulars	**Amount (Rs.)**
(i)	Packing charges	5,000
(ii)	Freight & Cartage	2,000
(iii)	Transit Insurance	1,500
(iv)	Extra designing charges	6,000
(v)	Taxes by Municipal Authority	500

- The goods were delivered to Mr. Mehta on 14th November 20XX.
- Since Mr. Mehta was satisfied with the quality of the goods, he made the payment for goods the same day and simultaneously placed another order on Kamal Book Depot for stationery items amounting to Rs.10,00,000 to be delivered in the month of December 20XX**.
- On receipt of second order, Kamal Book Depot allowed a discount of Rs.20,000 on the first order placed by Mr. Mehta
- Compute the GST liability of Kamal Book Depot for the month of November 20XX assuming the rates of GST on the goods supplied as under: (I)CGST 9% & (ii) SGST 9%

Would your answer be different if expenses (i) to (v) given in the table are alreadyincluded in the price of Rs.2,00,000?

Note:

1. All the amounts given above are exclusive of GST
2. Kamal Book Depot and Mr. Mehta are not related persons and price is the sole consideration of the supply.

** Payment and invoice for the second order will also be made in the month of December only.

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Illustration 8

BW Ltd. manufactures tobacco products. It has provided the following particulars relating to goods sold by it to CF Ltd.

Particulars	Amount (Rs)
Price of the goods (exclusive of all taxes/duties and discounts)	60,000
Excise duty	6,000
Packing charges	2,000
Freight (arranged by BW Ltd.)	1,600
Total amount billed to CF Ltd. before any discount	69,600
Discount @ 2% of the price of goods recorded in the invoice	

The final amount charged from CF Ltd. Is Rs. 69,600 less discount@2%.

Determine the value of taxable supply made by BW Ltd.

Illustration 9

SA Ltd. is a manufacturer of biscuits. The price of a 200 grams pack of biscuit sold by SA Ltd. is Rs. 30. It has received subsidy of Rs. 5 per pack of biscuit sold from NM Ltd. as part of NM Ltd.'s CSR activity. SA Ltd. supplied 1000 packs of biscuits @ Rs. 25 per pack to one of its wholesalers namely, MA Pvt Ltd. during a tax period. Loading charges of Rs. 1200 have also been charged separately from MA Pvt Ltd. MA Pvt Ltd. delayed the payment of consideration and thus, paid Rs. 5,000 as interest (no separate amount of GST is paid on the interest by MA Ltd.) in the next tax period. Assume the rate of GST to be 18%.

Determine the value of taxable supply made by SA Ltd.

Illustration 10

Income tax collected at source should be added in value of the supply in terms of section 15(2)(a). Examine the correctness of the statement.

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INPUT TAX CREDIT (ITC)

Contents –

- Eligibility and conditions for taking ITC [Sec 16]
- Apportionment of credit and blocked credits [Sec 17]
- Availability of credit in special circumstances [Sec 18]
- Utilisation of ITC [Sec 49]

1. Introduction

- The GST regime promises ***seamless credit on goods and services across the entire supply chain***.
- However, there are few exceptions like supplies charged to tax under composition scheme and supply of exempted goods and/or services.
- ITC is considered to be the lifeline of the GST regime.
- It is the provisions of ITC, which essentially make GST a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

1.1 Salient features of ITC

1) ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
2) Thus, it is concluded ITC is not available when tax is not payable on output supply, i.e., on exempt supply.
3) Broadly, ITC is available on all inputs, input services and capital goods used for purposes of business of a taxable person. The exception is 'blocked credit', where ITC is not available even when these goods or services are used for purposes of business.
4) The exception to the above principle is 'zero rated supply', i.e., exports or supplies to a special economic zone (SEZ) developer/unit, where ITC is available even if no tax is payable on output supply. Such ITC can be used either for payment of tax

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on supplies made with tax or refund of the same can be obtained. This simple mechanism is used to make exports and supplies to SEZ completely tax free.

5) If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all for inputs, input services and capital goods exclusively used for exempt supply.
6) If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available.

2. Eligibility and conditions for taking input tax credit [Section 16]

2.1 Eligibility for taking ITC [Section 16(1)]

1) **Registration under GST** –

- Every registered person shall be entitled to ITC of GST charged on inward supplyof goods and / or services.
- This is subject to the provisions relating to use of ITC under section 49 and theconditions and restrictions in the rules.

2) **Goods/services to be used for business purposes**-

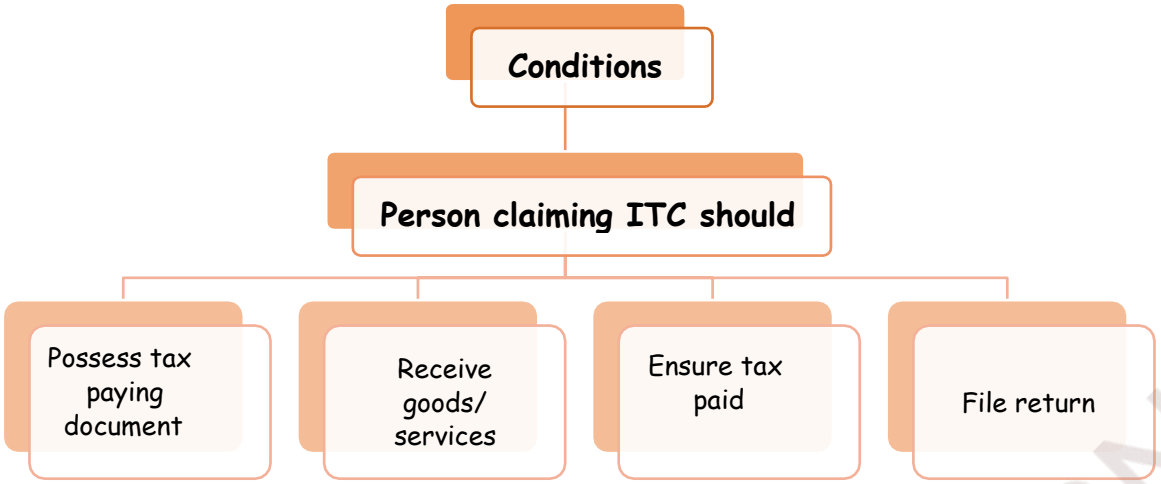
- ITC of GST will be available on goods and/or services which are used in the course or furtherance of the business.
- The "intention to use" the goods and/or services in the course or furtherance ofbusiness would also suffice for availing ITC on such goods and/or services.
- Thus, tax paid on goods and or/services which are used or intended to be used for non-business purposes cannot be availed as credit.
- ITC will be credited in electronic credit ledger.

2.2 Conditions for taking ITC [Section 16(2)]

- The registered person will be entitled to ITC on a supply only if all the following four conditions are fulfilled:

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1) The recipient should possess **tax paying document**.

- ITC can be availed on the basis of any of various documents like Tax Invoice, Debit note, Bill of entry etc. issued by the supplier or such other tax paying documents as may be prescribed.

2) The registered person taking the ITC must have **received the goods and / or services.**

- "Bill to Ship to" Model: Under this model, the goods are delivered to a third party on the direction of the customer who purchases the goods fromthe vendor. I.e. 'A' (Vendor) bills to 'B' (customer) but ships the goods to 'Ç' (3rd Party) on direction of 'B'. In effect, two supplies take place in this scenario viz., from 'A' to 'B' and from 'B' to 'Ç'.
- Thus, under this model, the customer (registered person) who purchases such goods does not receive the said goods.
- For such cases, by virtue of explanation to section 16(2)(b), it is deemed that the registered person (customer) has received the goods. So, ITC will be available to the registered person, on whose order the goods are delivered to a third person.
- The same applies even in case of supply of service.
- If the contract between the supplier and recipient is an Ex Works contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier's) place of business and the property in the goods stands transferred to the recipient at the time of such handing over. In such cases, the said goods can be construed to have been by the "received" by the said recipient at the time of handing over the said goods to the recipient or to the transporter

3) The **supplier should have actually paid the tax** charged on the goods and/or services, for which ITC is being taken, either in cash or by utilizing ITC.

4) The **registered person** taking the ITC **must have filed his return under section 39.**

- Presently, a summary return in form GSTR-3B is being filed on monthly basis. Thus, a taxpayer should file GSTR-3B to avail ITC on eligible inward supplies.

3. Key points with regard to the conditions for taking ITC

3.1 Rule 36

ITC on all invoices/debit notes which are uploaded by the suppliers in their GSTR-1 can be availed in full.

- The recipient gets details of tax invoices and debit notes uploaded by the suppliers in their GSTR-1s, inhis (recipient's) GSTR-2A and GSTR-2B.
- GSTR-1 is a monthly/quarterly statement containing details of outward supplies made by a registered supplier.
  Such details of outward supplies furnished by the supplier are communicated and made available electronically (auto populated) to the respective recipient(s) in GSTR- 2A. ***GSTR-2B is an auto-drafted ITC statement generated for every registered person based on GSTR-1 filed by supplier which is effective from 1.1.2021.***
- Credit claimed in GSTR 3B cannot exceed the credit reflecting in GSTR 2B.
- Full ITC can be availed in respect of IGST paid on imports, documents issued under reverse charge, credit received from ISD etc., which are outside the ambit of section 37(1).
- ITC can be availed on the basis of any of the following documents:
  1) Invoice issued by the supplier of goods and/or services
  2) Invoice issued by the recipient receiving goods and/or services from unregistered supplier along with proof of payment of tax, in case of reverse charge
  3) Debit note issued by the supplier
  4) Bill of entry or similar document prescribed under the Customs Act
  5) Revised invoice
  6) Document issued by input service distributor
- The Invoice / Debit notes, the basis on which ITC is being taken should contain at least the following details:
  1) Amount of tax charged
  2) Description of goods or services
  3) Total value of supply of goods and/or services
  4) GSTIN of the supplier and recipient
  5) Place of supply in case of inter-State supply

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- **No ITC of tax paid towards demands involving fraud [Rule 36(3)]:** Tax paid in pursuance of any order where any demand has been confirmed on account ofany fraud, willful misstatement or suppression of facts cannot be availed as ITC.

With effect from 01.01.2022, a new clause (aa) has been added to section 16(2) by the Finance Act, 2021 to stipulate following new condition for availment of ITC that input tax credit in respect of any supply of goods or services or both is available to a registered person only if the details of the invoice/debit note in respect of said supply has been furnished by the supplier in the statement of outward supplies (GSTR-1) and such details have been communicated to the recipient of such invoice/debit note in the manner specified under section 37.

Thus, ITC can now be taken only for those invoices whose details are reflected in GSTR-2B i.e the respective suppliers (vendors) have filed the details of such invoices their GSTR-1.

3.2 Goods received in lots [Sec 16(2)]

- In case the goods covered under an invoice are not received in a single consignment but are received in lots / instalments, ITC can be taken only upon receipt of the last lot / instalment.

3.3 Payment for invoice [Second proviso to sec 16(2) & Rule 37]

- The registered person must pay to the supplier, the value of the goods and/or services along with the tax ***within 180 days from the date of issue of invoice***.
- In the ***event of failure*** to do so, the corresponding credits availed by the registered person would be ***added to his output tax liability, with interest***.
- ***Interest will be paid @ 18%*** from the date of availing credit till the date when the amount added to the output tax liability is paid.
- However, ***once the recipient makes the payment*** of value of goods and/or services along with tax, he will be ***entitled to avail the credit again*** without any time limit.
- In case ***part-payment*** has been made, ***proportionate credit*** would be allowed.
- **Exceptions -** This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:
    a. Supplies on which tax is payable under reverse charge
    b. Deemed supplies without consideration
    c. Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply.

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3.4 Depreciation claimed on tax component [Sec 16(3)]

- If the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed.
- Thus, in respect of the tax paid on such items, either depreciation on the tax component can be claimed under Income Tax Act or ITC of such tax paid can be availed under GST laws. Dual benefit cannot be claimed.

3.5 Time limit for availing ITC [Sec 16(4)]

Amendment by Finance Act, 2022 in Section 16(4):

A registered person shall not be entitled to take ITC in respect of any invoice or debit note for supply of goods or services or both after the 30th day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier

- **Exception** - The time limit u/s 16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

4. How ITC is utilised [Sec 49]

4.1 Rules of utilisation

- ITC is credited to a registered person's electronic credit ledger. A taxable person is entitled for ITC of CGST, SGST/UTGST and IGST depending upon the nature of supplies received by him.
- The amount of ITC available in the electronic credit ledger of the registered person on account of--
  1) IGST shall first be utilised towards payment of IGST and the amount remaining, if any, may be utilised towards the payment of CGST and SGST, or as the case may be, UTGST, in any order and any proportion,
  2) CGST shall first be utilised towards payment of CGST and the amount remaining, if any, may be utilised towards the payment of IGST;
  3) SGST shall first be utilised towards payment of SGST and the amount remaining, if any, may be utilised towards payment of IGST;
  4) UTGST shall first be utilised towards payment of UTGST and the amount remaining, if any, may be utilised towards payment of IGST;
  5) ITC on account of SGST / UTGST shall be utilised towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of IGST

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6) CGST shall not be utilised towards payment of SGST or UTGST; and
7) SGST or UTGST shall not be utilised towards payment of CGST.
8) ITC on account of CGST, SGST /UTGST shall be utilised towards payment of any output tax, only after the ITC available on account of IGST has first been utilised fully.

- GST is a dual GST wherein two taxes viz, CGST and SGST/UTGST are levied concurrently on a supply transaction. While the CGST revenue accrues to Central Government, SGST and UTGST revenue accrue to respective State Government and Union Territory respectively. Hence, ITC of CGST and SGST/UTGST is not inter-changeable.
- IGST is a transitory tax. IGST paid by taxpayer initially goes to the Central ClearingAuthority.
- Cross utilization of IGST and CGST, SGST/UTGST is permissible.

ITC available	Can be set off against output of	Order of set off
IGST	IGST, CGST SGST UTGST	1. IGST first for IGST 2. Balance IGST for CGST or SGST/UTGSTwhichever order i.e., ITC of IGST can be utilized either against CGST or SGST.
CGST	CGST IGST	1. CGST 2. IGST
SGST/ UTGST	SGST IGST	1. SGST 2. IGST
UTGST	UTGST IGST	1. UTGST 2. IGST

- Cross-utilization of credit is available only between CGST - IGST and SGST/UTGST - IGST.
- Cross utilization of CGST and SGST/UTGST is not permissible.
- ITC of IGST need to be exhausted fully before proceeding to utilize the ITC of CGST and SGST in that order.

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4.2 Restrictions on utilisation of ITC [Rule 86A]

- The ***Commissioner***/ an officer (not below the rank of an Assistant Commissioner) authorised by him is ***empowered to impose restrictions*** on utilization of ITC available if he has ***reasons to believe that such ITC has been fraudulently availed or is ineligible.***
- The restrictions can be imposed in the following circumstances:
  1) ITC has been availed on the basis of tax invoices/valid documents -
     - issued by a non-existent supplier or by a person not conducting any business from the registered place of business; or
     - without receipt of goods or services or both; or
     - the tax in relation to which has not been paid to the Government
  2) The registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or
  3) The registered person availing ITC is not in possession of tax invoice/valid document.
- If the ITC is so availed, the restrictions can be imposed
  - by ***not allowing such ITC to be used*** for discharging any liability under section 49 or
  - ***not allowing refund*** of any unutilised amount of such ITC.
- Such restrictions can be ***imposed for a period up to 1 year*** from the date of imposing such restrictions.
- However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

4.3 Restrictions on use of amount available in Electronic Credit Ledger – Rule 86B

W.e.f. 01.01.2021, a new rule 86B has been inserted in the CGST Rules to restrict the amount available in electronic credit ledger which a registered person can use to discharge his output tax liability to 99% of such tax liability in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds INR 50 lakh. This rule overrides all other rules.

Exceptions:

This restriction shall not apply in following cases:-

- ❖ Where the said person/proprietor/karta/managing director/any of its two partners, whole-time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than INR 1 lakh as Income Tax in each of the last 2 financial years

- ❖ Where the registered person has received a refund of more than 1 lakh in the preceding FY on account of unutilised ITC in case of (i) zero rated supplies made without payment of tax or (ii) inverted duty structure

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- ❖ Where the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year.
- ❖ Where the registered person is:-
  - ❖ Government Department
  - ❖ Public Sector Undertaking
  - ❖ Local authority
  - ❖ Statutory body

Note:
Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit

5. ITC in special circumstances [Section 18]

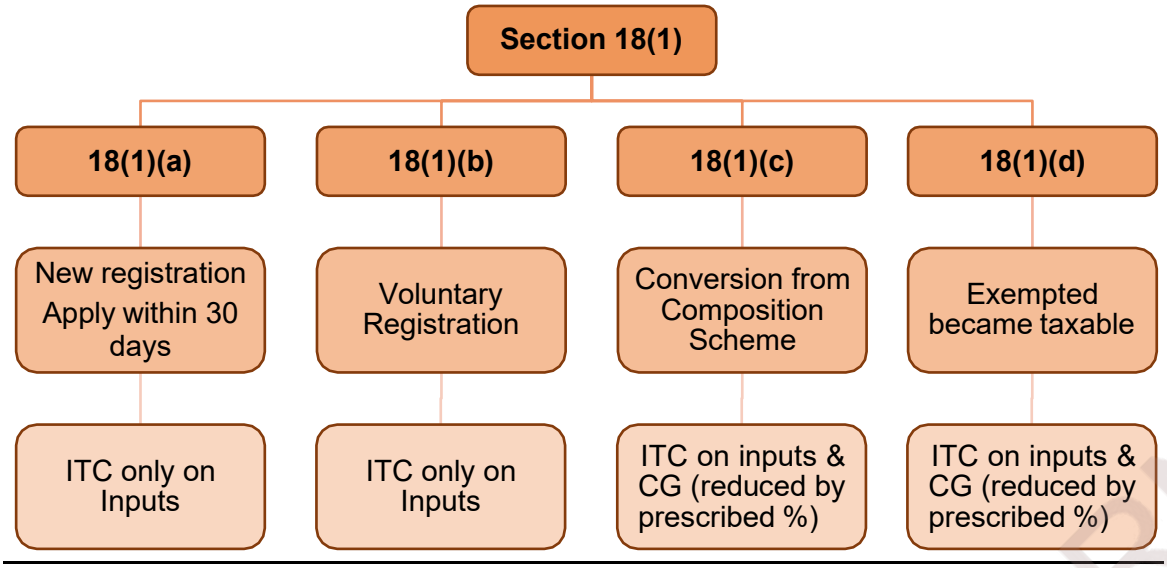
- **Person liable for registration [Sec18(1)(a)]** –
  - A person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration
  - shall be entitled to take credit of input tax in respect of
    - ✓ inputs held in stock and
    - ✓ inputs contained in semi-finished or
    - ✓ inputs contained in 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;
  - The above benefit of ITC is not available to any person who applies for registration after 30 days from the date he is liable to registration.

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- **Voluntary registration [Sec18(1)(b)]** –
  - A person who takes registration under voluntary registration scheme
  - shall be entitled to take credit of input tax in respect of
    - ✓ inputs held in stock and
    - ✓ inputs contained in semi-finished or
    - ✓ inputs contained in finished goods
  - held in stock on the day immediately preceding the date of grant of registration.
- **Exiting composition levy [Sec18(1)(c)]** –
  - Registered person who ceases to pay composition tax and switches to regular scheme
  - shall be entitled to take credit of input tax in respect of
    - ✓ inputs held in stock and
    - ✓ inputs contained in semi-finished or
    - ✓ inputs contained in finished goods and
    - ✓ Capital goods
  - Held in stock on the day immediately preceding the date from which he becomes liable to pay tax under regular scheme.
  - ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice.
  - ITC claimed shall be verified with the corresponding details furnished by the corresponding supplier.
- **Exempt supply becoming taxable supply [Sec18(1)(d)] -**
  - Registered person whose exempt supplies become taxable supplies
  - shall be entitled to take credit of input tax in respect of
    - ✓ Inputs held in stock and
    - ✓ Inputs contained in semi-finished or
    - ✓ Inputs contained in finished goods held in stock relatable to such exempt supply and
    - ✓ capital goods exclusively used for such exempt supply
  - held in stock on the day immediately preceding the date from which such supply becomes taxable.
  - ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice.
  - ITC claimed shall be verified with the corresponding details furnished by the corresponding supplier.

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- **Common points for the above 4 cases -**
  - **Prescribed form** - The registered person has to make an electronic declaration in form **ITC-01** on the common portal,
  - clearly specifying the details relating to the inputs held in stock, inputs contained in semi- finished or finished goods held in stock and capital goods on the days mentioned in sec 18(1)(a)/(b)/(c)/(d).
  - **Time limit** - The declaration is to be filed **within 30 days** (extendable by commissioner /Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC.
  - **Declaration** - If the claim of ITC pertaining to CGST, SGST/UTGST, IGST puttogether **exceeds Rs. 2,00,000**, the declaration needs to be certified by a**practicing Chartered Accountant/Cost Accountant**.
  - **Restrictions on ITC**- A registered person shall not be entitled to take ITC 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. **[Sec 18(2)]**

- **Change in the constitution of a registered person [Sec 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 ITC which remainsunutilised in his electronic credit ledger to such transferee.
  - 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**, along with a request for transfer of unutilized ITC lying in his electronic credit ledger to the

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transferee[Rule 41]

- Transfer or change in the ownership of business includes transfer or change in the ownership due to death of the sole proprietor.
- In the **case of demerger**, the ITC shall be **apportioned in the ratio of the value of assets** of the new units as specified in the demerger scheme. Here, "value of assets" means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.
- 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 inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

- **Switching from normal levy to composition levy or from taxable to exempt supply [Sec 18(4)] -**
  - Section 18(4) requires reversal of ITC when a registered person who has availed ITC switches to composition levy or when his supplies get wholly exempted from tax.
  - The registered person shall be required to reverse ITC taken on
    - ✓ Inputs held in stock and
    - ✓ Inputs contained in semi-finished or
    - ✓ Inputs contained in finished goods and
    - ✓ capital goods
  - held in stock on the day immediately preceding the date from which such supply becomes exempt or he switches to composition scheme.
  - ***ITC on inputs*** should be ***reversed proportionately*** on the basis of corresponding invoices on which credit had been availed on such inputs.
  - If ***invoices are not available***, ITC can be reversed on the basis of the ***prevailing market price*** of such goods on the date of switch over/exemption.
  - The details furnished on the basis of prevailing ***market value*** need to be duly ***certified by a practicing Chartered Accountant/ Cost Accountant***.
  - ITC involved in the remaining useful life (in months) of the capital goods should be reversed on *pro-rata* basis, taking the useful life as 5 years.
  - The registered person has to debit the electronic credit or cash ledger bythe reversal amount in respect of inputs and capital goods.
  - ***Balance of ITC***, if any, lying in the electronic credit ledger ***lapses.***

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- ITC to be reversed on inputs and capital goods is calculated separately for ITC of CGST, SGST/UTGST and IGST.
- The reversal amount is added to the output tax liability of the registered person.

- **Supply of capital goods or plant and machinery on which ITC has been taken [Section 18(6)]**
  - If capital goods or plant and machinery on which ITC has been taken are supplied outward by the registered person, he must pay an amount that is the ***higher of the following***:
    - ✓ ITC taken on such goods reduced by ***5% per quarter of a year or part thereof*** from the date of issue of invoice for such goods (i.e., ITC pertaining to remaining useful life of the capital goods), or
    - ✓ ***tax on transaction value***
  - ITC pertaining to remaining useful life of the capital goods should be computed separately for ITC of CGST, SGST/UTGST and IGST.
  - Where the amount so determined exceeds the tax payable on the transaction value of the capital goods, such amount need to be paid and thus, should be added to the output tax liability.
  - If ***refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap***, the taxable person may pay ***tax on the transaction value.***
- **Cancellation of registration**
  - Cancellation of registration also requires reversal of ITC on
    - ✓ inputs held in stock/
    - ✓ contained in semi-finished goods or
    - ✓ Contained in finished goods held in stock,
    - ✓ capital goods or plant and machinery
  - on the day immediately preceding the cancellation date.
  - The amount to be reversed on inputs and capital goods is computed in the manner as applicable for sub- sections (4) and (6) of section 18 (discussed above).
  - Such amount is then compared with the output tax payable on such goods,and the higher of the two amounts is finally paid by the registered person.

Quarter [Sec 2(92)] - shall mean a period comprising three consecutivecalendar months, ending on the last day of March, June, September andDecember of a calendar year

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6. Apportionment of credit & blocked credits [section 17]

6.1 Blocked credits [Section 17(5)]

- ITC of tax paid on almost every inputs and input services used for supply of taxable goods and/or services is allowed under GST except a small list of items provided u/s 17(5).
- Thus, ITC on such items is not allowed even though the same may qualify as inputs, input services or capital goods and are used in the course or furtherance of business.

6.1.1 Motor vehicles and other conveyances and related services [Sec 17(5)(a)]

- ITC is blocked on purchase of motor vehicles used for passenger transportation with certain exceptions.
- Motor vehicles for this purpose means any motor vehicle used for transportation of persons with seating capacity ≤ 13 persons (including the driver)
- **Exceptions to the above rule**: Motor vehicles when used for any of the following purposes, ITC on them is allowable:
  1) making further taxable supply of such motor vehicles;
  2) making taxable supply of transportation of passengers;
  3) making taxable supply of imparting training on driving such motor vehicles
  4) motor vehicle used for transportation of goods, dumpers, tippers etc
  5) motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose.

6.1.2 Vessels and aircrafts [Sec 17(5)(aa)]

- ITC is blocked on purchase of vessels and aircrafts used for business purposeswith certain exceptions.
- **Exceptions to the above rule**: Credit is allowed in the following cases
  1) making further taxable supply of such vessels or aircraft
  2) making taxable supply of transportation of passengers
  3) making taxable supply of imparting training on navigating and flying such vessels
  4) vessels and aircrafts used in transportation of goods

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6.1.3 General insurance, servicing, repairs and maintenance [Sec 17(5)(ab)]

- ***ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed.***
- ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is allowed.
- ITC is allowed on such services when received by Manufacturer of such motor vehicle, vessels or aircrafts.
- ITC is allowed on such services when receiver is engaged in general insurance business.

6.1.4 Leasing, renting and hiring of motor vehicles, vessels, or aircraft [Sec 17(5)(b)]

- ITC is not allowed on Leasing, renting and hiring of motor vehicles, vessels, or aircraft on which ITC is blocked.
- ITC on such services is allowed
  - when used for making an outward taxable supply of the same category of services or as an element of a taxable composite or mixed supply.
  - when provided by an employer to its employees under a statutory obligation
- ITC on leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is allowed, is also allowed.

6.1.5 Food & beverages, outdoor catering, health services and other services [Sec 17(5)(b)]

- ITC is blocked in the case of
  - Food and beverages
  - Outdoor catering
  - Beauty treatment
  - Health Services
  - Cosmetic and plastic surgery
  - Life insurance and health insurance
- However, ITC is allowed if
  - Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services or as an element of a taxable composite or mixed supply.
  - Such goods and/or services when provided by an employer to its employees under a statutory obligation.

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6.1.6 Membership of a club, health and fitness centre [Sec 17(5)(b)]

- ITC on Membership of a club, health and fitness centre taken for either personal use or business use (i.e. By the employer for its employees) is not allowed.
- However, ITC is allowed on such services when provided by an employer to its employees under a statutory obligation.

6.1.7 Travel benefits extended to employees on vacation such as leave or home travel concession. [Sec 17(5)(b)]

- ITC on Travel benefits extended to employees on vacation such as leave or home travel concession is blocked.
- ITC is allowed on such services when provided by an employer to its employees under a statutory obligation.

6.1.8 Works contract services for construction of immovable property [Sec 17(5)(c)]

- ITC on works contract services for construction of an immovable property is blocked.
- "Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.
- If re-construction, renovation, additions or alterations or repairs are not capitalized, it would not tantamount to construction under GST law. Thus, ***when the value of works contract service is not capitalized, ITC is allowed to all recipients irrespective of their line of business.***
- Capitalisation of an expense does not depend on whether the taxpayer intends to avail ITC, but on the basis of Accounting Standards and GAAP.

> ***Works contract [Sec 2(108)]*** - 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.

- Essentially works contract is a composite supply involving both goods andservices. Under GST law, the ambit of works contract has been **confined only to immovable property**.

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- **Exceptions to the above rule**: ITC on works contract services for construction of immovable property is available only in the following 2 situations:
  - When the works contract service is availed by a works contractor for being used in providing the works contract service.
  - For construction of plant and machinery (ITC is allowed to all the recipients irrespective of their line of business)

> ***"Plant and machinery"*** means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/or services and includes such foundation or structural support ***but excludes***
>
> 1) Land, building or other civil structures,
> 2) Telecommunication towers, and
> 3) Pipelines laid outside the factory premises.

6.1.9 Self-construction of immovable property [Sec 17(5)(d)]

- ITC is not allowed on goods and/or services received by a taxable person for construction of an immovable property (other than plant and machinery) **on his own account** even though such goods and/or services are used in the course or furtherance of business.
- ITC on goods and/or services used in the construction of an immovable propertyis blocked only in those cases where the taxable person constructs the immovable property for his own use even if the immovable property being constructed is used in the course or furtherance of his business.
- 'construction' and 'plant and machinery' for works contract services as defined above, applies to construction on own account also.
- Thus, ITC on goods and/or services used in construction of immovable property is available only in the following three situations:
  1) For construction of plant and machinery
  2) When the value of goods and/or services is not capitalized
  3) When the construction is not on own account

6.1.10 Inward supplies charged to tax under composition levy [Sec 17(5)(e)]

- Tax paid on goods and/or services under composition scheme is not available as ITC.
- Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in respect of such supplies by the recipients.

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- A supplier registered under composition scheme issues bill of supply and not a tax invoice.

6.1.11 Inward supplies received by a non-resident taxable person [Sec 17(5)(f)]

- A non- resident taxable person has no fixed place of business in India but he sporadically supplies goods or services in India.
- Tax paid on goods and/or services received by such non-resident taxable person,is not available as ITC. However, tax paid by him on **imported goods** is allowed as ITC.
- ***ITC on goods imported by a non-resident taxable person is allowed, ITC on services imported by him is blocked.***

6.1.12 Inward supplies received for the purpose of CSR {Section 17(5)(fa)}

- ITC shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

6.1.13 Inward supplies used for personal consumption [Sec 17(5)(g)]

- Section 17(5)(g) specifically blocks the ITC on goods and/or service used for personal consumption.
- The term 'personal consumption' may be understood in the general sense which would mean non-business use.
- One of the foremost conditions laid down in section 16 for availing ITC on goods and/or services is that such goods and/or services should be used in the course or furtherance of business.
- Further, where goods and/or services are used partly for the purpose of any business and partly for other purposes, section 17(1) restricts the credit to so much of the ITC as is attributable to business purposes.

6.1.14 Free samples, gifts, goods lost/stolen etc. [Sec 17(5)(h)]

- Section 17(5)(h) blocks credit on
  - Goods that are disposed of by way of gift
  - Goods that are disposed of by way of free samples
  - Lost goods
  - Stolen goods
  - Destroyed goods
  - Goods that are written off

- This is because principally, ITC is available only for payment of tax on output supply. If no tax is payable on output supply, ITC on inputs/input services/capital goods relating to such output supply is not eligible.

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- Gift means transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, toanother, called the donee, and accepted by or on behalf of the donee. It cannot be demanded as a matter of right.
- samples are given to prospective customers to enable them to test the quality of the item before making a decision to buy the same.
-
- **Buy one get one free offer** - It can be treated as supplying two goods for the price of one. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8. ITC shall be available to the supplier for the inputs, input services and capital goods.
- **Discounts including 'Buy more, save more' offers** - Discounts offered by the suppliers to customers shall be excluded to determine the value of supply.
- However, the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.
- **Return of time expired medicines/drugs are treated as fresh supply-** The retailer/ wholesaler can return the time expired goods, either by treating the same as fresh supply or by issuing credit notes.
- Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h).

6.1.15 Tax paid in fraud cases, detention, confiscation etc. [Sec 17(5)(i)]

- Tax paid under sections 74, 129 and 130 is not available as ITC.
- These sections prescribe the provisions relating to tax paid as a result of evasion of taxes, or upon detention of goods or conveyances in transit, or towards redemption of confiscated goods/conveyances.

6.2 Apportionment of ITC [Sec 17(1) & 17(2)

6.2.1 Apportionment principle [Sec 17(1) & 17(2)]

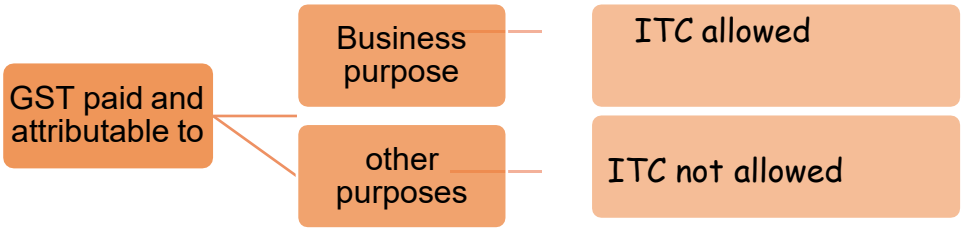
- The fundamental principle of credit scheme under value added tax is that tax paid on inputs, input services and capital goods can be availed as credit only when the output is taxable. Thus, when tax is not payable on output, credit cannot be availed.

- Where goods or services or both are used by a registered person
  - Partly for purpose of business and
  - Partly for other purpose

  The amount of credit shall be restricted to so much of the input tax as is attributable to purpose of business. [sec 17(1)]

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- If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all for inputs, input services and capital goods exclusively used for exempt supply. [Sec 17(2)]
- If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. [Sec 17(2)]
- Thus, the situations requiring apportionment are as follows:
  - when the goods and / or services are used by the registered person partly for the purpose of business and partly for other purposes [Section17(1)]; and
  - when the goods and / or services are used by the registered person partly for making taxable supplies including zero-rated supplies and partly for making exempt supplies [Section 17(2)].
- ***The only exception to the above principle is 'zero rated supply, where ITC is available even if no tax is payable on output supply.***

Zero-rated supply means any of the following supplies of goods or services or both, namely: —

(a) export of goods or services or both; (including deemed exports) or

(b) supply of goods or services or both to a Special Economic Zone (SEZ) developer or a Special Economic Zone unit [Section 16(1) of the IGST Act].

Exempt supply [Section 2(47)]- 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 section6 of the IGST Act, and
- includes non-taxable supply.

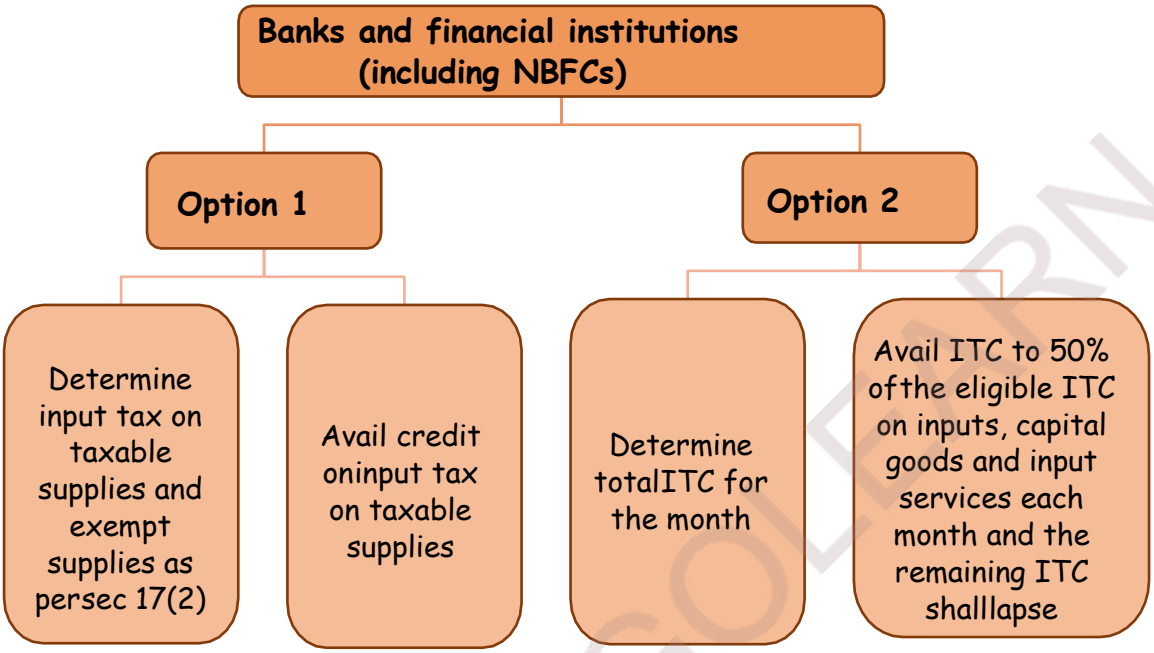
- The value of exempt supplies u/s 17(2) shall include
  - reverse charge supplies,
  - transactions in securities,
  - sale of land and sale of building when entire consideration is received either after issuance of completion certificate by the competent authority or its first occupation, whichever is earlier.

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- ***The value of exempt supply in respect of land and building is the value adopted for paying stamp duty and for security is 1% of the sale value of such security.***

6.2.2. Optional method for banks and financial institutions [Sec 17(4)]



- The option once exercised cannot be changed during the remaining part of thefinancial year.
- Credit of tax paid on inputs and input services that are used for non-business purposes and items mentioned u/s section 17(5) [blocked credits] cannot be availed.
- The restriction of availing 50% ITC shall not apply to the tax paid on supplies procured from another registration within the same entity.

New Rule – 37A:

If supplier has filed GSTR 1 but does not furnish GSTR 3B for the tax period till 30th Sept following the end of the FY then ITC shall be reversed by the recipient on or before 30th Nov. It can be reclaimed after supplier furnishes GSTR 3B.

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Clarification on time limit under Section 16(4) Of the CGST Act. 2017 in respect of RCM supplies received from unregistered person

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient Of the supplies in accordance with section 31(3)(f) of the CGST Act, 2017 the relevant financial year for the calculation of the time limit for availment of input tax credit under the provisions of section 16(4) Of the CGST Act,2017 will be the financial year in which invoice has been issued by the recipient under section section31(3)(f) Of CGST Act subject to payment Of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of the CGST Act, 2017. in case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122 [11] of the CGST Act, 2017.

Clarification on availability of input tax credit in respect of demo vehicles which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver) in terms of clause (a) of section 17(5)

As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making further supply of such motor vehicles. Accordingly, input tax credit in respect of vehicles is not blocked under clause (a) of section 17(5) Of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.

Clarification on availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5)

Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication services is barred in terms of clauses (c) and (d) of section 17(S) of the CGST Act, read with Explanation to section 17 Of the CGST Act, 2017?

Clarification: Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view

of the Explanation in section 17 of the CGST Act, 2017 it appears that ducts and manholes are covered under the definition of "plant and machinery" as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another.

Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of "plant and machinery" in the Explanation to section 17 of the CGST Act, 2017 as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in of optical fiber cables (OFCs), either under clause (c) or under clause (d) of section 17(5) of the CGST Act, 2017.

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Illustration 1

Mr. A, a registered person was paying tax under Composition Scheme up to 30th July. However, w.e.f. 31st July, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?

Illustration 2

What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?

Illustration 3

XYZ Ltd., is engaged in manufacture of taxable goods. Compute the ITC available with XYZ Ltd. for the month of October, 2024 from the following particulars: -

S.No.	Inward supplies	GST (Rs.)	Remarks
1.	Inputs 'A'	1,00,000	One invoice on which GST payable was Rs. 10,000,is missing.
2.	Inputs 'B'	50,000	Inputs are to be received in two instalments. Firstinstalment has been received in October,2018.
3.	Capital Goods	1,20,000	XYZ Ltd. Has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
4.	Input Services	2,25,000	One invoice dated 20.01.2024 on which GST payable was Rs. 50,000 has been received in October, 2024.

Note:

1. All the conditions necessary for availing the ITC have been fulfilled.
2. XYZ Ltd. is not eligible for any threshold exemption.

Illustration 4

Granites Textiles Ltd. purchased a needle detecting machine on 8th July,2017 from Makhija Engineering Works Ltd. for Rs. 10,00,000 (excluding GST) paying GST @ 18% on the same.

- It availed the ITC of the GST paid on the machine and started using it for manufacture of goods.

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- The machine was sold on 22nd October,2018 for Rs. 7,50,000 (excluding GST), assecond-hand machine to LT. Pvt. Ltd.
- The GST rate on supply of machine is 18%.

State the action which Granites Textiles Ltd. is required to take, if any, in accordance withthe statutory GST provisions on the sale of the second-hand machine.

Example

AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana. The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. Can AB & Co. avail credit on GST charged by CD & Co.?

Example

Outdoor catering services availed by a company, for a team development event organized for its employees. Is ITC allowed?

Example

Outdoor catering service availed by a company to run a canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. Is ITC Allowed?

Illustration 5

ABC Co. Ltd. is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S.No	Items	GST paid
		(Rs.)
i)	Electrical transformers to be used in the manufacturing process	5,20,000
(ii)	Trucks used for the transport of raw material	1,00,000
(iii)	Raw material	2,00,000
(iv)	Confectionery items for consumption of employees working in the factory. These items were supplied free of cost to the employees in lieu of services rendered by them to the manufacturer in the course of employment.	25,000

Determine the amount of ITC available with ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items.

Note:

1. All the conditions necessary for availing the ITC have been fulfilled.

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2. ABC Co. Ltd. is not eligible for any threshold exemption.

Illustration 6

Fun Pharma Private Limited, a registered supplier is engaged in the manufacture of Taxable goods.

The company provides the following information of GST paid on the purchases made / input services availed by it during the month of September 2017 :

S,No	Particulars	GST Paid (Rs.)
(i)	Purchase of cabs used for the transportation of its employees	3,30,000
(ii)	Inputs consisting of three lots, out of which first lot was received during the month	1,25,000
(iii)	Capital Goods (Out of three items, invoice for one item was missing and GST paid on that item was Rs. 25,000)	2,50,000
(iv)	Outdoor catering service availed on Women's day	72,000

Determine the amount of Input Tax Credit available with M/s Fun Pharma PrivateLimited for the month of September 2017 by giving necessary explanations for treatment of various items.

All the conditions necessary for availing the Input Tax Credit have been fulfilled.

Illustration 7

CANWIN Ltd., a registered supplier, is engaged in the manufacture of tanks.

The company provides the following information pertaining to GST paid on the purchases made/ input services availed by it during the month of January 2018:

S. No	Particulars	GST Paid (Rs.)
(I)	Purchase of machinery where debit note is issued	1,15,000
(ii)	Input purchased was directly delivered to Mr. Joe, a job worker andregistered supplier	80,000
(iii)	Computers purchased (Depreciation was claimed on the GST portion under the Income Tax Act, 1961)	50,000
(iv)	Works Contract services availed for Construction of Staff quarterswithin the company premises	4,25,000

Determine the amount of ITC available to M/s CANWIN Ltd. for the month of January2018 by giving brief explanations for treatment of various items.

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Subject to the information given above, all the conditions necessary for availing the ITChave been fulfilled.

Illustration 8

Cloud Seven Private Limited, a registered supplier, is engaged in the manufacture of taxable goods.

The company provides the following information pertaining to GST paid on the purchases made/input services availed by it during the month of February, 20XX:

S. No	Particulars	GST Paid (Rs.)
(i)	Trucks used for transport of raw material	1,20,000
(ii)	Foods and beverages for consumption of employees working in the factory	40,000
(iii)	Inputs are to be received in five lots, out of which third lot wasreceived during the month	80,000
(iv)	Membership of a club availed for employees working in the factory	1,50,000
(v)	Capital Goods (out of five items, invoice for one item was missing and GST paid on that item was Rs.50,000)	4,00,000
(vi)	Raw material (to be received in March, 20XX)	1,50,000

Determine the amount of input tax credit available with Cloud Seven Private Limited for the month of February, 20XX by giving necessary explanations for treatment of various items.

All the conditions necessary for availing the input tax credit have been fulfilled.

Illustration 9

Le Mark Ltd. of Nashik, Maharashtra, a registered supplier, is engaged in manufacturing taxable goods. It provides the following details of items purchased and services availed by it from Gujarat, for the month of March, 20XX:

S.No	Particulars	GST Paid (Rs.)
(i)	Motor vehicle purchased for employees to be used for personal aswell as business purposes	1,50,000
(ii)	Motor vehicle purchased for transportation of goods within the factory	2,00,000

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(iii)	Food items for consumption of employees. These items are supplied free of cost to the employees in lieu of services rendered by them to the manufacturer in the course of employment	2,000
(iv)	Rent a cab facility availed for employees to fulfil a statutory obligation in this regard. The Government has notified such service under Sec 17(5)(b)(iii)(A) of the CGST Act, 2017	36,000

Calculate the amount of eligible input tax credit for the month of March, 20XX.

Illustration (Examples)

(a) A technical testing agency tests and certifies each batch of machine tools beforedispatch by BMT Ltd. Some of these tools are dispatched to a unit in SEZ withoutpayment of GST as the supplies are not taxable.

The finance personnel of BMT Ltd want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

Illustration (Examples)

(b) A flying school imports an aircraft for use in its training activity and takes ITC of the IGSTpaid on the imports.

The departmental audit raises an objection that aircraft fall within the definition of "conveyance" in section 2(34) of the Act and that ITC is not allowed on conveyance.Offer your comments.

Illustration (Examples)

(c)A taxable person is in the business of information technology. He buys a motor vehiclefor use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

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REGISTRATION

Contents –

- Persons liable for registration [Sec 22]
- Persons not liable for registration [Sec 23]
- Compulsory registration in certain cases [Sec 24]
- Procedure for registration [Sec 25]
- Deemed registration [Sec 26]
- Casual taxable person (CTP) & Non-resident taxable person(NRTP) [Sec 27]
- Amendment of registration [Sec 28]
- Cancellation of registration [Sec 29]
- Revocation of cancellation [Sec 30]

1. Introduction

1.1 Need for registration

- Under indirect tax regime, without registration, a person can neither collect tax from his customers nor claim any credit of tax paid by him.
- Registration ensures the ***seamless flow of input tax credit*** from supplierso recipients at the national level.

1.2 Pattern of registration

- Registration in GST is ***PAN based***.
- Under GST, registrations need to be taken ***State-wise***, i.e. there are no centralized registrations.
- A supplier has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified ***threshold limit***.
- There is ***single registration*** for all the taxes i.e. CGST, SGST/UTGST, IGST andGST compensation cess.

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2. Persons liable for registration [Sec.22]

2.1 Threshold limits [Sec 22(1)]

- Every supplier of goods or services or both is required to obtain registration in the State or the Union territory from where he makes the taxable supply if his aggregate turnover exceeds specified threshold limit in a FY.

  Every supplier, whose aggregate turnover ***in a financial year exceeds 20 lakh,*** is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and services or only service.

- However, the limit will be reduced to ***10 lakh*** if the person is carrying out business in ***Mizoram, Tripura, Manipur, and Nagaland. This limitis for Supply of goods and / or services***.
  - Further, the limit is ***40 lakhs*** where the supplier is engaged in ***exclusive supply of goods*** fromstates other than ***Mizoram, Tripura, Manipur, Nagaland,*** **Arunachal Pradesh, Meghalaya, Sikkim, Tripura, Puducherry, Telangana and Uttarakhand**

If a person with placesof business in different States acrossIndia has one branch in any of these 4 states, the threshold limit for GST registration will be 10 lakh

- For the purposes of section 22(1), a person shall be considered to be engaged exclusively in the supply of goods ***even if he is engaged in exempt supply ofservices provided by way of extending deposits, loans or advances in sofar as the consideration is represented by way of interest or discount.***

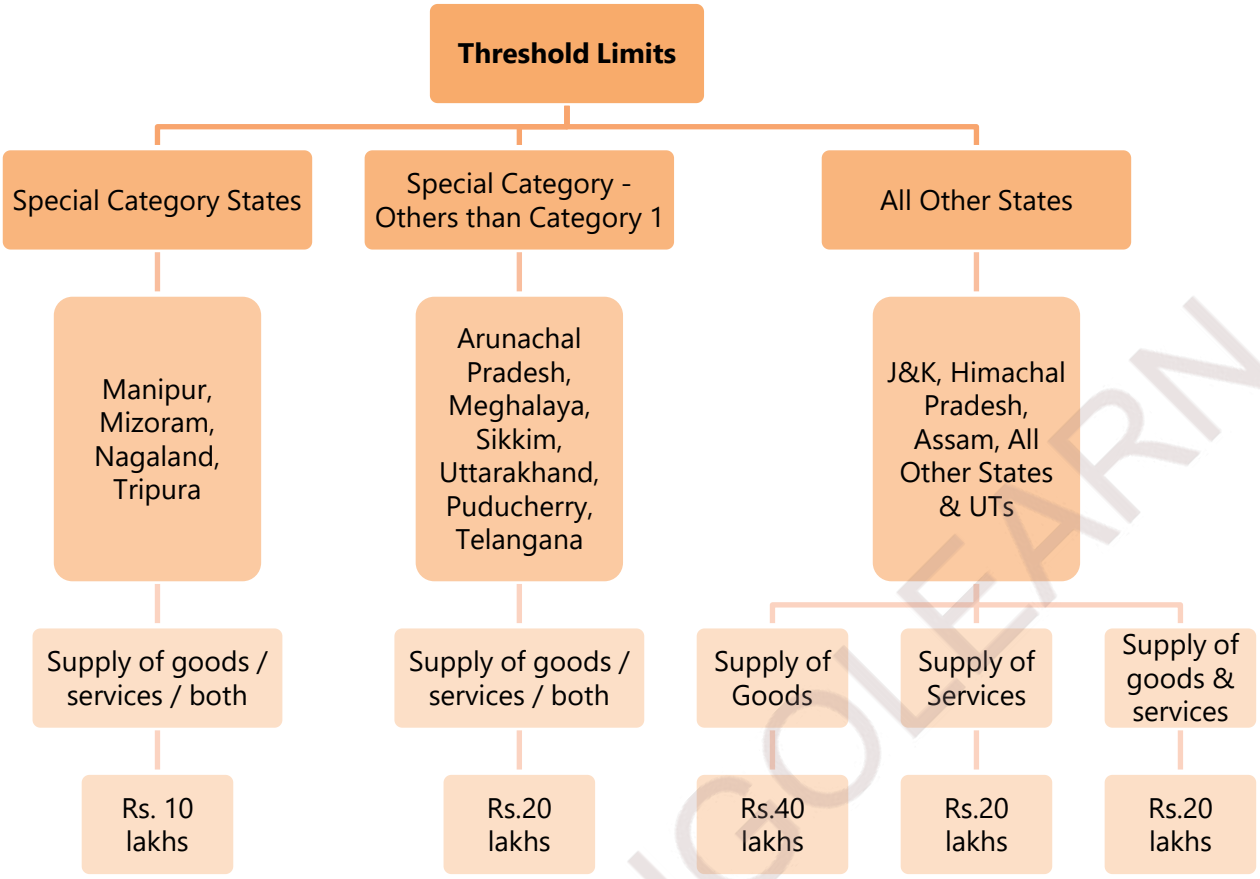
Exceptions to this exemption of 40 lakhs

For persons engaged in making supplies of the following items the threshold limit is 20 lakhs instead of 40 lakhs

a) Ice cream and other edible ice, whether or not containing cocoa,
b) Pan masala and
c) Tobacco and manufactured tobacco substitutes.
d) Fly ash bricks or fly ash aggregate; Fly ash blocks
e) Bricks of fossil meals or similar siliceous earths
f) Building bricks
g) Earthen or roofing tiles

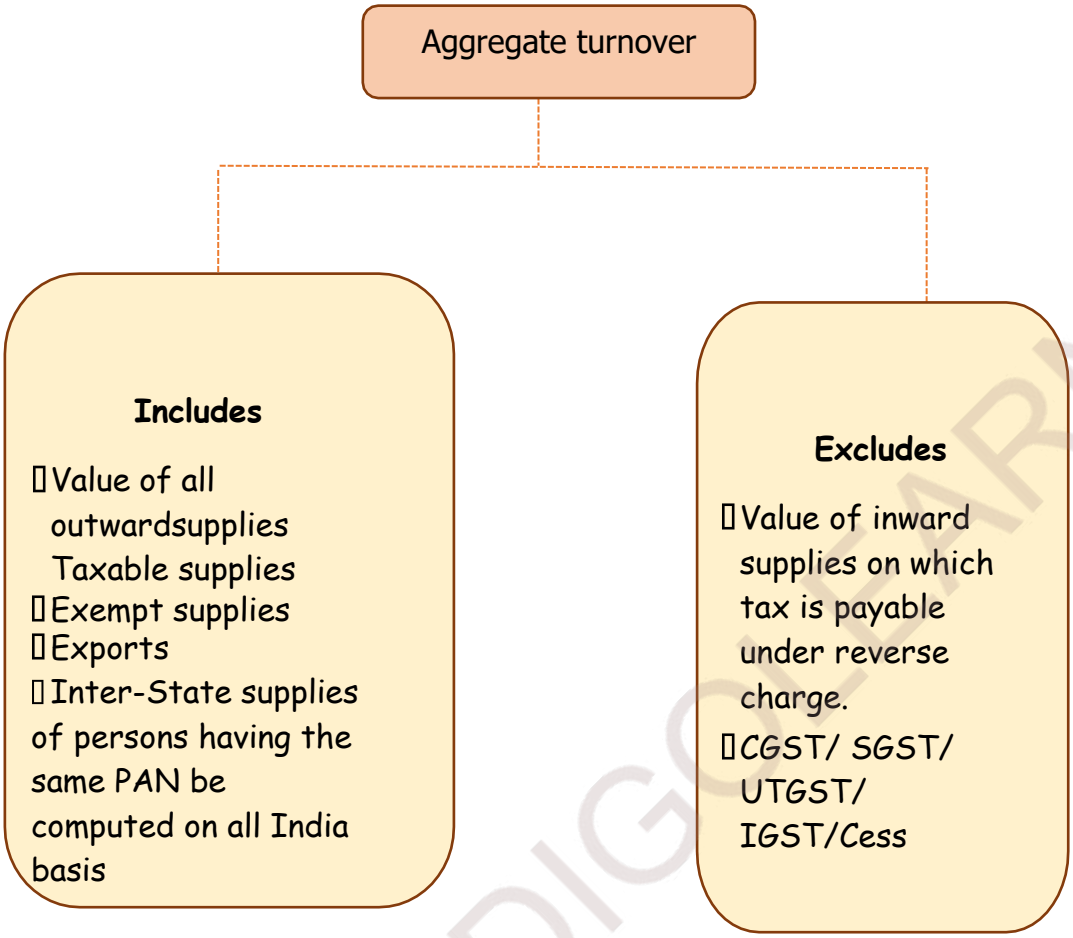
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2.2 Aggregate turnover



- Outward Supplies taxable under reverse charge would continue to be part of the'aggregate turnover' of the supplier of such supplies
- Aggregate turnover to include all supplies made by the taxable person, whetheron his own account or made on behalf of all his principals.

2.3 Special cases

- A person is required to obtain registration with respect to his each place of business in India from where a taxable supply has taken place. However, a supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply.
- The threshold limit of a person having places of business in more than one State/UT in India gets reduced to Rs.10 lakh only when such person makes taxable supplies of goods or services or both from any of the Special Category States as per section 22. However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be so reduced.
- Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be

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registered under this Act with effect from the appointed day. **[Sec 22(2)]**

- Where a business is transferred, whether on account of succession/any other reason [***including transfer/change in the ownership of business due to death of the sole proprietor***] to another person as a going concern, the transferee/successor, is to be registered with effect from the date of such transfer/succession. **[Sec 22(3)]**
- Where the business is transferred, pursuant to sanction of a scheme/ arrangement for amalgamation/ de- merger of two or more companies, pursuant to an order of a High Court/Tribunal, the transferee is to be registered with effectfrom the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order. **[Sec 22(4)]**

2.4 Special cases with regard to place of registration

- He is normally required to obtain single registration in a State/UT. However, where he has ***multiple places of business*** in a State/UT, he has the option either to get a single registration for said State/UT [wherein it can declare one place as principal place of business (PPoB) and other branches as additional place(s) of business (APoB)] or to get separate registrations for each place of business in such State/UT.

- A business entity having ***separate business verticals*** in a state may obtain separate registration for each of its business verticals.

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Scenario	Registration required
Same business in different states	Mandatory Registration in all states
Taxable supply in one state and exempt supply in	Registration not required in state ofexempt supply
Separate business verticals in two different states	Mandatory Registration in both the states
Separate business verticals in same states	Separate registration is optional
Same business in two different places in same state	Separate registration is optional

3. Casual taxable person (CTP) & Non-resident taxable person(NRTP) [Sec27]

3.1 Definitions

Casual taxable person [Sec 2(20)] - A person who occasionallyundertakes 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.

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Non-resident taxable person [Sec 2(77)] - A person who occasionallyundertakes 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,
- But has no fixed place of business or residence in India.

CTP	NRTP
• Does not have a fixed place of business in the State/UT where heundertakes supply though he might be registered with regard tohis fixed place of business in someother State/UT • Has to undertake transactions inthe course or furtherance of business • He will be considered as distinct person	• Does not have fixed place of business/residence in India at all • The business test is absent in the definition so no such condition • No such condition

3.2 Period of validity of registration certificate granted to CTP/NRTP

- Registration Certificate granted to CTP/NRTP will be valid for:
  - Period specified in the registration application, or
  - 90 days from the effective date of registration

  whichever is earlier.

- The 90 days period ***can be extended further by a period not exceeding 90 days*** by making an application before the end of the validity of registration granted to him(CTP/NRTP)

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- CTP and NRTP will make taxable supplies only after the issuance of the certificate of registration.
- Provisions relating to verification of application and grant of registration [under rules 9 and 10] will apply mutatis mutandis, to an application for registration filed by NRTP.

3.3 Advance deposit of tax

- At the time of submitting the registration application, CTP/NRTP are required to make an ***advance deposit of tax*** in an ***amount equivalent to the estimated tax liability*** of such person for the period for which the registration is sought.
- Such person will get a TRN for making an advance deposit of tax which shall be ***credited to his electronic cash ledger***. An acknowledgement of receipt of application for registration is issued only after said deposit.
- Where ***extension of time is sought***, such registered taxable person will deposit an ***additional amount of tax*** equivalent to the estimated tax liability of such person for the period for which the extension is sought

3.4 Special registration procedure

The special registration procedure pertaining to CTP and NRTP are as follows:

- Both CTP and NRTP have to ***compulsorily get registered*** under GST irrespective of the threshold limit, at least ***5 days prior to commencement of business.***
- Registration is granted to them or period of operation is extended, only after they make advance deposit of the estimated tax liability.
- As per section 25(6), every person must have a ***PAN*** to be eligible for registration. Since NRTP will generally not have a PAN of India, he may be granted registration on the basis of other prescribed documents
  - He has to submit a ***self-attested copy of his valid passpor***t along with the application signed by his authorized signatory who is an Indian Resident having valid PAN.
  - However, in case of a ***business entity incorporated*** or established outside India, the application for registration shall be submitted along with its ***tax identification number or unique number*** on the basis of which the entity is identified by the Government of that country or its PAN, if available.
  - Application will be submitted by NRTP in a different prescribed form whereas CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.

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4. Persons not liable for registration [Sec 23]

4.1 List of persons not liable for registration

- Any person engaged ***exclusively*** in the business of supplying goods or services or both that are wholly exempt from tax under CGST Act/IGST Act.
- Any person engaged ***exclusively*** in the business of supplying goods or services or both that are not liable to tax or are outside the purview of GSTlike alcoholic liquor for human consumption and petroleum products.
- An agriculturist to the extent of supply of produce out of cultivation of land is also not liable to registration.

Agriculturist [Sec 2(7)] - An individual/HUF who undertakes cultivation ofland

- by own labour, or
- by the labour of family, or
- by servants on wages payable in cash or kind or
- by hired labour under personal supervision or the personal supervisionof any member of the family.

- By improving the performance, accuracy and efficiency of the key business processes, the entity is made more efficient and responsive to Customer and Employee needs.
- Specified category of persons notified by the Government exempted from obtaining registration

1. The benefit of not being liable to registration is only restricted to the agriculturists who are individuals or HUFs.

2. Further, if an agriculturist is also engaged in making any supply other than supply of produce out of cultivation of land, he shall be liable to registration based on applicable threshold limit

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4.1.1 Specified category of persons notified by Government

1. **Persons making only reverse charge supplies.**
   - Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3)
2. **Persons making inter-State supplies of taxable services up to Rs.20 lakh.** The persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, ***not exceeding anamount of Rs.20 lakh in a financial year*** have been exempted from obtaining compulsory registration. However, the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ***Rs.10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland***
3. **Persons making inter-State supplies of taxable services up to Rs.20 lakh through ECO.**
   - Any person supplying services through ECO (other than supply specifiedu/s 9(5) of CGST Act) with aggregate turnover up to 20 lacs is exemptedfrom obtaining compulsory registration. The threshold limit is reduced to10 lakhs in case of Mizoram, Tripura, Manipur and Nagaland.
4. **Persons making inter-State taxable supplies of notified handicraft goods up to Rs. 20,00,000 (Rs.10,00,000 as the case may be).**
   - This includes:
   - Persons making inter-State taxable supplies of ***Notified handicraft goods.***
   - Persons making inter-State taxable supplies of ***notified products*** when made by craftsmen predominantly by hand even though some machinery may also be used in the process.
   - Condition to be fulfilled - ***Such persons has obtained a PAN and have generated an e- way bill.***

5. **Casual Taxable Persons making inter-State taxable supplies of notified handicraft goods up to Rs. 20 lakhs ((Rs.10,00,000 as the case may be.**
   - This includes:
   - CTPs making inter-State taxable supplies of ***Notified handicraft goods.***
   - CTPs making inter-State taxable supplies of ***notified products*** when made by craftsmen predominantly by hand even though some machinery may also be used in the process.

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- Condition to be fulfilled - ***Such persons has obtained a PAN and have generated an e- way bill.***

5. Compulsory Registration in certain cases [Sec 24]

- There are some cases wherein a supplier is compulsorily required to obtain registration even though his aggregate turnover does not exceed the applicable threshold limit
- However, certain exemptions from registration have already been discussed under section 23. Thus section 24 has to be understood considering sec 23.

5.1 List of cases where registration is mandatory

1. Persons making any inter-State taxable supply.
    - However, threshold limit of Rs. 20 lakh (and 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is availablein case of inter-State supply of taxable services and of notified handicraft goods.
2. Casual taxable persons (CTP) making taxable supply.
    - However, threshold limit of Rs. 20 lakh(Rs.10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is availablein case of CTP who is making inter-State taxable supplies of notified handicraft goods and availing the benefit of exemption from registrationas mentioned in point (i) above
3. Persons who are required to pay tax under reverse charge.
    - However, persons engaged exclusively in making supplies, tax on which is liable to be paid on reverse charge basis are exempt from registration.
4. Non-resident taxable persons (NRTP) making taxable supply.
5. E-commerce: (i) Every ECO (Electronic Commerce Operator) who is required to collect tax at source under section 52,
6. E-Commerce: (ii) Persons who supply goods and/or services, other than supplies specified under section 9(5), through such ECO who is required to collect tax at source under section 52.
    - But threshold limit of Rs. 20 lakh (Rs. 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in caseof suppliers supplying services through ECO.
    - **Further, if a person is supplying goods through ECO and only intra state then he can also avail the threshold limit exemption.**
7. E-commerce: (iii) persons who are required to pay tax under reverse charge under section 9(5).
8. Persons who are required to deduct tax under section 51, whether or not separately registered under this Act.

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9. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.
    - A commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied:
        - the principal should be a taxable person; and
        - the supplies made by the commission agent should be taxable. However, generally, a commission agent under APMC Act makes supplies onbehalf of an agriculturist who is not a taxable person if he supplies produce outof cultivation of land
10. Input Service Distributor, whether or not separately registered under this Act.
11. Every person supplying online information and data base access or retrieval (OIDAR) services from a place outside India to a person in India, other than a registered person.
12. Such other person or class of persons as may be notified by the Government onthe recommendations of the Council.

6. Procedure for registration [Sec 25 & 26]

6.1 Time limit – When to apply for registration [Sec 25(1)]

Persons	When to apply
Person who is liable to be registered under section 22 or section 24	within 30 days from the date on which he becomes liable to registration
A casual taxable person or non-resident taxable person	at least 5 days prior to commencement of business

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6.2 Where to take registration [Sec 25(2)]

- Registration needs to be taken State-wise. A business entity having its branchesin multiple States will have to take separate State-wise registration for the branches in different States.
- Within a State, an entity with different branches shall be granted single registration wherein it can declare one place as principal place of business (PPoB) and other branches as additional place of business (APOB).
- Within a State, an entity with different places of business ***may opt*** for separate registration for each such place of business.
- When different registrations are granted to a single entity, each shall be treated as a ***distinct person*** and shall be liable to tax for supply goods/services/both made to one another through issue a tax invoice/bill of supply.

6.3 Application for registration by Special Economic Zone (SEZ) [Second proviso to section 25(1)

SEZ is a geographically bound zone where the economic laws relating to export and import are more liberal as compared to other parts of the country. SEZ is considered to be a place outside India for all tax purposes.

- A person having unit in SEZ/an SEZ developer will have to make a separate application for registration as distinct from his place of business located outside SEZ in the same State/UT.
- Where two units of a tax payer are located in same State/UT - one in SEZ and another outside SEZ. In that case, ***separate registrations have to be obtained for each of the two units as separate places of business.***

6.4 Voluntary registration [Section 25(3)]

- A person who is not liable to be registered under section 22 or section 24 mayget himself registered voluntarily.
- In case of voluntary registration, all provisions of this Act, as are applicable toa registered person, shall apply to voluntarily registered person.
- Once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover does not exceed Rs. 40 lakhs/Rs.20 lakh/Rs. 10 lakh asthe case may be.
- Voluntary registration is usually obtained by the business for ensuring seamless flow of credit to their customers.

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6.5 Unique Identity Number (UIN) [Section 25(9) & (10) read with rule 17]

- Upon registration, the following persons are granted UIN instead of GSTIN:
  - Any specialized agency of the United Nations Organization or
  - Any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, 1947,
  - Any consulate or
  - Any embassy of foreign countries and
  - Any other person notified by the Commissioner

- The proper officer may, upon submission of an application in prescribed form or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person.
- UIN is assigned and registration certificate issued ***within 3 working days*** from the date of submission of application.

> UIN granted is a centralized UIN i.e. it shall be applicable to the territory of India. A person having UIN is not registered person and thus, is not a taxable person

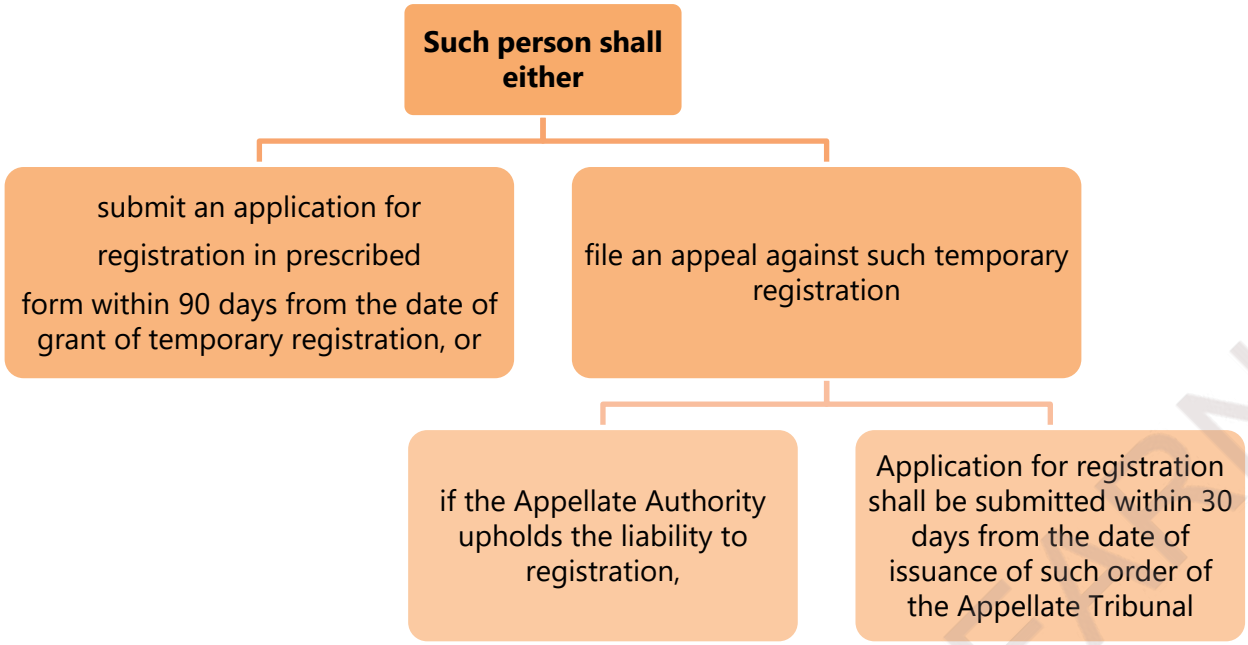
- This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them, and for such other purpose as may benotified.
- Any person making supplies to such UN bodies, must treat the transactions as B2B and mention their UIN in the invoice. Only then such entities can claimtheir refund.

6.6 Suo-motu registration by proper officer [Section 25(8) read with rule 16]

- Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer ***may register the said person on a temporary basis and issue an orderin prescribed form.***

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- GSTIN thereafter granted shall be effective from the date of order of properofficer granting temporary registration.

6.7 Procedure for registration

Step 1 - Apply for registration in Form GST REG 01

- The application for registration has to be submitted electronically at the GST Common Portal – www.gst.gov.in. Its common portal for all matters related to GST and a common platform for everyone.
- The application should be duly signed or verified through Electronic Verification Code (EVC) [Aadhar OTP].
- A registered person opting to obtain separate registration for a place of business shall submit a separate application in Form GST REG 01 in respect of such placeof business.
- The application for registration in GST Form REG 01 is divided into two parts – Part A and Part B.

Step 2 – Verification of Part A details

- Permanent Account Number validated online by Common Portal from CBDT database (PAN is mandatory to be eligible for grant of registration. However A Non-Resident Taxable Person (NRTP) may be granted registration on the basis ofother prescribed documents)
- Mobile number and email verified through one time password sent to it.
- Details of state where registration is required is mentioned.

Step 3 – Generation of TRN

- On verification of PAN, mobile number and email id Temporary Reference Number (TRN) is generated and communicated to the applicant on the validated mobile number and e-mail address.

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- Using TRN, applicant shall electronically submit application in Part B of application form, along with specified documents at the Common Portal.
- Details to be mentioned in Part B –
  - Legal name
  - Trade name
  - Address of Principal place of business
  - Address of Additional place of business
  - Details of Partners or Directors
  - HSN / HSC code
  - Bank account details
- A Causal Taxable Person (CTP) applying for registration gets a TRN for makingan advance deposit of tax in his electronic cash ledger.
- Part B is e-verified through mobile OTP. In case of a company Digital signatureis mandatory.

Step 4 – Generation of acknowledgement

- On receipt of such application, an acknowledgement in the prescribed form (GST REG 02) shall be issued to the applicant electronically.
- To A Causal Taxable Person (CTP) an acknowledgement is issued only after said deposit.

Step 5 – Application forwarded to proper officer

- Proper Officer examines the application and accompanying documents.

Step 6 A – Registration granted

- If the application and accompanying documents are found in order, Proper officer will grant registration certificate in GST REG 06.
- It is granted within 7 working days from the date of submission of application.

Step 6 A – Registration granted

- If the application and accompanying documents are found in order, Proper officer will grant registration certificate in GST REG 06.
- It is granted within 7 working days from the date of submission of application.

Step 6 B – Issuing notice for further information

- If the application and accompanying documents are not found in order, Proper officer will issues notice electronically (in form GST REG 03), within 7 working days from application date thereby seeking clarification/ information or documents from the applicant.
- The applicant is required to furnish the necessary information or documents within 7 working days from receipt of such notice in the prescribed form (GST REG 04)
- If proper officer is satisfied with it within 7 working days from the date of receipt of information/ clarification/ documents, he will grant the registration certificate. (in GST REG 06)

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- If he is not satisfied, he will reject the application for reasons to be recorded in writing in form GST REG 05.

Step 7 - Deemed Approval of Application

- If the proper officer fails to take any action -
  - within 7working days from the date of submission of application, or
  - within 7 working days from the date of receipt of clarification, information or documents furnished by the applicant,

  the application for grant of registration shall be deemed to have been approved.

Step 8 – Issuance of registration certificate and Grant of GSTIN

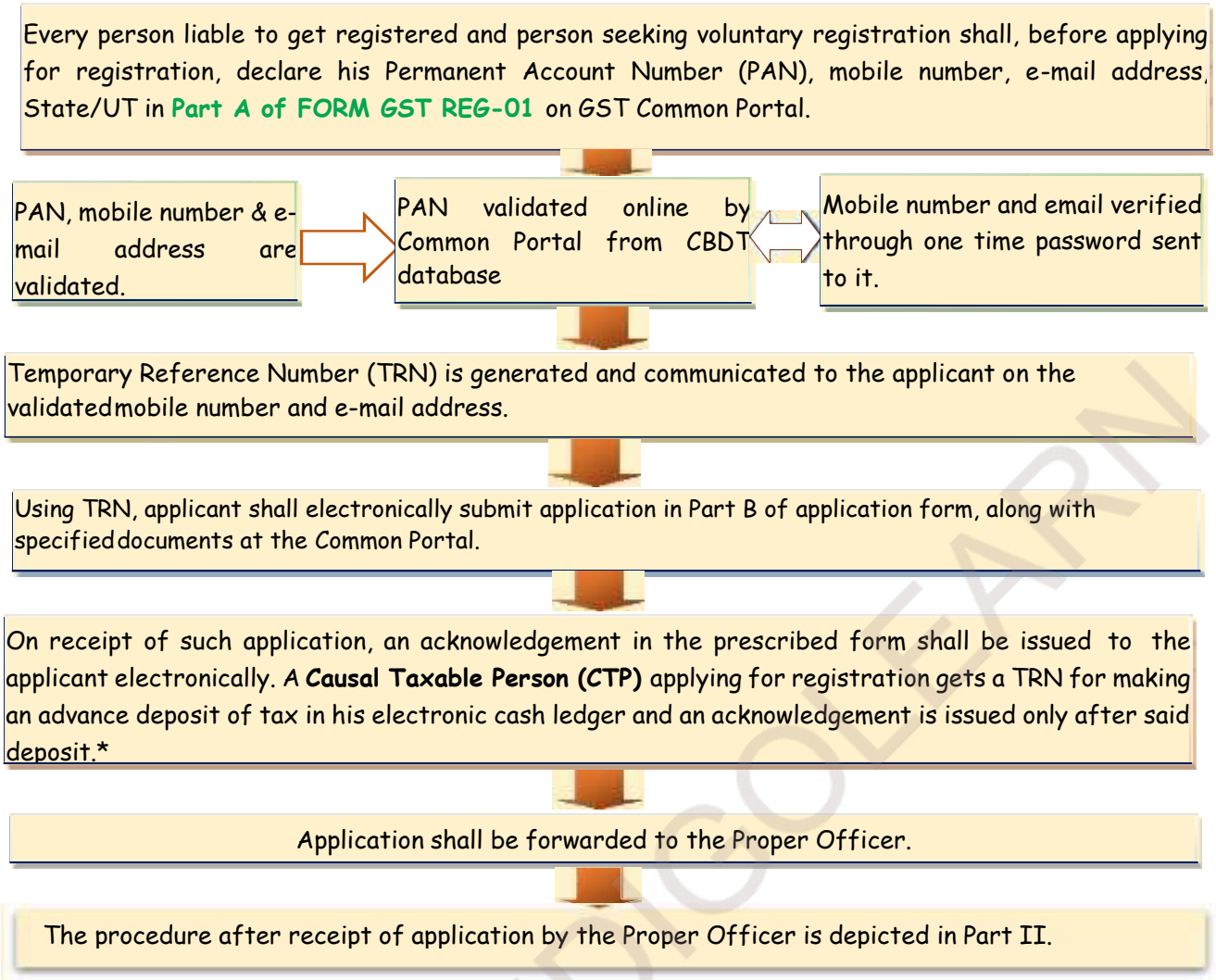
- Where the application for grant of registration has been approved, the registration certificate showing the principal place of business (PPoB) and additional place(s) of business (APoB) is made available to the applicant on the Common Portal.
- It is duly signed or verified through EVC by the proper officer.
- A Goods and Services Tax Identification Number (referred as "GSTIN") i.e., the GST registration no. is communicated to applicant, within 3 days after the grant of registration.

Summary of form numbers

GST form No.	Purpose
REG-01	Application for registration
REG-02	Acknowledgement
REG-03	Notice by PO for additional documents
REG-04	Reply to the notice given in REG-03
REG-05	Order of rejection
REG-06	Grant of registration

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6.8 Other key points related to registration

6.8.1 - Physical verification of business premises

- Where the proper officer is satisfied that the physical verification of the place of business of a registered person is required after grant of registration, he may get such verification done.
- The verification report along with other documents, including photographs, shall be uploaded in the prescribed form on the GST Common Portal, within 15 working days following the date of such verification.

6.8.2 - Display of registration certificate and GSTIN on the name board

- Every registered person shall display his registration certificate in a prominent location at his PPoB and at every APoB.
- The GSTIN also has to be displayed on the name board exhibited at the entry of his PPoB and at every APoB.

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6.8.3 – Delay in submission of bank account details

- The requirement to furnish bank details at the time of application for registration, has been relaxed by inserting a new rule 10A to CGST rules.
- The registered person is allowed to furnish the information regarding bank details after obtaining registration certificate and GSTIN
  - Within 30 days from the grant of registration or
  - Before furnishing details of outward supplies in GSTR 1 or IFF

  Whichever is earlier.
- This relaxation is not available for those
  - Who have been granted registration as TDS deductor or
  - Who have been granted registration as TCS collector or
  - Who has obtained suo motto registration (voluntary registration)
- If a person violates the provisions of Rule 10A, his GST registration is liable to be cancelled.

in cases where a person successfully undergoes authentication of Aadhaar number or is exempt from Aadhaar authentication	within a period of 7 working days from the date of submission of application
in cases where a person fails to undergo Aadhaar authentication or does not opt for Aadhaar authentication	within a period of 30 working days from the date of submission of application

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Effective date of registration

Application for registration submitted	Effective date of registration is
within 30 days from the date he becomes liable to registration	Date on which he becomes liableto registration
After 30 days from the date he becomes liable to registration	Date of grant of registration

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6.9 Claiming of input tax credit

- Such registered person can ***claim input tax credit u/s 18(1)(a)*** available at the time of registration on
  - Inputs held in stock
  - Inputs contained in work in progress
  - Inputs contained in Finished goods held in stock
- Thus the person who applies for registration after 30 days of becoming liable to registration will have to pay tax on the supplies made from the date of becomingso liable to the effective date of registration but however he cannot claim it fromhis customers. Nor can he claim the ITC.

7. Aadhaar authentication - [Section 25(6A), (6B), (6C) & (6D) read with rules 8, 9 and 25]

- With effect from 21.08.2020, Aadhaar authentication is mandatory for the new applicants in order to be eligible for grant of registration.
- Aadhaar Authentication process has been introduced for the persons applying for GST registration as normal taxpayer/ composition/ casual taxable person/ Input Service Distributor (ISD)/ SEZ Developer/ SEZ Unit etc, in Form GST REG 01.
- Subsequently, existing registrants will also be required to undergo Aadhaar authentication otherwise their registration shall be deemed to be invalid.

7.1 Persons required to undergo Aadhaar authentication

- **New applicant -** Every (i) individual applicant or (ii) an applicant, other than an individual, shall undergo authentication/furnish proof of possession of Aadhaar number, in the manner prescribed in rule 8.

- Date of submission of the application in such cases shall be earlier of:
  - the date of authentication of the Aadhaar number, or
  - 15 days from the submission of the application in Part B of Form GST REG-01
- In case applicant is an individual, he shall undergo authentication of his own aadhaar number.
- In case applicant is other than individual, the authentication will be of aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other notified class of persons [authorised signatory of all types, Managing and Authorised partners of a partnership firm and Karta of a Hindu Undivided Family, have been so notified.
- **Persons already registered -** Every registered person shall undergo authentication/furnish proof of possession of Aadhaar number, in prescribed form and manner and within the prescribed time

7.2 Where Aadhaar number is not assigned

- If an Aadhaar number is not assigned to a ***new applicant*** – such individual/person/class of persons shall be offered alternate and viable means of identification in the manner specified in rule 9.
- Where a person fails to undergo authentication of aadhaar number or does not opt for authentication of Aadhaar number, the registration shall be granted onlyafter physical verification of the principal place of business in the prescribed manner.
- However, in lieu of the physical verification of the place of business, the proper officer may carry out the verification of such documents as he may deem fit. For this, he needs to record the reasons in writing and needs to take the approval ofan officer not below the rank of Joint Commissioner.
  - Further, in such case, a notice (in prescribed form) seeking clarifications/ information/ documents from the applicant may be issued by the proper officer not later than 30 days from the submission of the application for registration. Further, registration would be granted only after physical verification of premises and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG 30 on the common portal within a period of fifteen working days following the date of such verification.
  - In case where registration is to be granted after physical verification of the premises of a person then the application for grant of registration shall be deemed to have been approved if the proper officer fails to take any action within a period of 30 days from the date of submission of the application
- In case of failure to undergo aadhaar authentication/furnish proof of possessionof Aadhaar number/furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the otherprovisions of this Act shall apply as if such person does not have a registration.

7.3 Persons/class of persons exempt from aadhaar authentication

- Section 25(6D) stipulates that above provisions shall not apply to such person or class of persons or any State or Union territory or part thereof, as may be notified.
- Following have been notified in this regard:
  - A person who is not a citizen of India
  - Department or establishment of State Government or Central Government
  - Local authority
  - Statutory body
  - Public Sector Undertaking
  - A person applying for Unique Identity Number

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7.4 How aadhaar authentication is done?

- Once registration application is submitted, GST system sends "link" to the concerned persons at their GST registered mobile numbers and email idsmentioned in the GST application, for the aadhaar authentication.
- On clicking the verification link, a window for Aadhaar Authentication will open where they have to enter Aadhaar Number and the OTP received by them on the mobile number linked with Aadhaar.
- Taxpayers need to complete Aadhaar authentication of all Promoters/ Partners/ Authorized Signatories/ Karta etc. as mentioned in the application to avail this option.
- On successful authentication, demographic data of the persons is fetched from Aadhaar to GST System.

As per New Rule 10B, Aadhar Authentication is mandatory in following cases:

- for filing of application for revocation of cancellation of registration
- for filing of refund application in Form RFD-01
- for refund of the IGST paid on goods exported out of India

Further, If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: -

(a) her/his Aadhaar Enrolment ID slip; and

(b) (i) Bank passbook with photograph; or

(ii) Voter identity card issued by the Election Commission of India; or

(iii) Passport; or

(iv) Driving license issued by the Licensing Authority

Such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

8. Deemed registration [Sec 26]

- Registration under GST is single registration for all the taxes i.e. CGST, SGST/ UTGST, IGST and cesses.
- Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.
- Further, rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.

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9. Amendment of registration [sec 28]

- A registered person may need to make some changes/amendments in the registration application. In this regard, there are two categories of details in registration application – core and non-core fields.
- The procedure of change depends on this category of fields.

Core fields are
- Legal name of the business, (if there is no change in pan)
- Addition / deletion of stakeholders (Details of directors/ partners/Karta/ Executive officer
- PPOB (other than change in State) or APOB (other than change in State).

All other fields are ***non-core fields*** like name of day to day functionaries, e-mail Ids, mobile numbers, bank account details etc.

9.1 Procedure for change in core field

- **Application within 15 days** - Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, within15 days of such change, along with documents relating to such change at the Common Portal.
- **Additional information by PO** - The proper officer may, ***within 15 days***, send a notice seeking additional documents substantiating the change.
- **Response to notice** - The registered person has to respond within 7 days fromthe receipt of such notice.
- **Approve / reject within 7 days** - On the basis of information furnished or as ascertained by him, the PO may approve or reject amendments in the registration particulars in the prescribed manner.
- **Opportunity of being heard** - The proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
- **Deemed approval** – if the proper officer fails to take any action,-

  (a) within a period of 15 working days from the date of submission of the application, or

  (b) within a period of 7 working days from the date of the receipt of the reply to the show cause notice,

  the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

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Any rejection or approval of amendments under the SGST/UTGST Act shall be deemed to be a rejection or approval under this Act.

- **PAN based application of amendment** - Change of
  (a) Legal name of business
  (b) Addition/Deletion of stakeholders

  these two particulars shall be applicable for all registrations of a registered person obtained under provisions of this Chapter on same PAN.

- **Effective date of amendment** - Such amendment shall take effect from the date of occurrence of event warranting such amendment.

9.2 Procedure for change in Non- core field

- **Application within 15 days** - Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, within15 days of such change, along with documents relating to such change at the Common Portal.
- **Amendment made** - Registration certificate shall stand amended upon submission of the application for amendment on the Common Portal

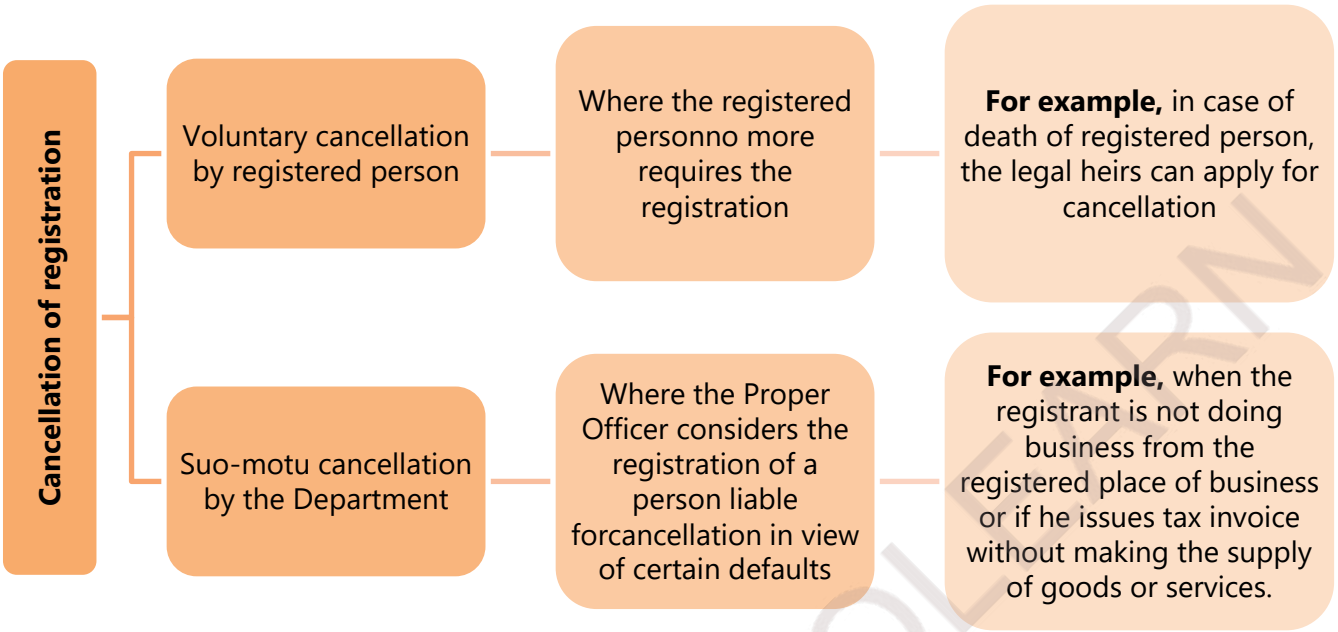
9.3 – Other Key points related to amendment

- **Amendment with retrospective effect -** Any particular of the application for registration shall not stand amended with effect from a date ***earlier than date of submission of application*** for amendment on common portal except with ***order of Commissioner*** for reasons to be recorded in writing and subject to ***conditions specified by Commissioner*** in the said order.
- **Change in PAN** - Application for amendment of registration cannot be filed for change in PAN because GST registration is PAN-based. One needs to make fresh application for registration in case there is change in PAN. Thus. where a ***change in the constitution of any business*** results in change of PAN of a registered person, the said person shall ***apply for fresh registration***.
- **Change in State** - Application for amendment of registration form cannot be filled if there is change in place of business from one State to the other becauseGST registrations are State-specific. If one wishes to relocate his business to another State, he must voluntarily cancel his current registration and ***apply fora fresh registration*** in the State he is relocating his business.

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10. Cancellation of registration



10.1 Circumstances when the registration can be cancelled either *suo motu* by proper officer or on an application of the registered person or his legal heirs (in case death of such person)

1. Business discontinued
2. Transferred fully for any reason (like amalgamation, demerger or death of the proprietor)
3. Change in the constitution of the business
4. Taxable person (other than voluntarily registered person) who is no longer liableto be registered under section 22 or section 24

10.2 Circumstances when the proper officer can cancel registration on his own

1. A registered person has contravened the prescribed provisions -
   - He does not conduct any business from the declared place of business, or
   - He issues invoice/bill without supply of goods/services in violation of the provisions of this Act, or the rules made thereunder.
   - He violates the provisions of section 171 of the CGST Act. (Section 171 of the CGST Act, 2017 contains provisions relating to anti-profiteering measure)

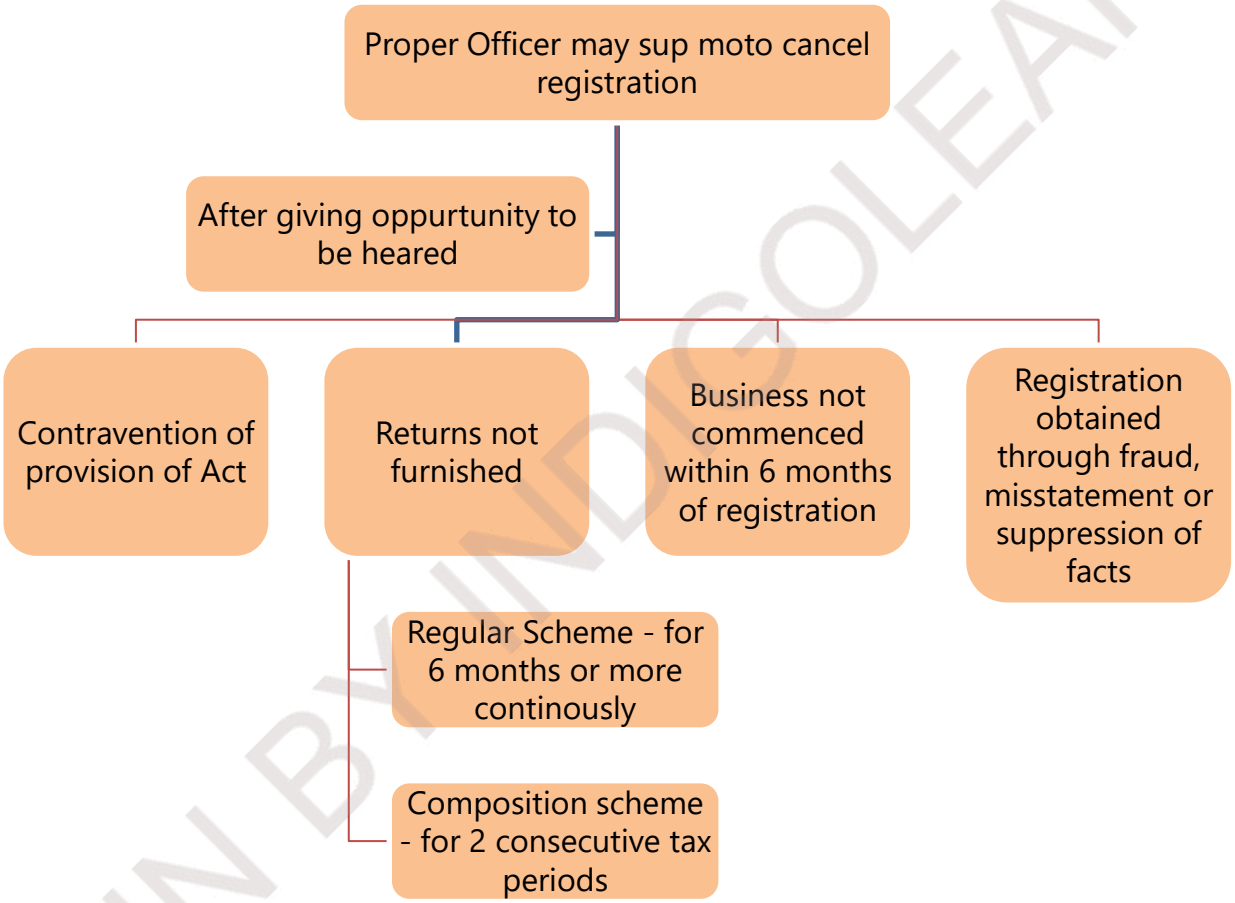
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A registered person has not filed returns for continuous 6 months.

2. A composition tax payer fails to furnish return for a FY beyond 3 months from due date.
3. Registration was obtained by means of fraud, wilful misstatement or suppressionof facts
4. Voluntarily registered person has not commenced the business within 6 monthsfrom the date of registration

- Registration can be cancelled by the proper officer from such date, including any retrospective date, as he may deem fit.
- However, PO shall not cancel the registration without giving the person an opportunity of being heard.

5. A person opting for QRMP fails to file return for 2 tax periods



Clauses (b) and (c) of sub-section (2) of section 29 are to be amended so as to provide that the registration of a person is liable for cancellation, where – (i) a person paying tax under composition scheme has not furnished the return for a financial year beyond 3 months from the due date of furnishing of the said return; (ii) a person, other than those paying tax under composition scheme, has not furnished returns for such continuous tax period as may be prescribed.

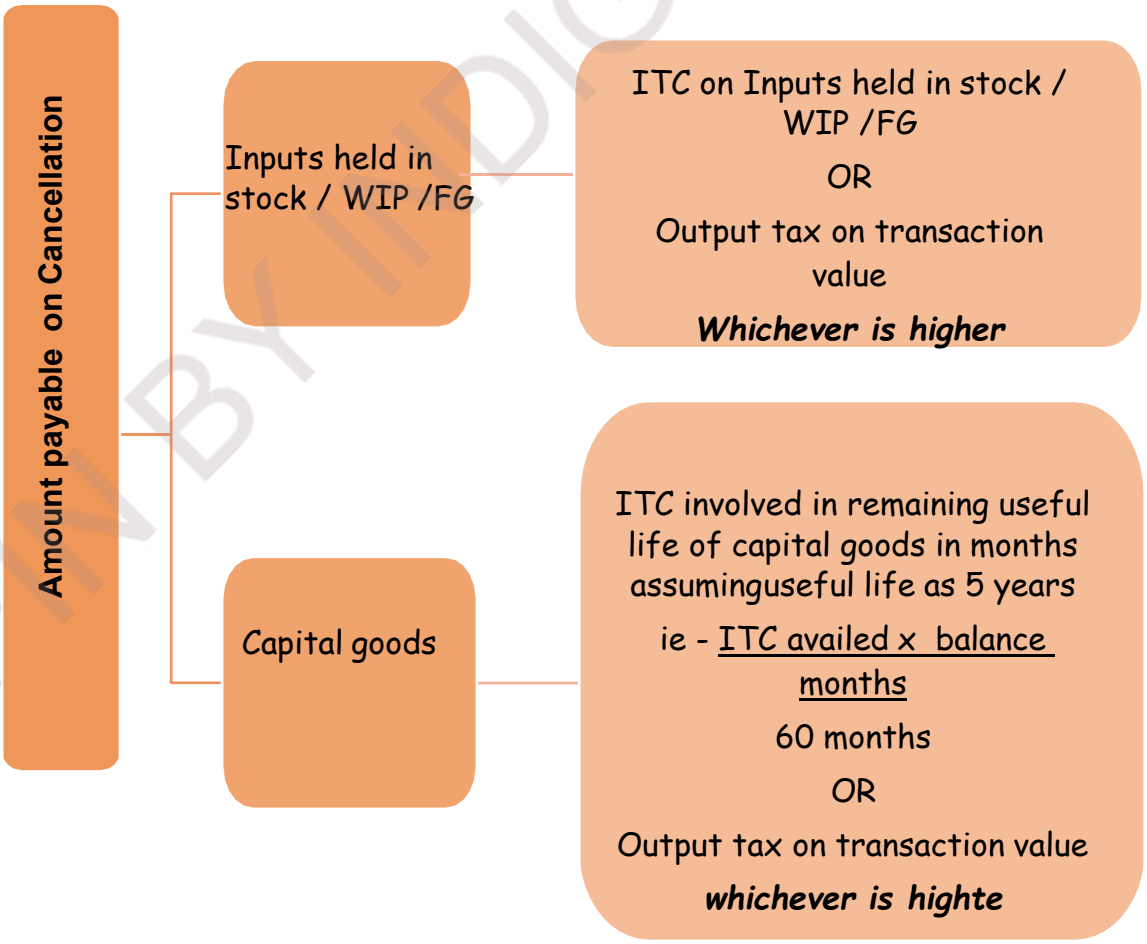
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1) If any registered person furnishes the details of outward supplies in Form GSTR-1 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods then such registered person registration shall be liable for cancellation.

10.3 Procedure for cancellation of registration

- **Application within 30 days** - A registered person seeking cancellation of registration shall electronically submit the application for cancellation of registration in prescribed form ***within 30 days of occurrence of the event warranting cancellation***.
- **Furnish details of stock** - He is required to furnish in the application the ***details of inputs*** held in stock or inputs contained in semi-finished/finished goods held in stock ***and of capital goods held in stock on the date from which cancellation of registration is sought***, liability thereon, details of the payment, if any, made against such liability and may furnish relevant documents thereof.
- **Amount payable on inputs and capital goods**

A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by an amount as computed below:



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- **Cancellation order within 30 days** -Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered, proper officer shall issue the order of cancellation of registration within 30 days from the date of submission of application for cancellation.
- **show cause notice in case of Suo-motu cancellation -** Where the proper officer cancels the registration suo-motu, he shall not cancel the same without giving a show cause notice and without giving a reasonable opportunity of beingheard, to the registered person.
- **Response within 7 days** - The reply to such show cause notice (SCN) has to be submitted within 7 days of service of notice.
- **Order passed** – In the following cases, the proper officer shall ***drop the proceedings and pass an order***:-
  - If reply to SCN is satisfactory. (The order shall be passed ***within 30 days from the date of reply to SCN)***
  - If the person instead of replying to the SCN served for failure to furnish returns for a continuous period of 6 months (3 months in case of composition scheme supplier), furnishes all the pending returns and makesfull payment of the tax dues along with applicable interest and late fee.

- **Effective date of cancellation** - The cancellation of registration shall be effective from a date to be determined by the proper officer and ***mentioned in the cancellation order.***
- **Liability to pay** – The cancellation of registration will not affect liability of registered person to pay tax and other dues under the Act for any period priorto the date of cancellation. The PO shall direct the taxable person to pay arrearsof any tax, interest or penalty including the amount liable to be paid under section 29(5).
- **Intimation through Email and SMS -** Order for cancellation of registration will be issued and intimated to the primary authorized signatory by email and SMS.

10.4 – Other key points on cancellation

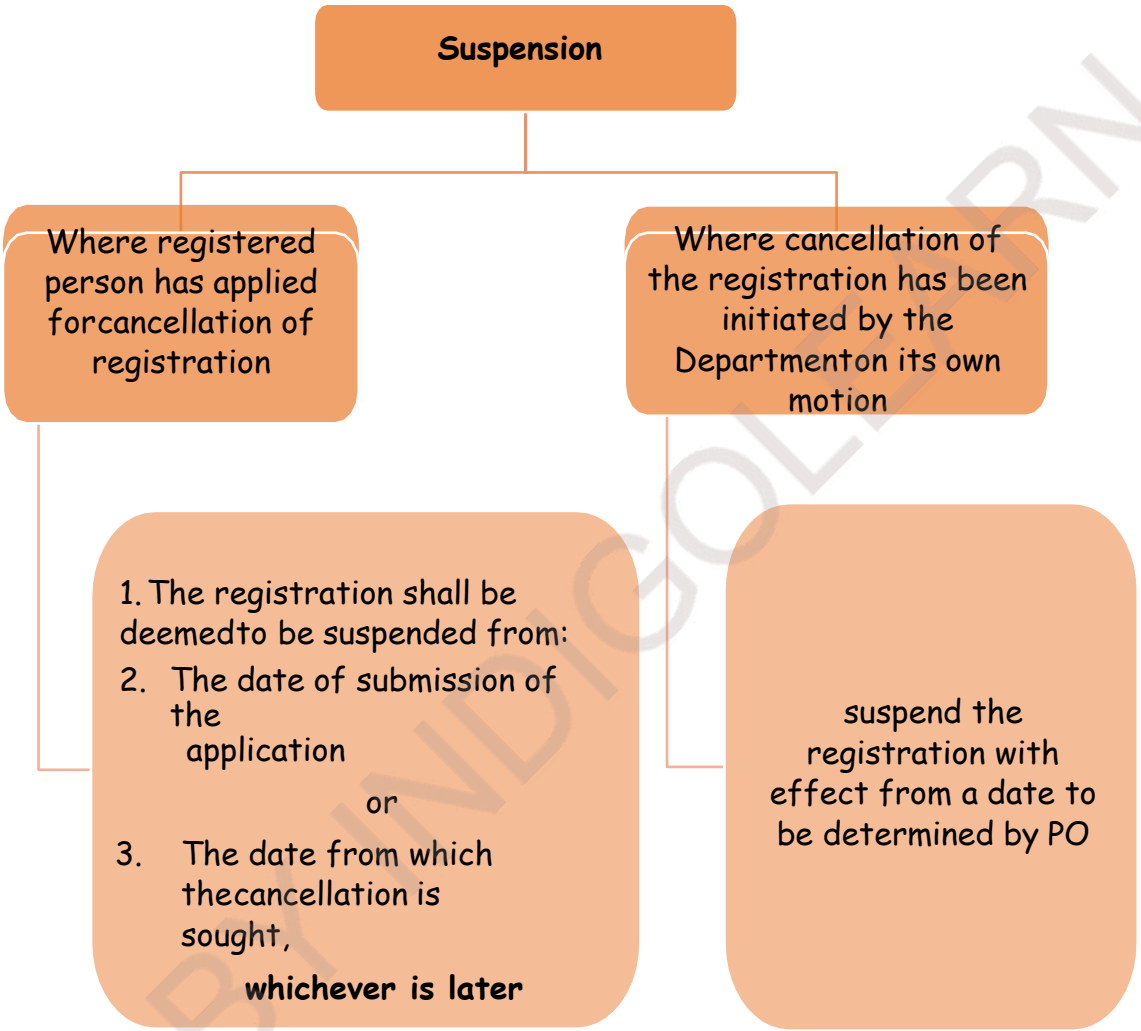
- A person to whom a UIN has been granted under rule 17 cannot apply for cancellation of registration
- The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act
- Taxpayer would not be allowed to file return for the period after date of cancellation mentioned in the cancellation order. However, he can submit returnsof the earlier period (i.e. for the period before date of cancellation mentioned inthe cancellation order for which registration was active).

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10.5 Suspension of registration

- Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, the proper officer may suspend his registration ***during pendency of the proceedings relating to cancellation of registration.***
- Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration.



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- A registered person, whose registration has been suspended as above:
  - shall not make any taxable supply during the period of suspension (i.e., he cannot issue taxable invoice and collect tax) and
  - shall not be required to furnish any return under section 39.
- The suspension of registration shall be deemed to be revoked upon completionof the cancellation proceedings by the proper officer.
- Such revocation shall be effective from the date on which the suspension had come into effect.
- In case the cancellation proceedings have been dropped, suppliers have to issue revised invoice for the suspension period.
- Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he can now suspend the registration of such person, pending the cancellation proceedings, without affording the said person a reasonable opportunity of being heard.
- Mismatch between GSTR 1 and GSTR 3B may also attract suspension.
- In a case where the cancellation is initiated by the Department on its own and registration of a person has been suspended, such person shall not be granted any refund during the period of suspension
- The suspension of registration may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit

Where the registration has been suspended under rule 21A(2A) for contravention of the provisions and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns

11. Revocation of cancellation of registration

11.1 Procedure for revocation of cancellation - Where the registration of a person is cancelled suo-motu by the proper officer for violation of any rule.

- **Application within 90 days** - such registered person may apply for revocationof the cancellation to such proper officer, ***within 90 days*** from the date of service of the ***order of cancellation*** of registration. The said period of 90 days may be extend by commissioner or an officer authorized by him not below the rank of Additional or Joint commissioner for a further period not exceeding 180 days.
- **Order of revocation** - If the proper officer is satisfied that there are sufficient grounds for revocation of cancellation, he may revoke the cancellation of registration, by an order ***within 30 days of receipt of application.***
- **Show cause notice** - If the proper officer is not satisfied he has to first issue SCN to the applicant who shall furnish the ***clarification within 7 working days*** of service of SCN.



- **Disposal of application** - The proper officer shall dispose the application (accept/reject the same) within ***30 days of receipt of clarification.***

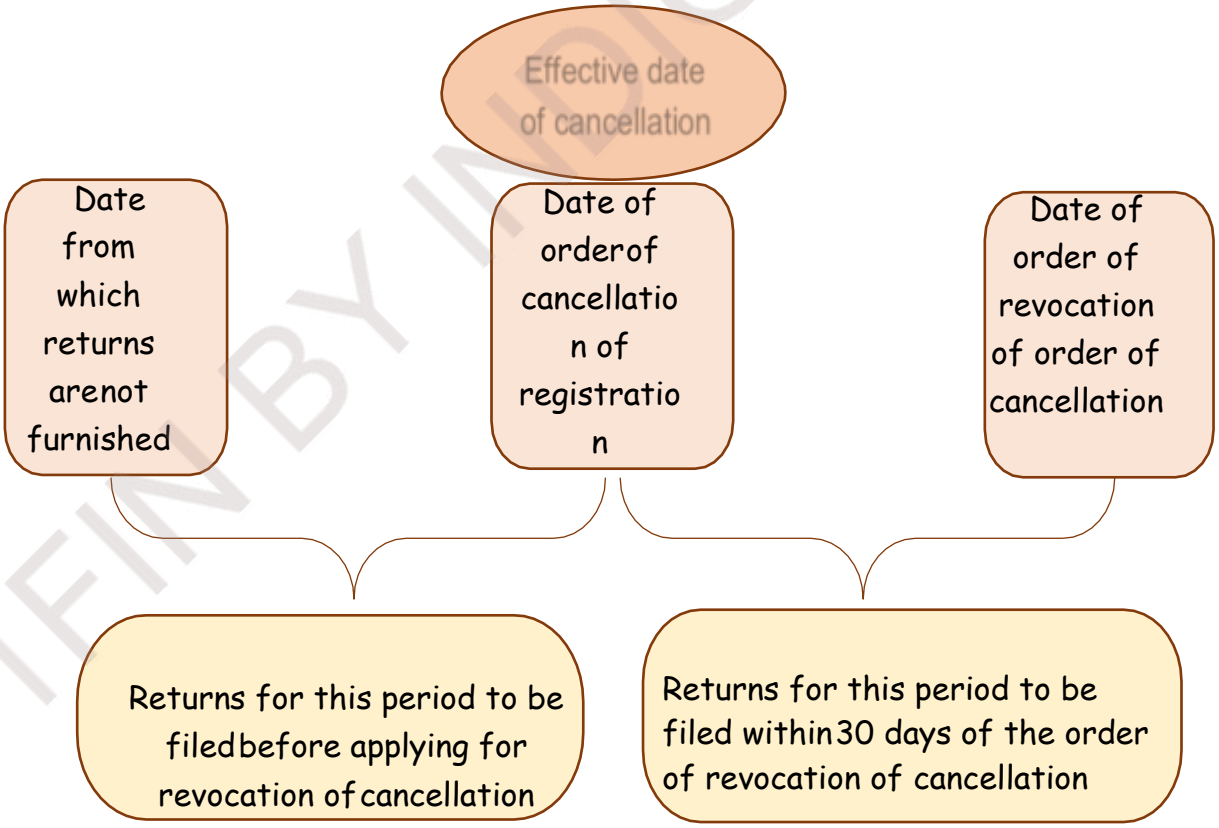
11.2 Procedure for revocation of cancellation - Where the registration of a person is cancelled for failure of registered person to furnish returns.

- **File returns before applying for revocation** - Where registration was cancelled for failure of registered person to furnish returns, before applying for revocation, the person has to make good the defaults, i.e. the person needs to file such returns and also make payment of all dues.
- **Time limit for filing returns**

1. Where cancellation is effective from the date of order of cancellation:

a. In such a case, person applying for revocation of cancellation has to furnishall returns due till the date of such cancellation before the application for revocation can be filed and has to pay any amount due as tax, in terms of suchreturns along with any amount payable towards interest, penalties or late fee payable in respect of the said returns.

b. All returns due for the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.



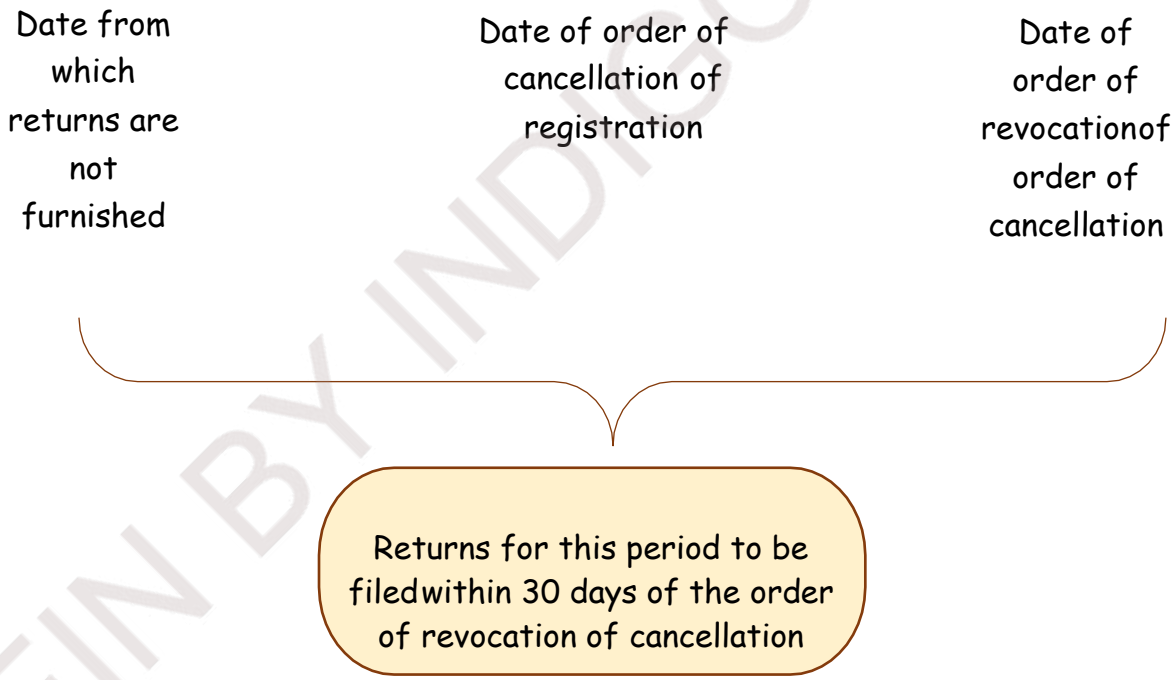
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2. Where cancellation is effective from retrospective date:

- In that case, the application for revocation of cancellation of registration isallowed to be filed, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration *shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration.*
- The time period of filing of application for revocation of 30 days from the date of service of the order of cancellation of registration, may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—
  - (a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days;
  - (b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a)" {Notification No. 15/2021 CT dated 18.05.2021}

Effective Date of Cancellation



11.3 Key points on revocation

- The following cannot apply for revocation of cancelled registration
  - UIN Holders (i.e. UN Bodies, Embassies and Other Notified Persons),
  - GST Practitioner
  - The taxpayer or his legal heir who had applied of cancellation of registration
- The revocation of cancellation of registration under the SGST Act/ UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act.

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Illustration 1 (Examples - Threshold limit)

Determine whether registration is required in each of the following cases:

I) Mr. Prithvi Raj from Assam exclusively engaged in supply of shoes. Turnover isRs.22 lakhs. Is registration required u/s 22(1)?

II) Prithvi Raj from Assam exclusively engaged in supply of Pan Masala. Turnover is Rs.22 lakhs. Is registration required u/s 22(1)?

III) Prithvi Raj of Assam exclusively engaged in supply of services. Aggregate turnoveris Rs.22 lakhs. Is registration required u/s 22(1)?

IV) Prithvi Raj of Assam is engaged in supply of both taxable goods and services. Whatis the threshold limit for registration?

V) Shivaji ofTelangana, exclusively engaged in supply of toys. Aggregate turnover is Rs.22 lakhs. Is registration required?

VI) Shivaji of Telangana exclusively engaged in the supply of ice-cream. Aggregate Turnover is Rs.22 lakhs. Is registration required u/s 22(1).

VII) Shivaji of Telangana exclusively engaged in the supply of services or in both, services and goods. Aggregate turnover is Rs.22 lakhs. Is registration of required?

VIII) Ashoka of Manipur exclusively engaged in supply of paper.Turnover is Rs.12 lakhs. Is registration required u/s 22(1)?

Illustration 2 (Examples & Question I)

Determine Effective date of registration in the following two cases:

(i) The aggregate turnover of Dhampur Industries of Delhi exceeds Rs. 20 Lakhs on 1st September. It submits the application for registration on 20th September. Registration certificate is granted on 25th September

(ii) Mehta Teleservices is an internet service provider in Lucknow. Its aggregate turnover exceeds Rs. 20 Lakhs on 25th October. It submits the application for registration on 27th November. Registration certificate is granted on 5th December

Illustration 3 (Examples & Questions – I)

In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

Illustration 4 (Examples & Questions – I)

State which of the following suppliers are liable to be registered:

(i) Agent supplying goods on behalf of some other taxable person and its aggregate turnover does not exceed Rs. 20 lakhs during the financial year.

(ii) An agriculturist who is only engaged in supply of produce out of cultivation of land.



Illustration 5 (Examples & Questions – I)

If a person is operating in different States, with the same PAN number, can he operate with a single registration?

Illustration 6 (Examples & Questions – I)

Can a person having multiple business verticals in a State obtain separate registrations for each business vertical?

Illustration 7 (Examples & Questions – I)

Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Illustration 8 (Questions II)

Can the Department, through the proper officer, Suo-moto proceed to register a person?

Illustration 9 (Questions II)

Is it necessary for the UN bodies to get registration under GST?

Illustration 10 (Questions II)

What is the responsibility of the taxable person making supplies to UN bodies?

Illustration 11 (Questions II)

What is the validity period of the registration certificate issued to a casual taxable person and non- resident taxable person?

Illustration 12 (Questions II)

What could be the liabilities (in so far as registration is concerned) on transfer of a business?

Illustration 13 (Questions II)

At the time of registration, will the assessee have to declare all his places of business?

Illustration 14 (Questions II)

What will be the time limit for the decision on the online registration application?

Illustration 15 (Past Exams / RTPs – I)

Luv & Kush pvt. Ltd. of Srinagar, Jammu & Kashmir engaged in the supply of gifts items provides you the following details-

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S.no.	Particulars	Date
1	Commencement of the business of supplying goods	01.08.20XX
2	Turnover exceeds Rs.10,00,000 on	15.08.20XX
3	Turnover exceeds Rs.20,00,000	05.09.20XX
4	Application for registration made on	28.09.20XX
5	Registration certificate granted on	06.10.20XX

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

Illustration 16 (Past Exams / RTPs – II)

The aggregate turnover of Priyank Services Ltd. exceeded Rs.20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September.

You are required to advice Priyank Services Ltd. as to what is the effective date of registration in its case.

It has also sought your advice regarding period for issuance of Revised Tax Invoices.

Illustration 17 (Past Exams / RTPs – II)

Determine the effective date of registration in the following instances:

(i) The aggregate turnover of Madhu Ltd, engaged in taxable supply of services in the state of Punjab, exceeded Rs.20 lakhs on 25th August 2017. It applies for registration on 19th September 2017 and is granted registration certificate on 29th September 2017.

(ii) What will be your answer, if in the above scenario, Madhu Ltd. Submits the application for registration on 27th September 2017 and is granted registration on 5th October 2017?

Illustration 18 (Past Exams / RTPs – II)

State the persons who are not liable for registration as per provisions of Section 23 of CGST Act, 2017.

Illustration 19 (Past Exams / RTPs – I)

Mr. Allan, a non-resident person, wishes to provide taxable supply of goods. He has no fixed place of business or residence in India. He seeks your advice on the following aspects, relating to CGST Act, 2017:

(i) When shall he apply for registration?
(ii) Is PAN mandatory for registration?
(iii) What is the period of validity of RC granted to him?
(iv) Will he be able to extend the validity of his registration? If yes, what will be

theperiod of extension?

Illustration 20 (Past Exams / RTPs – III)

State with brief reason, whether following suppliers of taxable goods are required to register under the GST law:

i) Mr. Raghav is engaged in wholesale cum retail trading of medicines in the state of Assam. His aggregate turnover during the financial year is Rs.9,00,000 which consists of Rs.8,00,000 as Intra-state supply and Rs.1,00,000 as Inter-state supply.

ii) Mr. S. N. Gupta of Rajasthan is engaged in trading of taxable goods on his own account and also acting as an agent of Mr. Rishi of Delhi. His turnover in the financial year 2017-18 is off Rs.12,00,000 on his own account and Rs.9,00,000 on behalf of principal. Both turnovers are Intra-state supply.

Illustration 21 (Past Exams / RTPs – III)

Answer the following questions with respect to casual taxable person under the CGST Act, 2017:

(i) Who is a casual taxable person?
(ii) Can a casual taxable person opt for the composition scheme?
(iii) When is the casual taxable person liable to get registered?
(iv) What is the validity period of the registration certificate issued to a casual taxableperson?
(v) Can the validity of registration certificate issued to a casual taxable person beextended? If yes, what will be the period of extension?

Illustration 22 (Past Exam questions)

Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

Illustration 23 (Past Exam questions)

Determine with brief reasons whether the following statement is True or False:

- Registration under the CGST Act, can be cancelled by the proper officer, if the voluntarily registered person has not commenced the business within 3 months from the date of Registration.

Illustration 24

Mahadev Enterprises, a sole proprietorship firm, opened a shopping complex dealing in supply of ready-made garments at multiple locations, i.e., in Himachal Pradesh, Uttarakhand and Tripura in June. It has furnished the following details relating to supply made at such multiple locations for the month of June:

Particulars	Himachal Pradesh (Rs.)	Uttarakhand (Rs.)	Tripura (Rs.)

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Intra-State supply of taxable goods	22,50,000	-	7,00,000
Intra-State supply of exempted goods	-	-	6,00,000
Intra-State supply of non - taxable goods	-	21,00,000	40,000

All the above amounts are excluding GST.

With the help of the above-mentioned information, answer the following questions giving reasons:

1. Determine whether Mahadev Enterprises is liable to be registered under GST law and what is the threshold limit of taking registration in this case assuming that it is not required to pay any tax on inward supplies under reverse charge.
2. Explain with reasons whether your answer in (1) will change in the following independent cases:
    a. If Mahadev Enterprises is dealing exclusively in taxable supply of goods only from Himachal Pradesh;
    b. If Mahadev Enterprises is dealing in taxable supply of goods and services only from Himachal Pradesh;
    c. If Mahadev Enterprises is dealing in taxable supply of goods only from Himachal Pradesh and has also affected inter-State supplies of taxable goods (other than notified handicraft goods) amounting to Rs. 4,00,000.

Illustration 25

With the help of the following information in the case of M/s Jayant Enterprises, Jaipur (Rajasthan) for the financial year, determine the aggregate turnover for the purpose of registration under the CGST Act. Also determine whether M/s Jayant Enterprises is liable to be registered under GST law.

S. No.	Particulars	Amount (Rs.)
1	Sale of diesel on which Sale Tax (VAT) is levied by Rajasthan Government.	1,00,000
2	Supply of goods, after completion of job work, from the place of Jayant Enterprises directly by principal by declaring the place of M/s Jayant Enterprises as its additional place of business.	3,00,000
3	Export of goods to England (U.K.)	5,00,000
4	Supply to Rajasthan its own additional place of business in Rajasthan	5,00,000
5	Outward supply of services on which GST is to be paid by recipient under reverse charge	1,00,000

All the above amounts are excluding GST.

You are required to provide reasons for treatment of various items given above

TAX INVOICE, CREDIT NOTES AND DEBIT NOTES

Contents –

- Time limit for issuance of invoice [Sec 31(1),(2), (4), (5), (6) &(7)]
- Special aspects of tax invoice [Sec 31(3)]
- Bill of Supply [Sec 31(3)(c)
- Contents of documents
- Delivery challan (Rule 55)
- Credit and Debit notes [Sec 34]
- E-invoicing [Rule 48(4)]

1. Introduction

- An invoice is a commercial instrument issued by a supplier of goods/servicesto a recipient.
- Invoicing is very crucial aspect for ensuring tax compliance under any indirect taxation system.
- In order to ensure transparency, issuance of invoice for every taxable transaction is a pre-requisite.
- An invoice serves as a demand for payment and becomes a document of title when paid in full.

Invoice or tax invoice [Sec 2(66)]- means the tax invoice referred to in section 31. This section mandates the issuance of an invoice or a bill of supplyfor every supply of goods or services.

- Under GST, a tax invoice is not only an evidence of supply of goods or services but is also an essential document for the recipient to avail Input Tax Credit (ITC).

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A registered person cannot avail input tax credit unless he is in possession of atax invoice or a debit note.

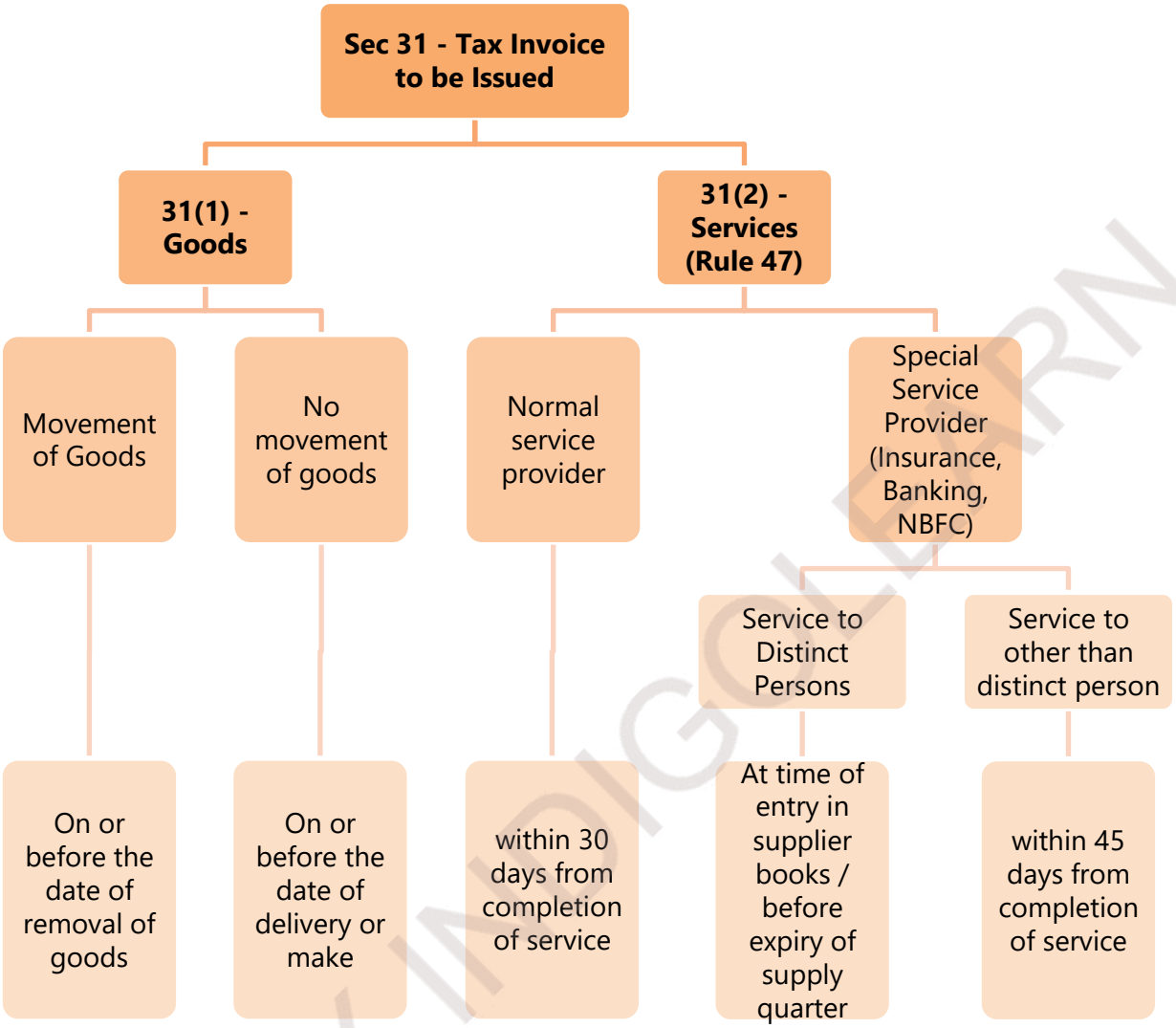
- There is no format prescribed for the Tax Invoice. Only certain fields have been prescribed as mandatory fields.
- ***A tax invoice shall be issued by a registered person supplying taxable goods or taxable services or both.***

2. Time limit for issuance of invoice [Sec 31(1) and (2)]

- The time for issuing an invoice would depend on the nature of supply viz. whether it is a supply of goods or supply of services.
- **Sec 31(1)** - A registered person supplying **taxable goods** shall issue a taxinvoice :
  - ***where supply involves movement of goods***
    - ✓ before or at the time of removal of goods
  - ***where supply does not involve movement of goods***
    - ✓ before or at the time of delivery or making available thereof to the recipient.
- The Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed. (e.g., Movie ticket issued by theatre).
- Government may notify the categories of services in respect of which any other document issued in relation to supply shall be deemed to be a tax invoice or tax invoice may not be issued.
- **Sec 31(2)** - A registered person supplying **taxable Services** shall issue a tax invoice :
  - ***Generally***
    - ✓ Before or after the provision of service, but within a period of 30 days from the date of supply of service.
  - ***where the supplier is an insurer or banking company or financial institution, including a non- banking financial company (NBFC)***
    - ✓ Before or after the provision of service, but within a period of 45 days from the date of supply of service.
  - ***where the supplier is an insurer or banking company or financial institution, including a non- banking financial company (NBFC) or a telecom operator, or any other class of supplier of services as may be notified by the Government, making taxable supplies of services between distinct persons as specified in section 25***
    - ✓ Before or at the time such supplier records the same in his books of accounts or before the expiry of quarter during which thesupply was made.

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3. Sec 31(3) – Aspects related to tax invoice

3.1 Revised Tax Invoice [Section 31(3)(a) read with rule 53]

- **Sec 25** - A person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration. When such an application is made within the stipulated time period and registration is granted, the effective date of registration is the date on which the personbecame liable for registration.
- Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue Revised Tax Invoices.
- Such invoices shall be issued against the invoices already issued during said period. The revised invoices enables the recipient to avail ITC on such supplies.



- ***Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration.***
- The words "Revised Invoice" shall be indicated prominently on such invoices.
- A registered person may issue a ***Consolidated Revised Tax Invoice*** in respect of all taxable supplies made to an ***unregistered recipient*** during such period.
- Revised tax invoices to be issued in respect of taxablesupplies effected during the period from effective date of registration till the date of certificate of registration.

3.2 Consolidated Tax Invoice [Section 31(3)(b) read with 4th proviso to rule. 46]

- A registered person may not issue a Tax Invoice if:
  (i) Value of the goods/services/both supplied < Rs. 200,
  (ii) The recipient is unregistered; and
  (iii) The recipient does not require such invoice.
- Instead such registered person shall issue a ***Consolidated Tax Invoice*** for such supplies at the close of each day in respect of all such supplies.
- Above provision is ***also applicable to Bill of Supply***.
- However, this option is ***not available*** to a supplier engaged in making supply of services by way ***of admission to exhibition of cinematograph films*** in multiplex screens.

3.3 Bill of Supply [Section 31(3)(c) read with rule 49]

- Section 31(3)(c) stipulates that a registered person supplying
  - exempted goods or services or both or
  - a registered person paying tax under composition levy,shall

  issue ***a 'bill of supply'*** instead of a tax invoice.
- Person opting for composition levy shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him.
- Since no tax is collected from the recipient by a registered person opting for the composition levy and a registered person supplying exempted goods and/or services, Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.
- Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.
- **Invoice-cum-bill of supply [Rule 46A] -** Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, ***a single "invoice-cum-bill of supply" may be issued*** for all such supplies. Rule 46A is notwithstanding anything contained in rule 46 or rule 49 or rule 54 of CGST Rules.
- Where a registered person is supplying taxable as well as exempted goods or services or both to a registered person, he has to issue separate Tax invoice

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for taxable supplies and Bill of supply for exempted supplies.

3.4 Receipt Voucher and Refund Voucher [Section 31(3)(d) and Section 31(3)(e) read with rule 50 and rule 51 respectively]

- A registered person shall, on ***receipt of advance payment*** with respect to any supply of goods or services or both, ***issue a Receipt Voucher*** evidencing receipt of such payment.
- Where at the time of receipt of advance, rate of tax and/or nature of supply is not determinable :
  - For rate of tax - tax shall be paid at the rate of **18%**
  - For nature of supply - same shall be treated as **inter-State supply (**i.e., IGST shall be made at 18%)

Sec 12 – GST is not payable on advances in case of supply of goods. However, GST is payable on advances in case of supply of services

3.5 Invoice and Payment Voucher [Section 31(3)(f) & (g) read with second. proviso to rule 46 and rule 52]

- The recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes under section 9(3). Such supplies can be received from a registered or an unregistered supplier.
- Further, a builder/promoter is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:
  (i) A builder/promoter must purchase 80% of inputs and input services used in supplying the service from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).
  (ii) Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement on reverse charge basis and
  (iii) GST on capital goods is payable by the promoter on reverse charge basis.
- A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act]
  - shall ***issue an Invoice*** in respect of goods or services or both
  - ***received by him from the supplier who is not registered***
  - on the ***date of receipt*** of goods or services or both.
- Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall
  - issue a ***Payment Voucher***
  - at the time of making payment to the supplier.
- Thus, a recipient liable to pay tax by virtue of section 9(3) has to issue invoice and payment voucher only when supplies have been received from an unregistered supplier *and such invoice must be issued within 30 days from the date of receipt of said supply of goods or services.*

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4. Time of issue of Invoice in case of continuous supply of goods and services [Sec 31(4) & 31(5)]

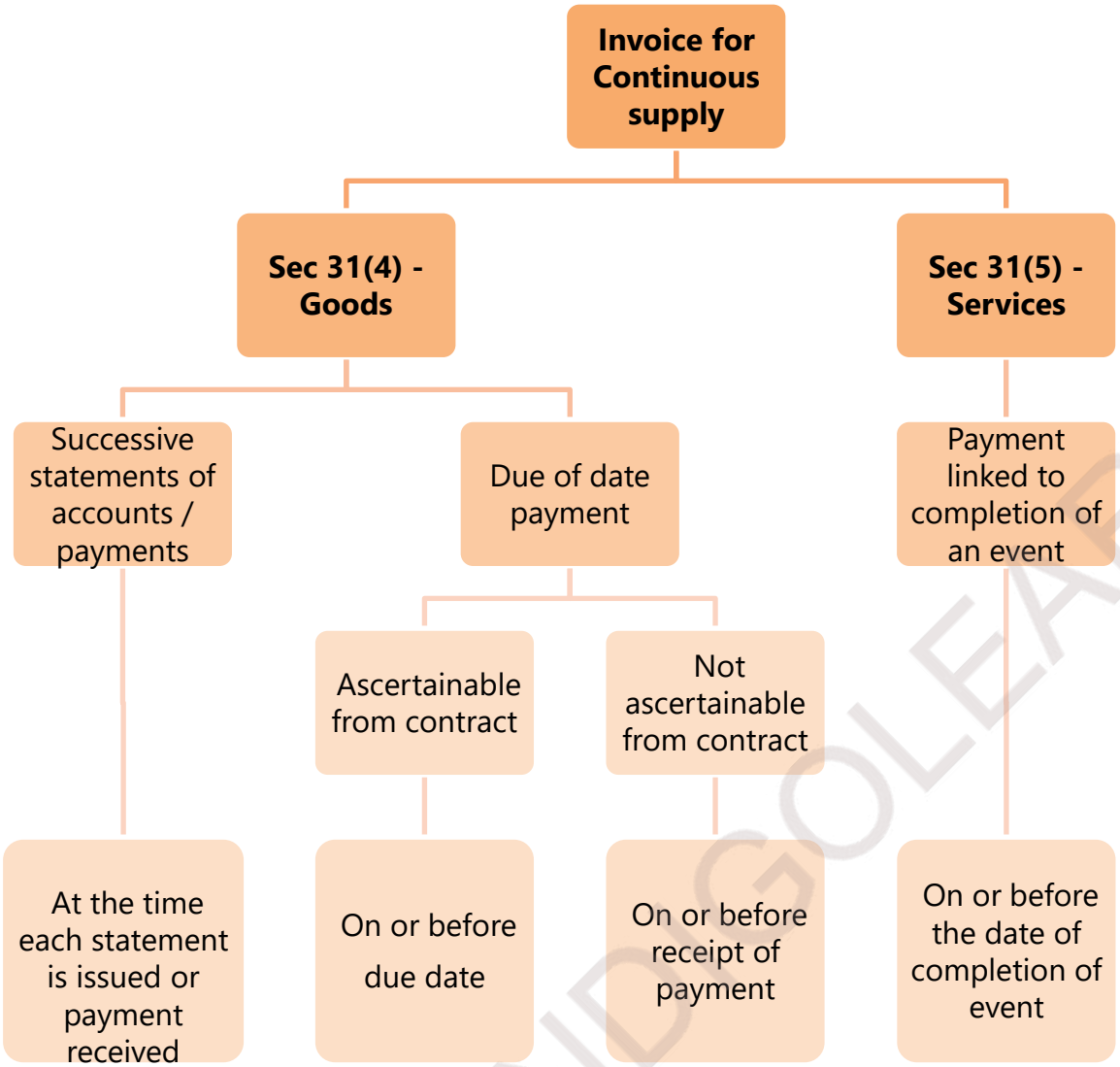
4.1 In case of continuous supply of goods

- Continuous supply of goods means supply continuously or on recurrent basis, under a contract whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis.
- Where successive statements of accounts / successive payments are involved, the invoice shall be issued
    - Before / at the time each such statement is issued or each such payment is received as the case may be.

4.2 In case of continuous supply of services

- Continuous supply of services means supply provided continuously or on recurrent basis under a contract for a period exceeding 3 months with periodic payment obligations.
- The invoice shall be issued
    - Where due date of payment is ascertainable from the contract
        - ✓ on or before the due date of payment
    - where due date of payment is not ascertainable from the contract
        - ✓ before or at the time when the supplier of service receives the payment
    - where payment is linked to the completion of an event
        - ✓ on or before the date of completion of that event.

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5. Time of issue of Invoice in case of cessation and sale on approval basis [Sec 31(6) & 31(7)]

5.1 Where supply of services ceases before its completion [Section 31(6)]

- In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the ***time when the supply ceases*** and
- Such invoice shall be issued to the extent of the supply made before such cessation.

5.2 Goods sent on sale or return basis [Section 31(7)]

- Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued:
    - before/at the time of supply Or
    - 6 months from the date of removal
    - whichever is earlier.

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6. Particulars of a tax invoice [Sec. 31(1) & (2) read with rule 46]

- **Mandatory fields** - There is no format prescribed for an invoice, but rules make it mandatory for an invoice to have the following fields (only applicable fields are to be filled):
  1) Name, address and GSTIN of the supplier
  2) A consecutive serial number
  3) Date of its issue
  4) Name, address and GSTIN or UIN of recipient (If recipient is registered)
  5) HSN code for goods or services
  6) Description of goods or services
  7) Quantity in case of goods and unit or Unique Quantity Code thereof
  8) Total value of supply of goods or services or both
  9) Taxable value of supply of goods or services or both taking intoaccount discount or abatement, if any
  10) Rate of tax (central tax, State tax, integrated tax, Union territory taxor cess)
  11) Amount of tax charged
  12) Place of supply along with the name of State, in case of a supply inthe course of inter-State trade or commerce
  13) Address of delivery where the same is different from the place ofsupply
  14) Whether the tax is payable on reverse charge basis
  15) Signature or digital signature of the supplier or his authorized representative (not required in case of issuance of an electronic invoice in accordance with the provisions of the Information Technology (IT) Act, 2000).
  16) Quick Response code, having embedded Invoice Reference Number(IRN) in it, in case e-invoice has been issued.

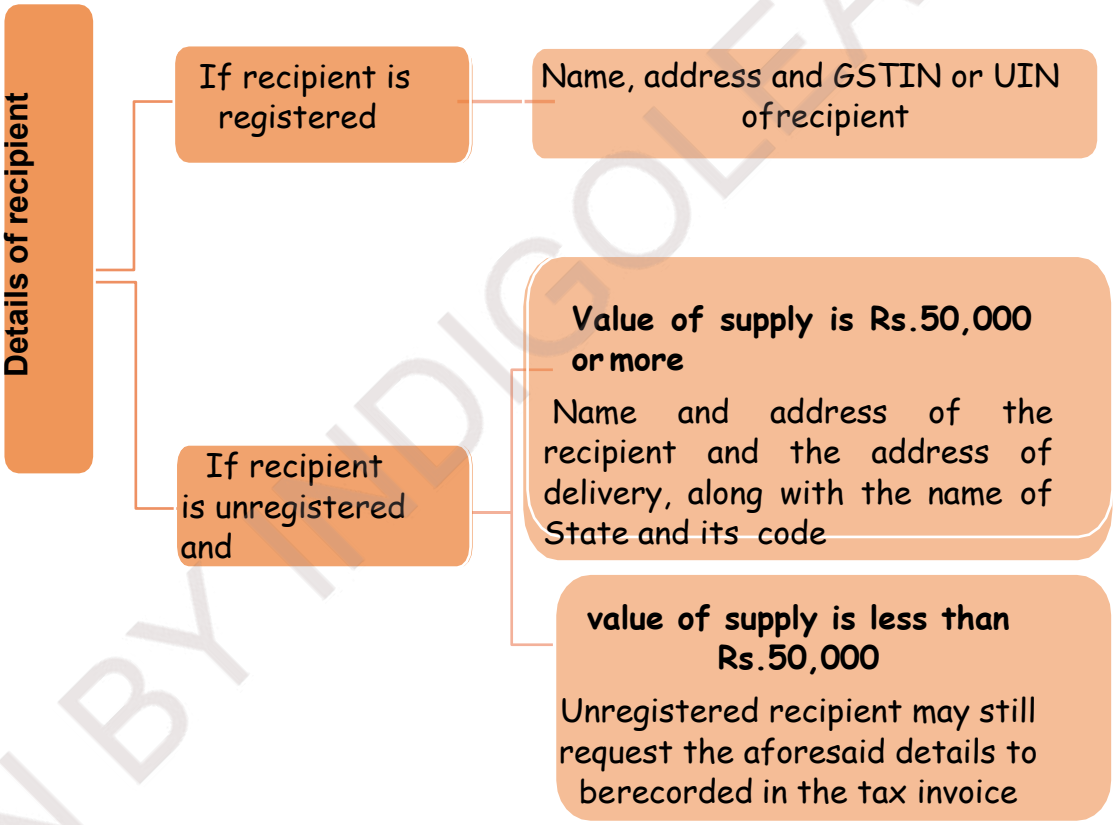
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- **Specifications of Invoice number**
  1) Every invoice must contain aconsecutive serial number
  2) Such number cannot not exceed 16 characters.
  3) It can contain alphabets/ numerals/ special
  4) characters hyphen or dash and slash, and any combination thereof.
  5) It can be in one or multiple series.

The serial number of invoices issued during a tax period shall be furnished electronically [through the Common Portal – www.gst.gov.in], in FORM GSTR-1 [Details of outward Supplies of goods or services].

- **Details of recipient**



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- **Number of HSN digits required on tax invoice** and class of registered person not required to mention HSN [Rule 46].
  - HSN - Harmonised System of Nomenclature – 8 Digit code given for supply of goods
  - SAC – Service Accounting code - 6 Digit code given for supply of services
- Board may, on the recommendations of the Council, by notification, specify Number of HSN digits required on tax invoice and class of registered person not required to mention HSN. In view of this powers, following has been notified vide Notification No. 12/2017 CT dated 28.06.2017 as amended:

- Position with effect from 1.4.2021

Sr.No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1.	AT ≤ Rs.5 crores	For B2B supply - 4 For B2C supply – 4 (optional)
2.	AT > Rs.5 crores	For B2B supply and B2C supply – 6

- **Manner of issuing the invoice [Rule 48]**

In case of taxable supply of Goods	In case of taxable supply of Services
Invoice shall be prepared in **TRIPLICATE**	Invoice shall be prepared in **DUPLICATE**
Original copy – For recipient Duplicate copy - For Transporter Triplicate copy – For supplier	Original copy - For recipient Duplicate copy - For supplier

In cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an ECO to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient'.

The signature or digital signature of the supplier/his authorised representative Shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions Of the Information Technology Act, 2000

 In cases, where an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of the IGST Act, and the payment is received by the supplier, in convertible FOREX or in Indian Rupees wherever permitted by the RBI (such supply of services is not considered as export of services as per the IGST Act), such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier

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7. Particulars of other documents

- **Particulars of Revised Tax Invoice[Sec 31(3) read with rule 53 & 46] –** The law does not specify any format for revised tax invoice but it must contain the following details:
  1) The word 'revised invoice'.
  2) Name, address and GSTIN of the supplier;
  3) A consecutive serial number not exceeding 16 characters.
  4) Date of issue of document
  5) Name, address and GSTIN or UIN of recipient (If recipient is registered)
  6) Name, address of recipient, address of delivery along with name of state and its code, if recipient is unregistered.
  7) Serial number and date of corresponding tax invoice as the case may be,bill of supply
  8) Value of taxable supply, rate of tax, and amount of tax.
  9) Signature or digital signature of the supplier or his authorized representative

- **Particulars of Bill of supply [Sec 31(3)(c) read with rule 49] -** The law does not specify any format but it must contain the following details:
  1) Name, address and GSTIN of the supplier;
  2) A consecutive serial number not exceeding 16 characters.
  3) Date of issue of document
  4) Name, address and GSTIN or UIN of recipient (If recipient is registered)
  5) HSN code of goods and services
  6) Description of goods or services
  7) Value of supply
  8) Signature or digital signature of the supplier or his authorized representative
- **Particulars of Receipt voucher [Sec 31(3)(d) read with rule 50] –** Following are the details a receipt voucher must contain :
  1) Name, address and GSTIN of the supplier;
  2) A consecutive serial number not exceeding 16 characters.
  3) Date of issue of document
  4) Name, address and GSTIN or UIN of recipient (If recipient is registered)
  5) Description of goods or services
  6) Amount of advance taken
  7) Rate of tax
  8) Amount of tax charged in respect of taxable goods or services
  9) Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce
  10) Whether the tax is payable on reverse charge basis; and
  11) Signature/digital signature of supplier/his authorized representative.

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- **Particulars of Refund voucher [Sec 31(3)(e) read with rule 51] –**
  1) Name, address and GSTIN of the supplier;
  2) A consecutive serial number not exceeding 16 characters.
  3) Date of issue of document
  4) Name, address and GSTIN or UIN of recipient (If recipient is registered)
  5) Description of goods or services
  6) Amount of refund made
  7) Rate of tax
  8) Amount of tax paid in respect of taxable goods or services
  9) Whether the tax is payable on reverse charge basis; and
  10) Signature/digital signature of supplier/his authorized representative

- **Particulars of payment voucher [Sec 31(3)(f) & (g) read with rule 52] –**
  1) Name, address and GSTIN of the supplier;
  2) A consecutive serial number not exceeding 16 characters.
  3) Date of issue of document
  4) Name, address and GSTIN or UIN of recipient
  5) Description of goods or services
  6) Amount paid
  7) Rate of tax
  8) Amount of tax payable in respect of taxable goods or services
  9) Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
  10) Signature/digital signature of supplier/his authorized representative
- However, the signature or digital signature of the supplier/his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000.

8. Special cases where supplier can issue any document other than tax invoice. [Section 31(2) read with rules 52]

- Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which--
  - any other document issued in relation to
  - the supply shall be deemed to be a tax invoice; or
  - tax invoice may not be issued.

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Following suppliers may issue a tax invoice, but they are also permitted to issueany other document in lieu of tax invoice, by whatever name called:

		Information in the document in lieu of Invoice	
Sr.No.	**Supplier**	**Optional**	**Mandatory**
1.	Insurer/Banking company/Financial institution, including NBFC	Serial number Address of therecipient	Other information as prescribed for a Tax Invoice, under rule 46. Issue a consolidated tax invoice/ advice or any other document in lieu thereof, by whatever name called may be issued for supply made during a month at the end of the month.
2.	Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage		• Gross weight of the consignment • Name of the consignor and the consignee • Registration number of goods carriage in which the goods are transported • Details of goods transported • Details of place of origin and destination • GSTIN of the person liablefor paying tax whether as consignor, consignee or GTA • Other information as prescribed for a tax invoice, under rule 46
3.	Supplier of	• Serial number	• Tax invoice shall include

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	passenger transportation service	• Address of therecipient	ticket in any form, bywhatever name called. • Other information as prescribed for a tax invoice,under rule 46
4.	Registered person supplying servicesby way of admission to exhibition of cinematograph films in multiplex screens	• Details of recipient of service	• Supplier is required to issue an electronic ticket and thesaid electronic ticket shall bedeemed to be a tax invoice • Other information as prescribed for a tax invoice, under rule 46

9. Delivery Challan [Rule 55]

- Rule 55 specifies the cases where at the time of removal of goods, goods maybe removed on delivery challan and **invoice may be issued after delivery**.
  - Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
  - Transportation of goods for job work,
  - Transportation of goods for reasons other than by way of supply, or
  - Such other supplies as may be notified by the board
- Delivery challan to be issued should be serially numbered not exceeding 16 characters.
- **Particulars of deliver challan**:
  1) Date and number of the delivery challan
  2) Name, address and GSTIN of the consigner, if registered
  3) Name, address and GSTIN or UIN of the consignee, if registered
  4) HSN code and description of goods,
  5) Quantity (provisional, where the exact quantity being supplied is not known)
  6) Taxable value
  7) Tax rate and tax amount where the transportation is for supply to the consignee
  8) Place of supply in case of inter-state movement
  9) Signature

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- **Other aspects of delivery challan**
- The delivery challan shall be prepared in ***TRIPLICATE***
  - Original copy – For Consignee
  - Duplicate copy - For Transporter
  - Triplicate copy - For Consignor
- **Declaration in E-way Bill** - Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill.
- **Where tax invoice could not be issued** - Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.
- **Goods transported in SKD/CKD condition or in batches or lots -** Where the goods are being transported in a semi knocked down (SKD) or completely knocked down (CKD) condition or in batches or lots,
  - the supplier shall issue the complete invoice before dispatch of the first consignment;
  - the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
  - Copies of the corresponding delivery challan shall accompany each consignment along with a duly certified copy of the invoice; and
  - the original copy of the invoice shall be sent along with the last consignment
- **Goods sent on approval basis or Movement of art work –**
  - Sometimes there is movement of goods within a state or to other state at the request of buyer but the sale is not finalised.
  - Since the suppliers are not able to ascertain their actual supplies beforehand, they are unable to register as a casual taxable person.
  - In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.
  - For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once thesupply is fructified.
  - The above provisions are applicable in case where artists supply art worksin different States other than the State in which they are registered. If the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. The movement of artwork happens on a delivery challan along with the e-way bill.

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10. Section 32 and 33

- **Prohibition of unauthorised collection of tax [section 32]**
  - A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.
  - No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

- **Amountof tax to be indicated in tax invoice and other documents [Section 33]**
  - where any supply is made for a consideration,
  - every person who is liable to pay tax for such supply
  - shall prominently indicate in all documents relating to assessment, tax invoice and other like documents,
  - the amount of tax which shall form part of the price at which such supplyis made

11. Debit note and Credit note (Section 34)

Credit note [Sec 2(37)]- means a document issued by a registered personunder sub-section (1) of section 34.

Debit note [Sec 2(38)]- means a document issued by a registered person under sub-section (3) of section 34.

- **Issuance of Credit Note -** In order to regularize any of the below mentioned kinds of situations, the supplier is allowed to issue a document called as ***credit note*** to the recipient:
  - The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
  - The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
  - The quantity received by the recipient is less than what has been declared in the tax invoice.
  - The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value
  - Any other similar reasons

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- **Purpose of issuance**
  - The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised.
  - The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

> Credit note(s) are not permitted to be issued in case secondary discounts are allowed by the supplier since the tax liability of the supplier does notget reduced in such case. However, supplier can issue financial/ commercialcredit note(s) to reduce the value of supply payable by the recipient to the supplier.

Sub-section (2) of section 34 is to be amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year upto 30th day of November of the following financial year.

- **Time limit for issuing credit note**
- Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than:
  - 30th November following the end of the financial year in which such supplywas made, Or
  - the date of furnishing of the relevant annual return,
  - whichever is earlier.
- The tax liability shall be adjusted in such manner as may be prescribed.
- However, no reduction in output tax liability of the supplier shall be permitted,if the incidence of tax and interest on such supply has been passed on to any other person.

- **Issuance of Debit Note -** In order to regularize the below mentioned kinds of situations, the supplier is allowed to issue a document called as debit note to the recipient:
  - The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
  - The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
  - The quantity received by the recipient is more

> Debit note shall also be called supplementary invoice.

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than what has been declared in the tax invoice.

- Any other similar reasons.

- **Purpose of issuance**
  - The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced.
  - The issuance of a debit note/supplementary invoice creates additional tax liability.
  - The treatment of a debit note/supplementary invoice is identical to the treatment of a tax invoice as far as returns and payment are concerned.

- **Time limit for issuing credit note**
  - Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued.
  - The tax liability shall be adjusted in such manner as may be prescribed

- **Particulars of the Debit and Credit Notes [Rule 53(1A)] -** There is no prescribed format, but credit and debit note issued by a supplier must contain the following particulars, namely:-
  1) Name, address and GSTIN of the supplier.
  2) Nature of the document.
  3) A consecutive serial number not exceeding 16 characters.
  4) Date of issue of the document.
  5) Name, address and GSTIN or UIN, if registered, of the recipient.
  6) Name and address of the recipient and the address of delivery, alongwith the name of State and its code, if such recipient is un-registered.
  7) Serial number(s) and date(s) of the corresponding tax invoice(s) or, as thecase may be, bill(s) of supply.
  8) Value of taxable supply of goods or services, rate of tax and the amount ofthe tax credited or, as the case may be, debited to the recipient.
  9) Signature/digital signature of the supplier/his authorized representative.

12. E-Invoicing

12.1 What is E-invoicing

- E-invoicing is not generation of invoice by a Government portal.
- Taxpayers will continue to create their GST invoices on their own Accounting/ Billing/ ERP Systems as per e-invoice schema.
- These invoices will then be reported to 'Invoice Registration Portal (IRP)'.

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On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier.

- A GST e-invoice will be valid only with a valid IRN.
- Presently, invoices, credit notes and debit notes, when issued by notified persons (to registered persons (B2B) or for the purpose of exports) are covered under e-invoice.

12.2 From when to issue E-invoices

- 'E-invoicing' has been introduced for reporting of business to business (B2B) invoices to GST System, beginning from 1st January 2020 on voluntary basis.
- In case, e-invoice is issued {according to Rule 48(4)}, the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.
- E-invoicing mandatory for all registered businesses with aggregate turnover in any preceding financial year from 2017-18 onwards greater than Rs. 5 crore

12.3 Class of persons notified to mandatorily issue E-invoice

- If the invoice issued by a notified person is in respect of supplies made by him tax on which is payable under reverse charge under section 9(3), e-invoicing is applicable.
- On the other hand, where specified category of supplies are received by notifiedperson from unregistered persons [attracting reverse charge under section 9(4)] or through import of services, e-invoicing doesn't arise/ not applicable.
- E-invoicing is also not applicable for import of goods (Bills of Entry).
- ***Every invoice, issued by above persons, in any manner other than the manner specified in the rule 48(4) shall not be treated as an invoice.***

12.4 Exemption from E-invoicing

- Following entities are exempt from the mandatoryrequirement of e-invoicing:
  1) Special Economic Zone units
  2) Insurer or banking company or financial institution including NBFC
  3) GTA supplying services in relation to transportation of goods by road in agoods carriage
  4) Supplier of passenger transportation service
  5) Person supplying services by way of admission to exhibition ofcinematograph films in multiplex screens
  6) Invoices issued by Input Service Distributor (ISD)
  7) Government Department

Only SEZ units and not SEZ developers are exempt from issuing e-invoices.

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8) Local Authority

- Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds Rs.5 Crores in the preceding financial year from 2017-18 onwards.
- In case of supplies made by notified persons to SEZ units, e-invoices need to be issued.

12.5 Advantages of E-invoicing

- Auto-reporting of invoices into GST return and auto-generation of e-way bill (wherever required).
- GSTR-1 can also be auto- populated with the e-invoice data.
- On receipt of information through GST System, buyer can do reconciliation with his Purchase Order.
- Facilitate standardisation and inter- operability leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.
- since a complete trail of B2B invoices is available with the Department, it will enable the system-level matching of input tax credit and output tax thereby reducing the tax evasion.
- Where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/duplicate.

12.6 How e-invoice is generated and how GST system uses it

- The taxpayer first prepares and generates his invoice using his own ERP/ accounting/ billing system or manual system.
- The invoice must conform to the e-invoice schema (standard notified format) and must have the mandatory parameters.
- The details of this invoice are uploaded/reported by the taxpayer to the Invoice Registration Portal (IRP). This way taxpayer registers his supply transaction on IRP.
- On uploading, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' after digitally signing the e-invoice and adding a QR Code (QuickResponse Code).
- Then, the supplier shares the e-invoice with the receiver (along with QR Code).
- IRP sends the e-invoice data along with IRN to the GST System as well as to E- Way Bill System.
- The GST system will auto-populate them into GSTR-1 of the supplier and GSTR- 2A of respective receivers.
- ***Where needed, the seller can cancel IRN for an e-invoice already reported by reporting it on IRP within specified time. Amendment of e-invoice already uploaded on IRP will be done only on GST portal. Amendment of invoices is not possible through the IRP.***

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12.7 Other key points

- ***E-invoice Schema*** - Uniform standard format (containing specified fields) applicable for all the businesses across the country is known as 'e-invoice schema'. It is notified as ***Form GST INV-1.***
- E-invoice schema mandates what particulars shall be reported in electronic format to IRP. By this, e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh/manual data entry.
- ***Invoice Registration Portal (IRP) -*** IRP is the website for uploading/reporting of invoices by the notified persons.
- ***Invoice Reference Number*** - GST invoice will be valid only with a valid IRN IRN is different from invoice number. Invoice no. (e.g., ABC/1/2019-20) is assigned by supplier and is internal to business. Its format can differ from business to

  business and also governed by relevant GST rules. IRN, on other hand, is a unique reference number (hash) generated and returned by IRP, on successful registration of e-invoice.
- ***ECO -*** The e-invoicing system is also ***available for the E-Commerce Operators (ECO)*** to report the invoices to the Invoice Registration portal, generated by them on behalf of the suppliers.
- ***Bulk uploading*** of invoices to IRP is also possible.
- ***QR code*** - Upon successful registration of invoice on IRP, it will return a signed e-invoice to the supplier with IRN and QR (Quick response) Code. The QR code enables quick view, validation and access of the invoices from the GST system from hand-held devices.
- ***Dynamic QR code*** - Invoice issued by a registered person (except specified class of persons who have been exempted), whose aggregate turnover in a financial year exceeds ***Rs.500 crores, in respect of B2C supplies*** (supply of goods or services or both to an unregistered person) shall have Dynamic QR code.
- A Dynamic Quick Response (QR) code made available to buyer by such registered person through digital display (with payment cross- reference) shall be deemed to be having QR code. The purpose of this provision is to enable andencourage digital payments where buyer can scan the dynamic QR code and make payment from mobile wallet directly.
- This has no relevance or applicability to the e-invoicing in respect to B2B supplies by notified class of taxpayers. Dynamic QR Code will be generated by the seller himself either on the Point of Sale (PoS) machine or the invoice issued.
- Dynamic QR Code is required to be provided on an invoice, issued to a person, who has obtained a UIN. Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" as per the definition of registered person provided in section 2(94). Therefore, any invoice, issued

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to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

- In cases, where an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of the IGST Act, and the payment is received by the supplier, in convertible FOREX or in Indian Rupees wherever permitted by the RBI (such supply of services is not considered as export of services as per the IGST Act), such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier

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Illustration 1

Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September.

- The spare parts were to be delivered on 30th September.
- Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September.

Determine the date by which invoice must be issued by Sultan Industries Ltd. under GSTlaw.

Illustration 2

MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances.

- On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine.
- As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered.
- During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract.

When should MBM Caretakers issue the invoice for the services rendered?

Illustration 3

The aggregate turnover of Sangri Services Ltd. exceeded Rs. 20 lakhs on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September.

You are required to advice Sangri Services Ltd. as to what is the effective date of registration in its case.

It has also sought your advice regarding period for issuance of Revised Tax Invoices.

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Illustration 4

Shyam Fabrics has opted for composition levy scheme in the current financial year. Ithas approached you for advice whether it is mandatory for it to issue a tax invoice.

You are required to advise him regarding same.

Illustration 5

Determine whether the following statements are true or false:

(i) A registered person shall issue separate invoice for taxable and exempted goods, when supplying both taxable as well as exempted supplies to an unregistered person

(ii) A NBFC can issue a consolidated tax invoice at the end of every month for the supply made during that month

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ACCOUNTS AND RECORDS

The provisions relating to accounts and records required to be maintained under GST are contained in sections 35 and 36 read along with Chapter VII - Accounts and Records of CGST Rules, 2017. Relevant provisions of CGST Rules, 2017 have been incorporated at relevant places.

- WHO IS REQUIRED TO MAINTAIN BOOKS OF ACCOUNTS AND AT WHICH PLACE?

Every registered person shall keep and maintain, books of accounts at his principal place of business (hereinafter referred to as PPoB) and books of account relating to additional place of business (hereinafter referred to as APoB) [as mentioned in the certificate of registration]. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

- WHICH ACCOUNTS AND RECORDS ARE REQUIRED TO BE MAINTAINED?

A true and correct account of following is to be maintained:

a) production or manufacture of goods;
b) inward and outward supply of goods or services or both;
c) stock of goods;
d) input tax credit availed;
e) output tax payable and paid
f) such other particulars as may be prescribed2

The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein. Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

The additional records to be maintained by specified persons are as under:-

i. **Registered person**

In addition to the particulars mentioned in section 35(1), the rules also provide that the registered

person5 is required to maintain a true and correct account of:

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- The goods/services imported/exported,
- supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.
- separate account of advances received, paid and adjustments made thereto.
- particulars of:
    - names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
    - names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter.
- particulars of the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein. However, if any taxable goods are found to be stored at any place(s) other than those so declared without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person. A supplier is required to maintain following records relating to stock of goods and tax details. However, a supplier who has opted for composition scheme is not required to maintain such records.
    a) Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
    b) Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period

ii. Agent

Every agent shall maintain accounts depicting the-

a. particulars of authorisation received by him from each principal to receive/supply goods/ services on behalf of such principal separately;
b. particulars including description, value and quantity (wherever applicable) of goods/services received on behalf of every principal;
c. particulars including description, value and quantity (wherever applicable) of goods/services supplied on behalf of every principal;
d. details of accounts furnished to every principal; and
e. tax paid on receipts/ supply of goods/services effected on behalf of every principal.

iii. Manufacturer

- Apart from other records, every registered person manufacturing goods has to maintain monthly production accounts showing quantitative details of raw materials/services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.



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iv. **Service Provider**

Every registered person supplying services has to additionally maintain the accounts showing quantitative details of goods used in the production of services, details of input services utilised and service supplied

v. **Person executing works contract**

Every registered person executing works contract shall keep separate accounts for works contract

showing-

- the names and addresses of the persons on whose behalf the works contract is executed;
- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

vi. **Custodian/clearing and forwarding agent**

Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person

and shall produce the details thereof as and when required by the proper officer.

vii. **Owner/operator of a warehouse/ godown and transporter**

Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed

Enrolment, if not already registered in GST: If such persons are not already registered, they shall obtain a unique enrollment number by applying electronically [In Form GST ENR-01] at the GST Common Portal.

The person enrolled as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

Such person may also amend the details furnished in the prescribed form.

Such person, once obtained unique enrollment number, shall not be eligible to use any of the GSTIN.

Transporter: Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.

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Owner/operator of a warehouse/ godown

Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

- HOW THE ACCOUNTS AND RECORDS WILL BE MAINTAINED? RECORDS MAY BEMAINTAINED MANUALLY
- Each volume of books of account maintained manually by the registered person shall be serially numbered.
    - Records may be maintained in electronic form
    - Books of account include any electronic form of data stored on any electronic device.
        - The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.
        - Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.
        - The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.
        - Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.
    - No entry to be erased/overwritten
        - Any entry in registers, accounts and documents shall not be erased, effaced or overwritten.
        - All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.
        - Where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.

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- Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.
- Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

- **WHAT ARE THE CONSEQUENCES OF FAILURE TO MAINTAIN THE ACCOUNTS?**
  Where the registered person fails to account for the goods and/or services in accordance with the provisions of section 35(1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73/section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.
- **Period of Retention of Accounts [Section 36]**
  Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35(1) shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.
  However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain
- the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation, or for the period specified above , whichever is later.

Failure to account for goods/services — Deemed to be supplied further — Demand of tax : Subject to the provisions of section 17(5)[h) [lost, stolen, etc. goods], where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

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Audit by CA or CMA, if turnover exceeds prescribed limit: Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant, and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section [2] of section 44 and such other documents in such form and manner as may be prescribed. Every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds 2 crores.

CONCEPT OF AUDIT BY CA/ CMA HAS BEEN NOW REMOVED

Books of accounts of the Central/State Government or local authority would not be subject to audit by a Chartered Accountant/Cost Accountant if the same are subject to audit by CAG of India or any statutory auditor appointed for auditing the accounts of local authorities.

Such registered person is required to furnish electronically through the common portal along with Annual Return a copy of Audited annual accounts and A Reconciliation Statement, duly certified.

GST Audit has been removed and now the taxpayer is required to submit self certified reconciliation statement in Form GSTR 9C

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E-WAY BILL

Contents –

- What is E-way bill [Sec 68]
- How and when to generate
- Special cases when threshold limit is not consideredS
- Who should generate
- Consolidated E-way bill
- Validity of E-way bill

1. Introduction

1.1 Statutory requirement

- Under GST regime, for quick and easy movement of goods across India withoutany hindrance, all the check posts across the country are abolished.
- However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced.
- Under this system, a taxpayer - prior to movement of goods via a conveyance - would inform each transaction's details to the tax department, obtain an acknowledgement number for having thus informed, and then use this acknowledgement number as a valid document accompanying the conveyance carrying goods.
- ***Section 68*** of the CGST Act stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

2. E-way Bill

E-way bill is an electronic document generated on the GST portal evidencingmovement of goods.

A ***waybill*** is a receipt or a document issued by a carrier giving details andinstructions relating to the shipment of a consignment of goods.

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2.1 How to generate

- E-way Bill is generated ***electronically in Form GST EWB 01*** on the common portal - www.ewaybillgst.gov.in
- The facility of generation, cancellation, updation and assignment of e-way billis available to the supplier, recipient and the transporter, as the case may be.
- E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.
- The pre-requisite for generation of e-way bill is that the person who generates e-way bill ***should be a registered person on GST portal and he should register on the e-way bill portal.***
- If the transporter is not registered person under GST it is mandatory for him to get enrolled on e-waybill portal (https://ewaybillgst.gov.in) before generation of the e-way bill.
- Upon generation of the e-way bill on the common portal, ***a unique e-way bill number (EBN)*** shall be made available to the supplier, the recipient and the transporter on the common portal

2.2 When to generate [Rule 138(1)]

- Whenever there is a movement of goods of ***consignment value exceeding Rs. 50,000***:
    - in relation to a supply; or
    - for reasons other than supply; or
    - due to inward supply from an unregistered person,

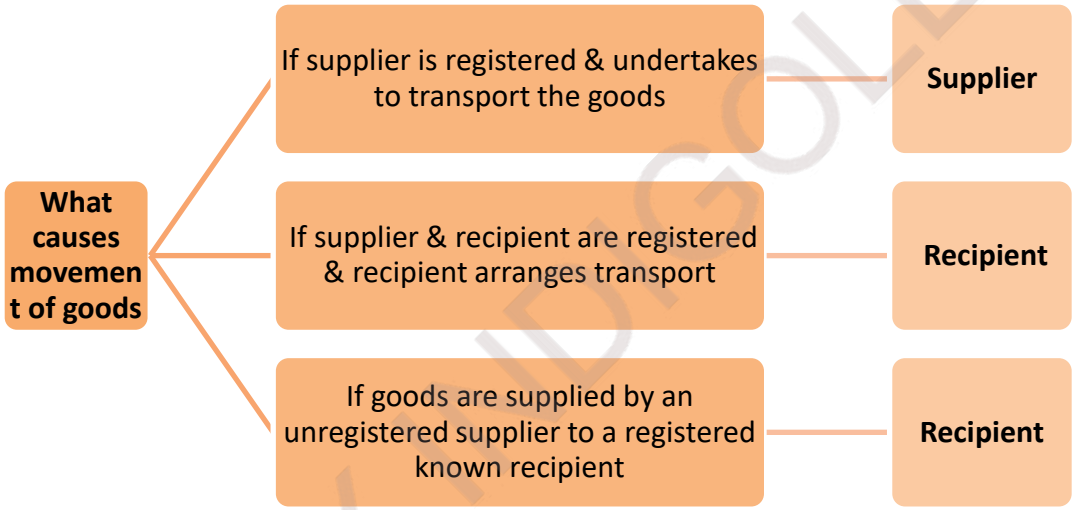
- The registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in ***Part A of Form GST EWB-01*** before commencement of such movement.

> Information is to be furnished prior to the commencement of movement of goods and is to be issued whether the movement is in relation to a supply orfor reasons other than supply.

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- 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 maybe, issued in respect of the said consignment and
  - Also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
  - Shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.
- In case of movement of goods for reasons other than supply, the movement is occasioned by means of a delivery challan which has to necessarily contain the value of goods, the value given in the delivery challan should be adopted in the e-way bill.

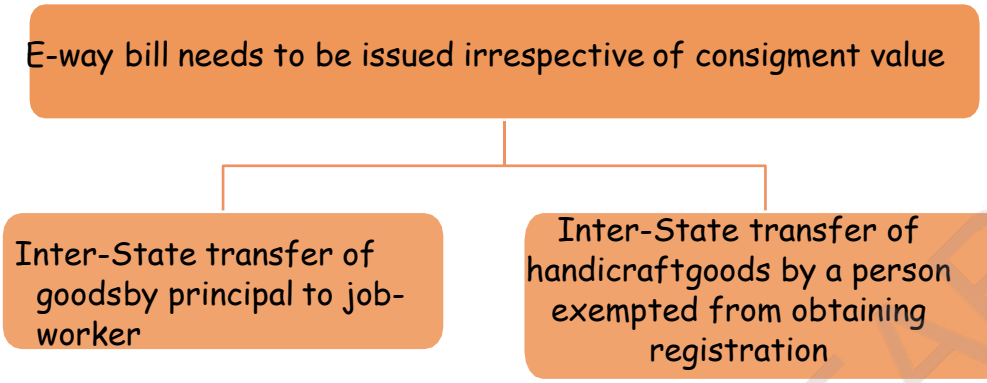
2.3 Who causes movement of goods?



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3. Special cases with regard to E-way bill

3.1 Situations where E-way bill needs to be issued even if the value of the consignment is less than Rs.50,000



3.1.1 Inter-State transfer of goods by principal to job-worker

- Where goods are sent by a principal
- to a job worker
- and both of them are located in different State or Union territory
- the e-way bill shall be generated either by the principal or the job worker, ifregistered.
- irrespective of the value of the consignment value.

3.1.2 Inter-State transfer of handicraft goods by a person exempted from obtaining 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 [under clauses (i) and (ii) of section 24],
- the e-way bill shall be generated by the said person
- irrespective of the value of the consignment

3.2 E-way Bill in case of 'Bill to Ship To' Model

- 'Bill to Ship To' - MR. A places an order to MR. B to ship the goods to Mr. C. In this case two supplies are involved and accordingly two tax invoices are requiredto be issued.
- It is clarified that as per the CGST Rules, 2017, either A or B can generate the e-Way Bill but it may be noted that ***only one e-Way Bill*** is required to be generated.

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4. Information to be furnished in e-way bill

An e-way bill Form GST EWB-01 contains two parts

Part A

1. GSTIN of supplier & recipient place of delivery (indicating PINCode)
2. Documentn number and date(Tax invoice, Bill of Supply,Delivery Challan or Bill of Entry)
3. Value of goods
4. HSN code
5. Reasons for transportation

Furnished by

1. The registered person who is causing movement of goods

Or

2. By the transporter, on an authorization received from such registered person

Or

3. By the e-commerce operator or courier agency, where the goods tobe transported are supplied throughsuch an e-commerce operator or a courier agency, on an authorization received from the consignor

Part B

1. Transport details
2. Transporter document number(Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill ofLading Number
3. Vehicle number - in case of t transport by road

Furnished by Transporter, the person who is transporting the goods

EWB number generated is valid fora period of 15 days for updation of Part B

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5. Who should generate e-way bill?

- **Where the goods are transported by a registered person –**
  - whether as consignor or as the consignee
  - whether in his own conveyance or a hired one or a public conveyance, byroad
  - the *said person shall have to generate the e-way bill*
  - by furnishing information in part B on the common portal
- **Where the e-way bill is not generated by the registered person -**
  - Where the goods are handed over to the transporter, for transportation of goods by road,
  - the registered person shall furnish the information relating to the transporter in Part B 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
- **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, information in part B.
- **Where the goods are transported by railways**
  - the e-way bill shall be generated by the registered person,
  - being the supplier or the recipient
  - either before or after the commencement of movement
  - However, there is no requirement to carry e-way bill along with the goods (railways has to carry invoice or delivery challan or bill of supply as the casemay be along with goods)
  - e-way bill generated for the movement is required to be produced at the time of delivery of the goods.
  - Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery.
  - Transport by railways does not include cases where leasing of parcel space by Railways takes place.
- **When the consignment value is less than Rs.50,000 –**
  - The registered person or,
  - the transporter may,
  - *at their option*,
  - generate and carry the e-way bill
  - even if the value of the consignment is less than Rs.50,000

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- **Where the movement is caused by an unregistered person**
  - either in his own conveyance or a hired one or through a transporter,
  - he or the transporter may,
  - *at their option*, generate the e-way bill
  - The unregistered person can create a login id and password for the purposeof generating e-way bill.
- **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 recipientis known at the time of commencement of the movement of goods and
  - He is supposed to generate the e-way bill.

6. Situations where E-way Bill is not required to be generated

1. where the goods being transported are the ones given below.

Goods specified in Annexure to Rule 138	
Sr.No.	**Description**
1.	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones;precious metals and metals clad with precious metal
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)]

Note: However, ewaybill is required in case of imitation jewellery.

2. where the goods are being transported by a non-motorised.
3. where the goods are being transported.
   - from the customs port, airport, air cargo complex and land customs station
   - to an inland container depot or a container freight station for clearance by Customs

4. In respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular Stateor Union territory

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5. where the goods [other than de-oiled cake], being transported, are exempt from tax.
6. where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel.
7. where the supply of goods being transported is treated as no supply under Schedule III of the Act.
8. where the goods are being transported under customs bond and under customs supervision or under customs seal.
9. where the goods being transported are transit cargo from or to Nepal or Bhutan.
10. Transport of goods by the Canteen Stores Depot to the Unit Run Canteensor to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers.
11. Transport of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd.
12. Any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee.
13. where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail.
14. where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.
15. where empty cargo containers are being transported.
16. where the goods are being transported up to a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

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7. Special points regarding E-way bill

7.1 When it is not mandatory to furnish the details of conveyance in Part-B

- As per rule 138(3), e-way bill is valid for movement of goods by road only when the information in Part-B is furnished.
- However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported ***for a distance of up to 50 km within the State/Union territory***

7.2 Transfer of goods from one conveyance to another

- Where the goods are transferred from one conveyance to another, the consignoror the recipient, who has provided information in Part A, or the transporter shall,before such transfer and further movement of goods, update the details of conveyance in Part B of the e-way bill on the common portal.
- Then a unique EBN is generated.
- The consignor/recipient, or the transporter, may assign the e-way bill number (EBN) to another registered/enrolled transporter for updating the information in Part B for further movement of the consignment [Rule 138(5A)].
- However, once the details of the conveyance have been updated by the transporter in Part B, the consignor or recipient, shall not be allowed to assign the e-way bill number to another transporter.

7.3 Consolidated E-way bill - [Rule 138(6)]

- Where ***multiple consignments*** are intended to be ***transported in one conveyance***, the transporter carrying multiple consignments of various consignors and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill instead of carrying separate document for each consignment in a conveyance.
- After e-way bill has been generated by the consigner or recipient, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a ***consolidated e-way bill in Form GST EWB-02*** may be generated by him on the said common portal prior to the movement of goods.
- Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.

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7.4 Information used in filing GST Returns.

- The information furnished in ***Part A*** of the e-way bill shall be made available to the registered supplier on the common portal who may ***utilize the same for furnishing the details in Form GSTR-1*** [Rule 138(8)].
- However, when the information has been furnished by an unregistered supplier/unregistered recipient, he shall be informed electronically, if the mobile number or the e-mail is available [Proviso to rule 138(8)].

7.5 Cancellation of e-way bill

- Where an e-way bill has been generated, but ***goods are either not transported or are not transported as per the details furnished*** in the e-way bill, the e-waybill may be cancelled electronically on the common portal ***within 24 hours of generation of the e-way bill*** [Rule 138(9)].
- However, an e-way bill cannot be cancelled if it has been ***verified in transit*** in accordance with the provisions of rule 138B.

7.6 Validity period of e-way bill/consolidated e-way bill [Rule 138(10)]

7.6.1 In cases other than Over Dimensional Cargo and Multi model shipment which involves at least leg of transport by ship

Distance within country	Validity period from relevant date
Upto 200 kms	1 Day
For every 200 kms or part thereof thereafter	1 additional day

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7.6.2 In cases other than Over Dimensional Cargo and Multi model shipment which involves at least leg of transport by ship

Distance within country	Validity period from relevant date
Upto 20 kms	1 Day
For every 20 kms or part thereof thereafter	1 additional day

- ***Relevant date*** means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the ***period expiring at midnight of the day immediately following the date of generation of e-way bill.***

- The validity of the e-way bill starts when first entry is madein Part-B i.e., vehicle entry is made first time in case.
  of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is thefirst entry.

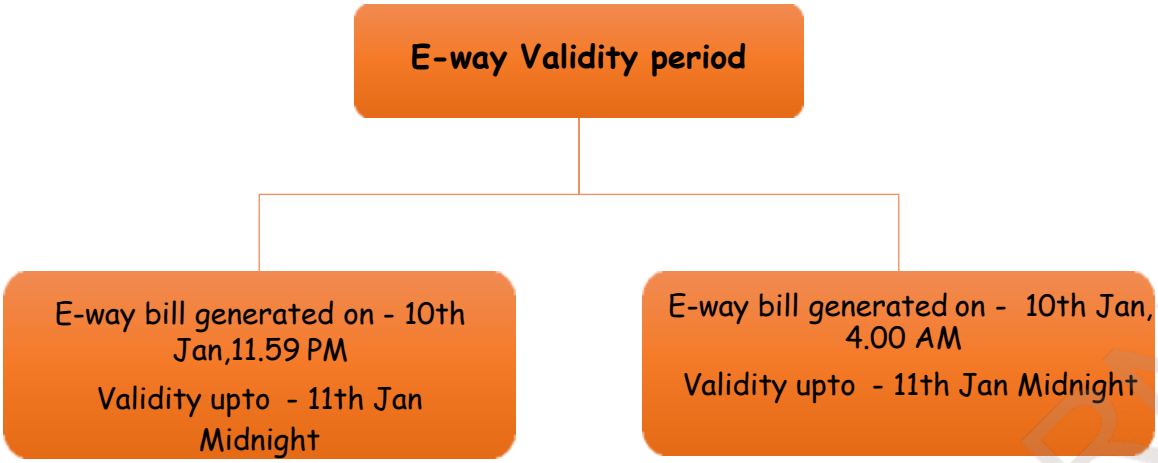
Validity is not re-calculated for subsequent entries in Part-B.

Over dimensional cargo means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed under the Motor Vehicles Act,1988.

Multi model shipment means goods are going through 2-3 conveyances and one of them is ship.

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- ***Example***



7.6.3 Extension of validity period

- **Extension by Commissioner: -** Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for ***certain categories of goods*** as may be specified therein.
- **Extension by Transporter :-** Transporter can extend the validity of the e-way bill, if the consignment is not being reached the destination within the validity period due to exceptional circumstance like
    - natural calamity,
    - law and order issues,
    - trans-shipment delay,
    - accident of conveyance, etc.
- He needs to explain this reason in details while extending the validity period inPart B.
- This option is available for extension of e-way bill before 8 hours and after 8 hours of expiry of the validity [Rule 138(12)].

7.6.4 Validity in another state/UT

- The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory [Rule 138(13)]

7.7 Acceptance of e-way bill

- Where the information in Part A has been furnished by one party, the details of the e-way bill generated shall be made available to the other party on the common portal, and such other party shall communicate his acceptance or rejection of the consignment covered by the e-way bill [Rule 138(11)]

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Party generating information in Part A	Accepted or rejected by
Supplier /Transporter	Recipient
Recipient / Transporter	Supplier

- The time-limit specified for accepting/rejecting is:
  - 72 hours of the details being made available to him on the common portal (or)
  - the time of delivery of

  goods whichever is earlier.

- In case, the acceptance or rejection is not communicated within the specified time,it shall be deemed to have been accepted.

1. E-way bill is not valid for movement of goods without vehiclenumber on it.
2. Once E-way bill is generated, it cannot be edited for any mistake.However, it can be cancelled within 24 hours of generation.
3. E- Way Bill may be updated with vehicle number any number oftimes.
4. The latest vehicle number should be available on e-way bill andshould match with the vehicle carrying it in case checked by thedepartment.

8. Other Procedures and other documents along with E-way bill

8.1 Obligations of person in charge of conveyance

- The person-in-charge of a conveyance shall carry –

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- The invoice or bill of supply or delivery challan, as the case may be; and
- A copy of the e-way bill either in
  - physical form or
  - the e-way bill number in electronic form or
  - mapped to a RFID (Radio Frequency Identification device) embeddedon to the conveyance [Only in case of road]

- in such manner as may be notified by the Commissioner [Rule 138A(1)

8.2 Documents in lieu of e-way bill

- Where circumstances so warrant, the Commissioner may, by notification, requirethe person-in-charge of the conveyance to carry the following documents insteadof the e-way bill:
  - tax invoice or
  - bill of supply or
  - a delivery challan, where the goods are transported for reasons other than by way of supply [Rule 138A(5)]

8.3 Invoice Reference Number in lieu of tax invoice

- A registered person may obtain an Invoice Reference Number from the common portal by uploading, a tax invoice issued by him in the prescribed form and produce the same for verification by the proper officer in lieu of the tax invoice.
- Such number shall be valid for a period of 30 days from the date of uploading. [Rule 138A (2)].
- In case, e-invoice is issued, the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice [Rule 138A(2)].
- In both cases, the registered person will not have to upload the information in Part A of E-way bill for generation of e-way bill and the same shall be auto- populated by the common portal on the basis of the information furnished in theprescribed form [Rule 138A(3)].

8.4 Verification of documents and conveyances [Rule 138B]

- The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to ***intercept any conveyance*** to ***verify the e-way bill in physical or electronic form*** for all inter-State and intra-State movement of goods.
- The Commissioner shall get ***RFID readers installed at places*** where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

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- However, on receipt of specific information on evasion of tax, physical verificationof a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by himin this behalf.

- A ***summary report*** of every inspection of goods in transit shall be recorded online by the proper officer in ***Part A*** of a prescribed form ***within 24 hours*** of inspection and the ***final report in Part B*** of said form shall be recorded ***within 3 days*** of such inspection. [Rule 138C]

- However, where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, ***extend the time*** for recording of the final report in Part B of said form, for a ***further period not exceeding 3 days***.

- The period of 24 hours or, as the case may be, three days shall be counted from the midnight of the date on which the vehicle was intercepted.

- Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently.

8.5 Information regarding detention of vehicle [Rule 138D]

- Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in specified form on the common portal.

8.6 Restriction on furnishing of information in Part A of Form GST EWB-01 [Rule 138E]

- No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall not be allowed to furnish the information in Part A of Form GST EWB-01 in respect of following registered persons, whether as a supplier or a recipient:

1) A person paying tax under composition scheme has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or
2) A person paying tax under regular scheme has not furnished the returns for2 consecutive months, or
3) A person paying tax under regular scheme has not furnished

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GSTR-1(Statement of outward supplies) for any 2 months or quarters, as the case may be.

- However, Commissioner may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions.

  An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

- Rule 138E of the CGST Rules contains provisions pertaining to blocking of eway bill generation facility, i.e. disabling the generation of e-way bill. Earlier, a user was not able to generate e-way bill for a GSTIN if the said GSTIN was not eligible for e-way bill generation in terms of rule 138E. It implies that the GSTINs of such blocked taxpayers could not be used to generate the e-way bills neither as supplier (consignor) nor as recipient (consignee).
- Said rule has been amended to relax such restriction. **Blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN.** Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

  [Notification No. 15/2021 CT dated 18.05.2021]

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PAYMENT OF TAX

Contents –

- Electronic credit ledger [Sec 49]
- Electronic cash ledger [Sec 49]
- Electronic liability register [Sec 49]
- Manner of set off [Sec 49]
- Interest on delayed payment of tax [Sec 50]

1. Introduction

1.1 Various payments to be made

- In the GST regime, the following are payable by any taxpayer to the government:
  - For any intra-state supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government and the State GST(SGST)/UTGST, going into the account of the concerned State Government.
  - For any inter-state supply, tax to be paid is Integrated GST (IGST) having components of both CGST and SGST.
  - Certain categories of registered persons will be required to pay to the Governmentaccount tax deducted at source (TDS) and tax collected at source.
  - In addition, wherever applicable, interest, penalty, fees and any other payment willalso be required to be made.
- While paying the output tax liability, the taxpayer can set off the input tax and pay the balance amount.

1.2 Manner of utilisation of ITC [Sec 49(5)]

- Entire ITC of IGST is to be fully utilised first before the ITC of CGST or SGST/UTGSTcan be utilized.
- CGST input cannot be set off against SGST/UTGST
- Similarly, SGST/UTGST input cannot be set off against of output liability of CGST or any other SGST/UTGST.

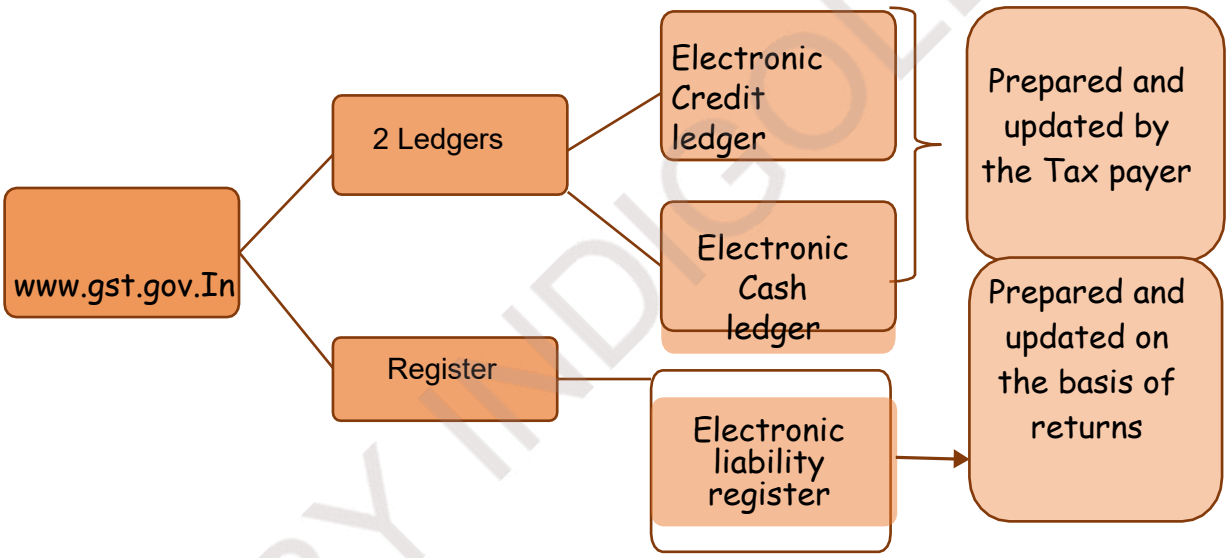
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ITC Available	Can be set off against output of	Order of set off
IGST	IGST,	IGST for IGST first
	CGST SGST UTGST	Balance IGST of CGST and SGST/UTGST in anyorder and any proportion
CGST	CGST IGST	1. CGST 2. IGST
SGST/ UTGST	SGST IGST	1. SGST 2. IGST
UTGST	UTGST IGST	1. UTGST 2. IGST

1.3 Ledgers under GST regime

- The introduction of E-ledgers is a unique feature under the GST regime.



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- Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened anddisplayed on his dash board at all times.
- Electronic Liability register is prepared and updated on the basis of returns furnished by the Registered person or Tax authority.

2. Electronic credit ledger

- Sub-section (2) of section 49 of the CGST Act provides that the self-assessed input tax credit (ITC) by a registered person shall be credited to its Electronic Credit Ledger. It is maintained in a prescribed form [GST PMT 02]
- The amount available in the electronic credit ledger may be used for making any payment towards output tax under CGST or IGST. It is pertinent to note that "output tax" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods and/or services made by him or by his agent
- But it excludes tax payable by him on reverse charge basis. Thus, ***ITC cannot be utilised for tax payable under reverse charge mechanism.***
- The credit in this ledger can be used to make payment of ONLY TAX and ***not for other amounts such as interest, penalty, fees etc***.
- In case the ***Commissioner or an officer authorised by him*** in this behalf, not below the rank of an Assistant Commissioner, has reasons to believe that ***ITC*** available in the electronic credit ledger has been ***fraudulently availed*** or is ineligible, he may ***prohibit use of ITC*** for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

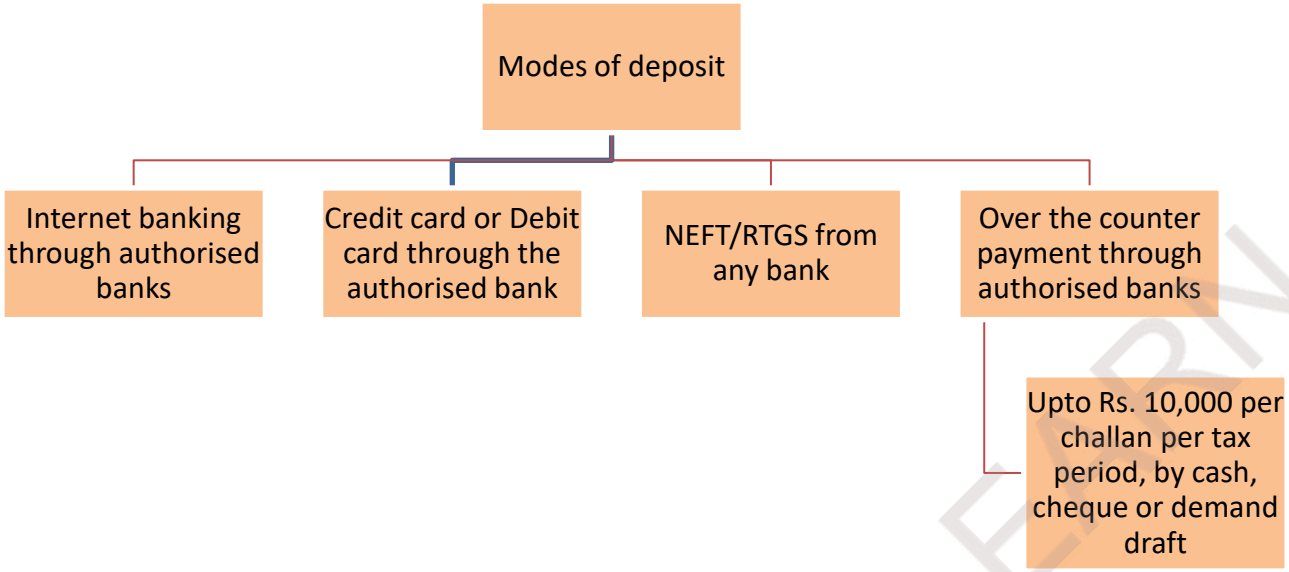
3. Electronic Cash ledger

3.1 Payment through cash ledger and modes of deposit

- The Electronic Cash Ledger contains a ***summary of all the deposits/payments*** made by a tax payer.
- Electronic Cash Ledger is ***maintained on the GST Portal*** in a prescribed form [GST PMT05].
- Any deposit made towards payment of tax, interest, penalty, late fee or any otheramount will be credited to the electronic cash ledger.
- Any debit to the electronic cash ledger represents payment therefrom towards ***tax, interest, penalty, late fee or any other amount***.
- The amount reflected in the electronic cash ledger may be used for making any paymenttowards tax, interest, penalty, fee, or any other amount in the prescribed manner.
- Tax under RCM, Interest, penalties and fees, which cannot be paid through Electronic credit ledger will be paid through Electronic cash ledger.
- The deposit in the electronic cash ledger shall be made through any of the followingmodes, namely:



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Note: Deposit in Electronic Cash Ledger can be made through UPI and IMPS as well

- NEFT stands for National Electronic Fund Transfer.
- RTGS stands for Real Time Gross Settlement.
- It may be noted that the ***restriction for deposit up to Rs.10,000 per challan*** in case of an

  Over the Counter payment will not apply to deposit to be made by
  1) **Government Departments** or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
  2) **Proper officer** or any other officer authorised to **recover outstanding dues** from any person, whether registered or not, including recovery made through attachmentor sale of movable or immovable properties.
  3) **Proper officer** or any other officer authorised for the amounts collected by way ofcash, cheque or demand draft **during any investigation** or enforcement activity orany ad hoc deposit.
  4) Persons **notified by Commissioner**.

3.2 Challans

- The amount is deposited by generation of a challan in GST portal. ***Manual or physical Challans are not allowed*** under the GST regime. It is ***mandatory to generate Challans online on the GST Portal.***
- With regard to the modes of payment, the **following terms are important**:
  - **CPIN** stands for **Common portal Identification Number**. It is created for every

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Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. ***CPIN remains valid for a period of 15 days***.

- **CIN** or **Challan Identification Number** is generated by the banks, once payment inlieu of a generated Challan is successful. It is a 18-digit number that is 14-digit CPIN plus 4-digit Bank Code. It is generated in prescribed form GST PMT 06.
- CIN is generated by the authorized banks/Reserve Bank of India (RBI) when paymentis actually received by such authorized banks or RBI and credited in the relevant Government account held with them. It is an indication that the payment has been realized and credited to the appropriate Government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.
- **BRN** or **Bank Reference Number** is the transaction number given by the bank for apayment against a Challan.

- There is single Challan prescribed for all taxes, fees, penalty, interest, and otherpayments to be made under the GST regime.
- ***E- challan validity is for 15 days***. The commission for making payment through e-challanhas to be borne by the person making the payment.
- Any unregistered person has to make payment on the basis of temporary identificationnumber generated through common portal.
- The mandate form obtained after making NEFT/RTGS payment has to be submitted inthe Bank. ***The validity of the mandate form is 15 days.***
- On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made and the commonportal will generate a receipt to this effect.

Any registered person can deposit more amount than what is required in his electronic cash ledger. However, no interest will be paid by the government on suchamount.

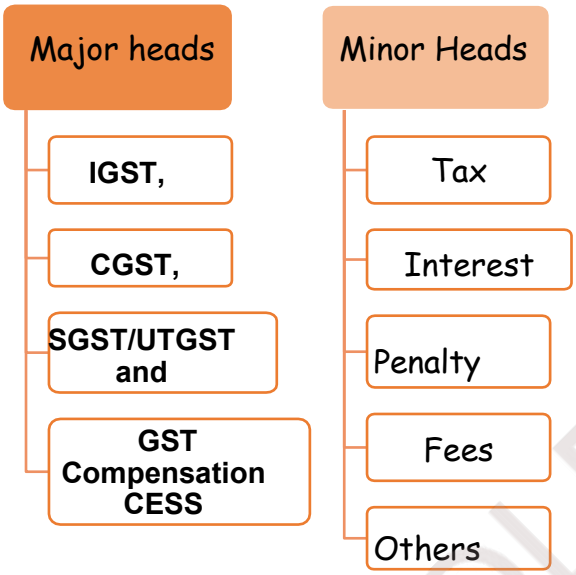
- ***Date of credit into the treasury of the State Government/Central Government is deemed to be the date of debit in the electronic cash ledger and not the actual date of deposit of amount*** in the electronic cash ledger of the taxable person.

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3.3 Manner of utilization of amount reflected in Electronic Cash Ledger

- In the e-ledger, information is kept under 2 heads – Major heads and Minor heads



- The ledger is displayed major head-wise i.e., IGST, CGST, SGST/UTGST, and CESS.
- Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others. Thus in the e-ledger, information is kept minor head-wise for each major head.
- A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modespermitted by the GST Portal.

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- New sub-sections (10) and (11) inserted in section 49 of the CGST Act, 2017 w.e.f 01.01.2020 vide Finance Act, 2019 provides a facility to the registered person to ***transfer an amount from one (major/minor) head to another (major/minor) head in the electronic cash ledger.***
- ***Facility provided on GST portal to transfer any amount available in the electronic cash ledger under CGST Act to the electronic cash ledger for central tax or integrated tax of a distinct person***
- The amount available in the electronic cash ledger can be utilised for payment of any liability for the major and minor heads.
- For instance, if the registered person has made a ***deposit of tax erroneously*** i.e. by virtueof human error, under a particular head instead of a specific head, the ***same can be transferred to the respective intended head vide Form GST PMT-09.***
- This Form (GST PMT-09) can be used either for
  - ***(i)*** transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or
  - ***(ii)*** for any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger.
- For instance, a registered person has deposited a sum of ` 1,000 under the head of "Interest" column of CGST & ` 1,000 under the head of "Interest" column of SGST, instead of the head "Fee". Such amount can be transferred using Form GST PMT-09 for making a transfer to the head "Fee". The said transfer is required using the above Form, because when the Registered person has to make the remittance of Tax/Interest/Penalty/ Fee/ Other amount at a stage "Offset Liabilities" in any of the GST Returns/ Forms for Tax payments through Electronic Cash Ledger, adequate amount should be available under the respective head of account.
- Prior to the above amendment, the Registered person has to claim a refund of such erroneous deposit or unutilized amounts using the prescribed Form and make a fresh deposit of tax for utilization under the appropriate head.
- ***The new section 53A provides for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.***

Section 49 has been amended so as to: (i) provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger; (ii) allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person; (iii) provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.

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4. Electronic liability ledger

- Electronic Liability Register will reflect the total tax liability of a taxpayer for a particular tax period.
- It is maintained in a prescribed form [GST PMT-01].
- The following are debited into the Electronic liability ledger:
  - All amounts payable towards tax, interest, late fee and any other amount as per return filed;
  - 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;
  - Interest payable under Section 50.
  - Any interest amount that may accrue from time to time.
- The following are credited:
  - Payment of all the liabilities either through Electronic Cash ledger or Electronic credit ledger.
  - Payment of TDS deducted under section 51, TCS deducted by e- commerce operator under section 52, amount payable under reverse charge basis, amount payable under section 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act.

5. Other key points

- E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for PAN India transaction.
- The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.
- Sec 49(8) prescribes the chronological order in which the liability of a taxable person has to be discharged:
  - Self -assessed tax and other dues for the ***previous tax periods*** have to be ***discharged first.***
  - The self -assessed tax and other dues for the ***current period*** have to be ***discharged next.***
  - Thereafter any other amount payable including demand determined under section 73 or section 74 to be discharged. In other words, the liability if any, arising out of ***demand notice and adjudication proceedings comes last.***
- This sequence has to be ***mandatorily followed.***
- "other dues" referred above mean interest, penalty, fee or any other amount payable under the Act or the rules made there under.
- Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.

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- If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to theextent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form [GST-PMT 03].
- If there is any discrepancy in Electronic Credit ledger/Cash Ledger/Liability Register, thesame can be intimated to the department. Application for intimating is made in GST PMT-04
- If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not been reflected in the common portal, the person makingthe deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form i.e. FORM GST PMT- 07 through the common portal or e-gateway.
- Sub-section (9) of Section 49 provides that when a taxable person has paid the GST, he is ***deemed to have passed on the incidence of such payment of tax to the recipient of such goods and /or services***. Onus to establish that incidence of tax has not been passed on to the recipient, becomes relevant in case of Section 54 dealt with "Refund of Tax".

6. Interest on delayed payment of tax [Sec 50]

- The tax dues which are not paid within the stipulated time are liable to interest payment.Section 50 of the CGST Act, 2017 provides for applicability of interest for default in payment of taxes within the stipulated time.
- Usually, the balance in electronic credit ledger is exhausted first before utilizing the balance available in the electronic cash ledger. This practice is adopted for a better working capital management.
- ***Interest*** if any payable by the registered person for delay in remittance of taxes beyond thestipulated due date on account of delay in filing of return under section 39, shall be ***demanded only on the net cash liability of taxes and not on the gross tax liability.***
- ***Interest on delayed payment is charged at 18% p.a.***
- ***The period of interest will be from the date following the due date of payment to the actual date of payment of tax.***
- The payment of interest in case of belated payment of tax should be made voluntarily
  i.e. even without a demand.
- The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger but not with balance in electronic credit ledger.
- **Sec 50(3)** - A taxable person who makes an undue or excess claim of input tax credit undersub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on suchundue or excess reduction, as the case may be, at 24%.
- Sub-section (3) of Section 50 has been substituted retrospectively, with effect from 1st July, 2017, so as to provide for levy of interest on ITC wrongly availed and utilized 18%.



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Scenario	Interest @ 18%
If return is filed after issuance of notice by GST department	Interest is payable on the **gross liability**. From the date following the due date of payment to the actual date of payment of tax
Delay in payment of tax as return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return	Interest shall be payable on the tax paid through Electronic **Cash Ledger only**. From the date following the due date of payment to the actual date of payment of tax

- Interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39 shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.
- ***This provision shall not apply where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period. {With effect from 01.09.2020}***

Explanation: This means that the interest would be computed only on the amount paid using cash ledger.

7. Transfer of input tax credit [sec.53 of CGST Act & sec.18 of IGST Act]

- If the amount of CGST is utilised towards dues of IGST then, per sec. 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.
- Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, per sec.18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the creditso utilized, and the Central Government shall transfer such amount to the CGST/UTGSTaccount.
- However, if the amount of IGST is utilised towards dues of SGST then, an equal amountshall be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the

respective State Government.

8. Rule 86A

- Commissioner, or an officer authorised by him, not below the rank of Assistant Commissioner, must have "reasons to believe" that ITC available in the electronic credit ledger is either ineligible or has been fraudulently availed by the registered person, before disallowing the debit of amount from electronic credit ledger.

Total Amount of ineligible or Fraudulently availed ITC	**Officer to disallow debit of amount from electronic credit ledger under rule 86A**
Not exceeding 1 Crore	Deputy Commissioner/Assistant Commissioner
Above 1 Crore but not exceeding 5 Crore	Deputy Commissioner/Joint Commissioner
Above 5 Crore	Principal Commissioner/Commissioner

  - Grounds for disallowing debit of an amount from electronic credit ledger
  - The reasons for such belief must be based on one or more following grounds:
  - The credit is availed by the registered person on the invoices or debit notes issued by a supplier, who is found to be non-existent or is found not to be conducting any business from the place declared in registration.
  - The credit is availed by the registered person on invoices or debit notes, without actually receiving any goods or services or both.
  - The credit is availed by the registered person on invoices or debit notes, the tax in respect of which has not been paid to the government.
  - The registered person claiming the credit is found to be non-existent or is found not to be conducting any business from the place declared in registration
  - The credit is availed by the registered person without having any invoice or debit note or any other valid document for it

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Illustration 1 [Set off]

Tirupati Traders, a registered supplier of goods, pays GST [CGST & SGST or IGST, as the case may be] under regular scheme. It has furnished the following particulars for a tax period:

Particulars	Amount (Rs.)
Value of intra-State supply of goods	12,000
Value of intra-State purchase of goods	10,000

Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.
Both inward and outward supplies are exclusive of taxes, wherever applicable.
All the conditions necessary for availing the input tax credit have been fulfilled.
Compute the net GST payable by Tirupati Traders during the given tax period assuming that there is no opening balance of input tax credit (ITC). Make suitable assumptions wherever required.

Illustration 2 [Set off]

Govind, a registered supplier, is engaged in providing services in the neighbouring States from his registered office located in Mumbai. He has furnished the following details in respect of the inward and outward supplies made during a tax period:-

Particulars	(Rs.)
Inter-State supply of services	1,80,000
Receipt of goods and services within the State	1,00,000

Assume the rates of taxes to be as under:

Particulars	Rate
CGST	9%
SGST	9%
IGST	18%

Both inward and outward supplies are exclusive of taxes, wherever applicable.
All the conditions necessary for availing the input tax credit have been fulfilled.
Compute the net GST payable by Govind during the given tax period. Make suitable assumptions if required

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TAX DEDUCTION AT SOURCE [Sec. 51]

(1) **TDS upto 1%, if Contract amount exceeds Rs.2,50,000** - Notwithstanding anything to the contrary contained in this Act, the Government may mandate

a) A department or establishment of the Central Government or State Government; or

b) Local authority; or

c) Governmental agencies; or

d) Such persons or category of persons as may be notified by the Government on the recommendations of the Council, (Hereafter in this section referred to as "the deductor"),

The following persons have been notified:

(a) an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function; 51% point is applicable for both the above points

(b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);

(c) Public sector undertakings.

(d) Any registered person receiving supplies of metal scrap from other registered person

TDS is not applicable in case of supply from one PSU to another PSU and also not applicable in case of supply from one person to another person specified in (a), (b) and (c) above.

To deduct tax at the rate of one per cent, from the payment made or credited to the supplier (i.e., "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs. 2,50,000.

No TDS, if supplier/place of supply lies in different jurisdiction:
No deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or Union territory of registration of the recipient.

Value is taken excluding GST: For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

(2) **Paying by 10th of next month** - The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.

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(3) **TDS certificate** - The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(4) **TDS certificate within 5 days of paying tax** - If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within 5 days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of Rs. 100 per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of Rs. 5,000.

(5) **Credit of TDS** - The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under section 39, in such manner as may be prescribed.

(6) **Interest for delay in paying TDS** - If any deductor fails to pay to the Government the amount deducted as tax, he shall pay interest in accordance with the provisions of section 50, in addition to the amount of tax deducted [max. 18%].

(7) **Demand** - The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) **Refund on wrong deduction** - The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54.
However, no refund to the deductor shall be granted, if the amount deducted has been credited to electronic cash ledger of the deductee.

COLLECTION OF TAX AT SOURCE [Sec. 52]

(1) **TCS by e-comm. Operator** - Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (viz. the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding 1%, as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.
"Net value of taxable supplies" shall mean aggregate value of taxable supplies of goods or services or both, other than services notified under Section 9(5) [where e- commerce operator is liable to pay tax], made during any month by all registered persons through the operator reduced by the aggregate value of taxable returned to the suppliers during the said month.

Rate of TCS presently applicable is 0.25% + 0.25% (Under IGST Act, it is 0.5%)

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(2) **Other modes of recovery open** - The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

(3) **TCS to be paid by 10th of next month** - The amount collected under sub-section [1] shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(4) **TCS statement by 10th of next month** - Every operator who collects the amount specified in sub-section {1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

(5) **Annual statement by 31st Dec.** - Every operator who collects the amount specified in sub-section [1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

(6) **Rectifying mistake** - If any operator after furnishing a statement under sub-section [4] discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

However, no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

(7) **TCS credit** - The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in statement of operator furnished under sub-section [4], in such manner as may be prescribed.

(8) **Matching** - The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by concerned supplier (i.e., the supplier of goods or services or both making supplies through the operator) registered under this Act in such manner and within such time as may be prescribed.

(9) **Communicating deficiency** - Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(10) **Deficient Amount payable** - The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(11) **Payment with interest upto 18%** - The concerned supplier, in whose output tax liability any amount has been added under sub-section [10], shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) **Notice seeking details** - Any authority not below rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—

a) Supplies of goods or services or both effected through such operator during any period; or

b) Stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.

(13) **Details to be given within 15 days** - Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.

(14) **Penalty for delay in giving info.** - Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to Rs. 25,000

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RETURNS

Contents –

- Statement of outward supplies [Sec 37]
- Furnishing of returns [Sec 39]
- First return [Sec 40]
- Annual return [Sec 44]
- Final return [Sec 45]
- Notice to return defaulters [Sec 46]
- Levy of late fee [Sec 47]
- GST Practitioners [Sec 48]

1. Introduction

- The term "return" ordinarily means
  - statement of information (facts)
  - furnished by the taxpayer,
  - to tax administrators,
  - at regular intervals.

Return [Sec 2(97)] - means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder

- The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations forming the subject matter of taxation; the measure of taxation such as sale price, turnover, or value; deductions and exemptions; and determination and discharge of tax liability for a given period.

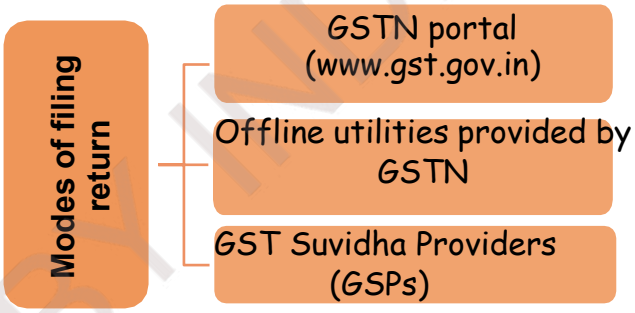
It **enables the Government**/ tax administrator **to estimate the tax collection** for a particular period and **determine the correctness of the tax compliance** of the taxpayers.

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Filing of GST returns helps in determination of tax liability of the return filer and at the same time it also has a huge bearing on ***determination of tax liability of other persons with whom the former has entered into taxable activities***.

- The taxpayer is required to furnish the return in a ***specific statutory format***. These formats are, therefore, designed to take care of all the provisions of the law that have a bearing on computation of tax liability of a taxpayer.
- ***All the returns are to be filed online.***
- Taxpayers can file the statements and returns by various modes.
    - Firstly, they can file their statement and returns directly on the GST common portal online. However, this may be tedious and time consuming for taxpayers with large number of invoices.
    - For such taxpayers, offline utilities have been provided by GSTN that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal.
    - GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the common portal. GSPs are third party service providers who develop applications for return filing.



- Under GST laws, a taxpayer is required to estimate his tax liability on ***"self-assessment" basis and deposit the tax amount*** along with the filing of such return.

- Details of whether the supply is ***B2B or B2C*** plus whether the supply is ***intra-State or inter-State*** has to be stated separately in the return.

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B2B

B2B means Business to business transactions

In such type of transactions, the recipient is also a registered supplier and hence takes ITC.

B2C

B2C means Business to consumer transactions.

In such type of transactions, the recipient is consumer or unregistered and hence, will not take or cannot take ITC.

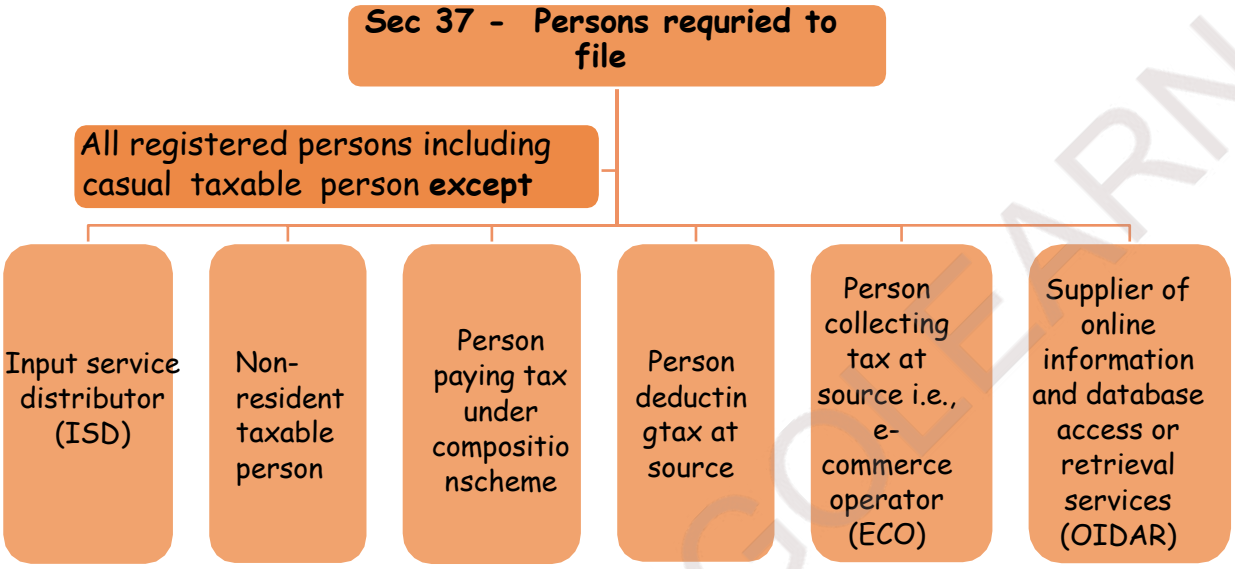
- Invoice wise details needs to be given for B2B supplies whereas consolidated details are given for B2C supplies.
- The return filing process is under review and is yet not finalized. The exact mechanism of the return filing process would be available only after the relevant notifications are issued by the Government. Therefore, in this chapter only those provisions which are currently effective, have been discussed.
  - A simplified monthly return in Form GSTR 3B (summary return) was introduced in July, 2017 to help businesses to file returns easily. This is continuing.
  - Statement of details of outward supplies in given Form GSTR-1
  - The GST Council also recommended to postpone the date of filing of Forms GSTR-2 (details of inward supplies) and GSTR-3 (monthly return) for all normal taxpayers, irrespective of turnover, till further announcements were made in this regard.
  - Sec 41 (dealing with claiming of ITC and provisional acceptance of it), Sec 42 (dealing with Matching and reversal of ITC) and Sec 43 (dealing with matching and reversal of output tax liability) has become inoperative.

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2. Statement of outward supplies [Sec 37 read with rule 59 of CGST rules]

2.1 Who is required to file



2.2 Form for submission of details of outward supplies

- The details of outward supplies are required to be furnished, electronically, in ***Form GSTR-1***.
- Such details can be furnished through the common portal, either directly or from a Facilitation Centre notified by the Commissioner.
- Further, ***a Nil GSTR-1 can be filed through an SMS*** using the registered mobilenumber of the taxpayer
- GSTR-1 once filed cannot be revised. However, it can be amended in thesubsequent return.

2.3 Due date of submission of GSTR-1

Tax period [Sec 2(106)] - means the period for which the return is required to befurnished.

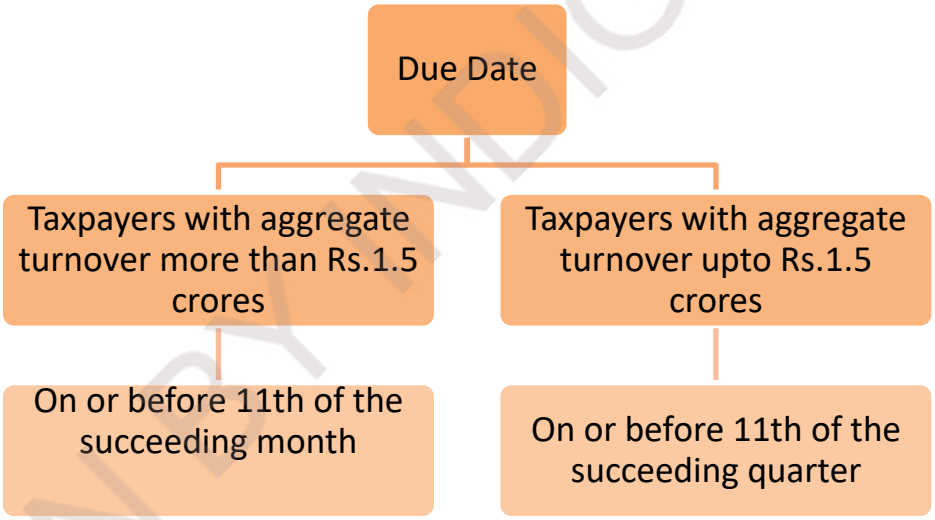
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2.3.1 General taxpayers

- GSTR-1 for a particular month is filed ***on or before the 11th day of the immediately succeeding month***.
- The due date of filing GSTR-1 ***may be extended by the Commissioner/*** Commissioner of State GST/ Commissioner of UTGST for a class of taxable persons by way of a notification.

2.3.2 Small taxpayers

- GSTR-1 has been allowed to be filed quarterly by small taxpayers with aggregate annual ***turnover up to Rs. 1.5 crore in the preceding financial year or the current financial year.***
- GSTR-1 for a particular quarter is filed ***on or before the 11th day of the immediately succeeding month. (Example – on or before 11th July for the quarter ending on 30th June)***
- The due date was extended from 11th day to 13th day of the succeeding quarter for the quarter ending December'20 and March'21 by CBIC through notification.



2.3.3 Exceptions to General rule

- A taxpayer cannot file GSTR-1 before the end of the current tax period.
- However, following are the exceptions to this rule:
  a) Casual taxpayers, after the closure of their business
  b) Cancellation of GSTIN of a normal taxpayer
- A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

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2.4 Details of outward supplies that are required to be furnished in GSTR-1

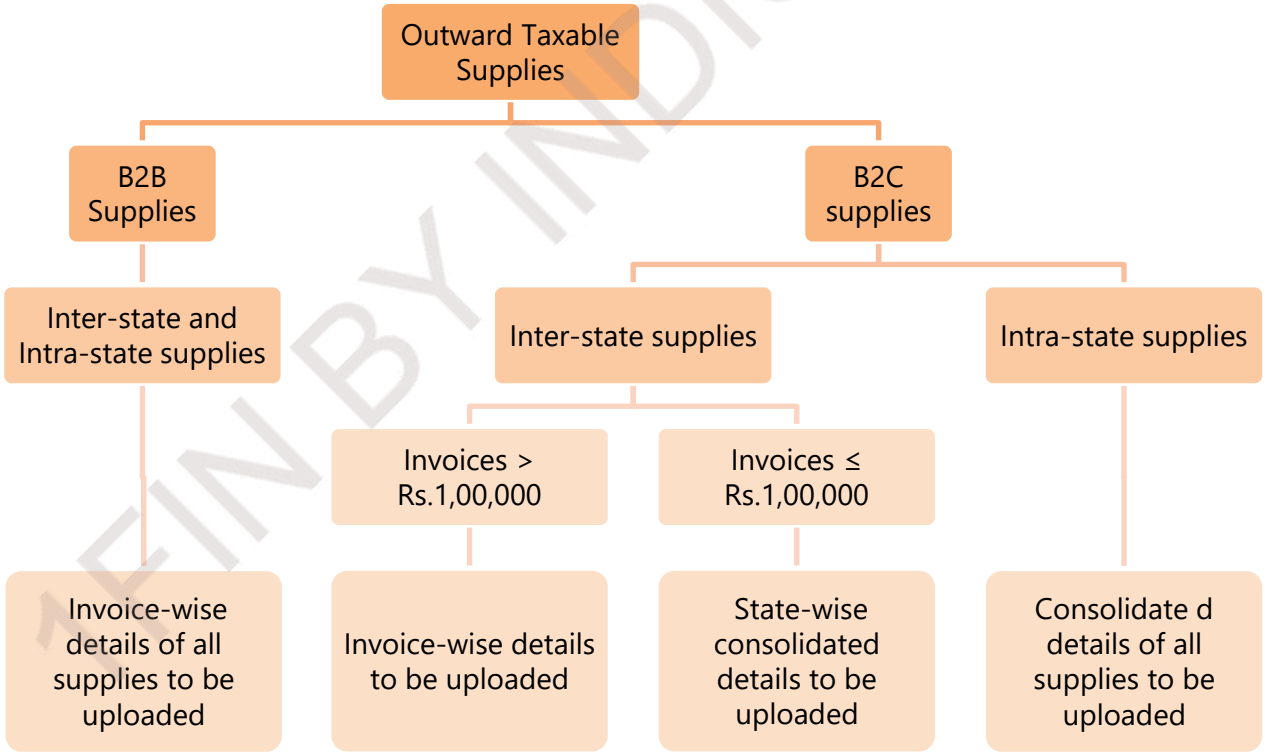
- The registered person is required to furnish details of invoices and revised invoices issued in relation to supplies made to registered and unregistered persons during a month and debit notes and credit notes in GSTR-1.

- ***Invoice-wise details of have to be given for***
  - Inter-State and Intra-State supplies made to registered persons
  - Inter-State supplies made to unregistered persons with invoice value exceeding Rs. 1,00,000

- ***Consolidated details of all invoices have to be given for***
  - Intra-State supplies made to unregistered persons for each rate of tax
  - Inter-State supplies made to unregistered persons with invoice value up to Rs.1,00,000 for each rate of tax separately for each State.

- ***Debit and credit notes Issued*** during the month for invoices issued previously.

- Invoices can be ***uploaded any time during the tax period*** and not just at the timeof filing of GSTR-1.



- Invoices can be ***modified/deleted any number of times*** till the submission of GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the GSTR-1 is submitted.

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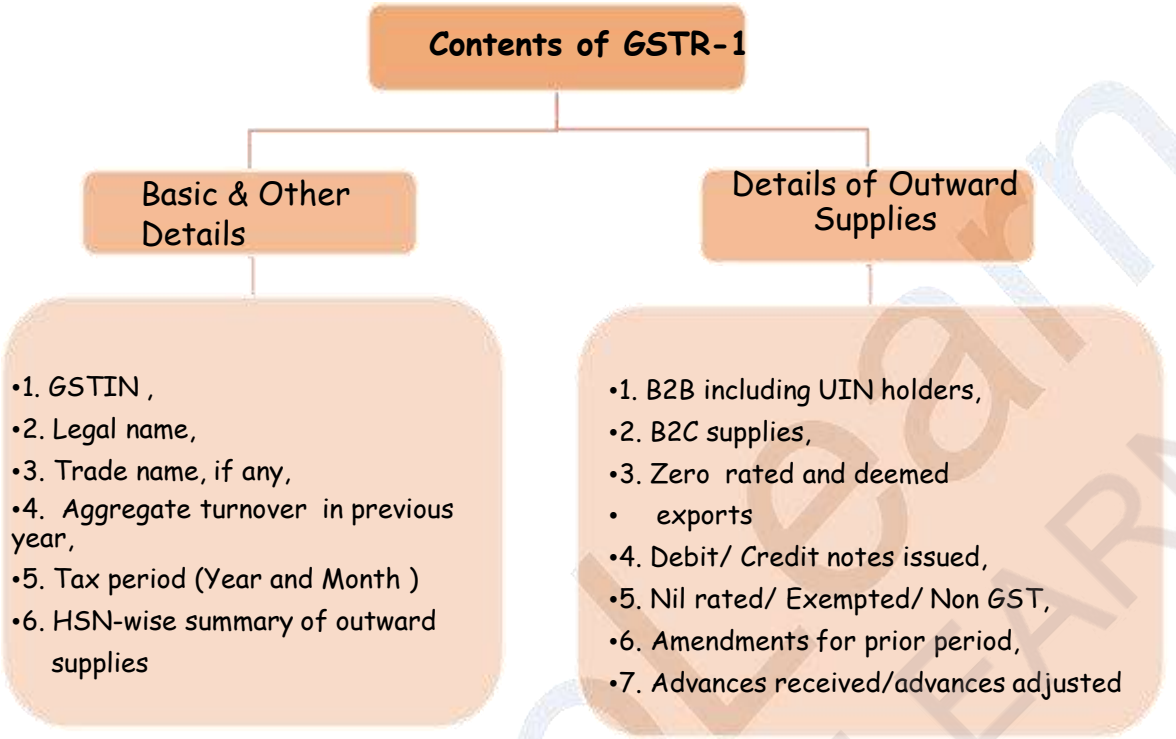
- Scanned copies of invoices are not required to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded e.g., invoice no., date, value, taxable value, rate of tax, amount of tax etc.
- In case there is no consideration, but the activity is a supply by virtue of Schedule 1 of CGST Act, the taxable value will have to be worked out as prescribed and uploaded.
- Description of each item in the invoice need not be uploaded. Only HSN (Harmonized System of Nomenclature) code in respect of supply of goods and accounting code in respect of supply of services need to be fed.
- HSN or HS (Harmonized Commodity Description and Coding System) is a standardized system of nomenclature of different goods developed by World Customs Organization, which is accepted globally. HSN uses 6-digits uniform codesto classify different goods. India uses eight-digits codes for more specific and precise classification.

2.5 Contents of GSTR-1

- GST is a destination-based consumption tax. Hence, the tax revenue is transferred to the State which is the place of supply of the particular transaction.
- Since, the ***place of supply is crucial*** for determining the share of every State in the tax revenue, GSTR-1 captures information relating to place of supply for both B2B and B2C supplies.
- GSTR-1 consists of the basic details regarding the business and details of outward supplies.

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2.6 Communication of details of GSTR-1 to the recipient of supply

- The details of outward supplies for a month furnished by the supplier are communicated and made available electronically to the respective recipient(s)

2.7 Amendment of details of outward supply furnished in prior periods

- ***Particulars furnished in GSTR-1 of prior periods can be amended by way of Amendment Tables given in GSTR-1 of subsequent periods*** (or) **he can file GSTR 1A before filing GSTR 3B**. This allows him to add any particulars of the current tax period missed out in reporting in Form GSTR-1 of current tax period or amend any particulars already declared in Form GSTR-1 of current tax period
- The details of original debit notes/ credit notes / refund vouchers issued by the tax-payer in the current tax period as also the revision in the debit notes/ credit notes /refund vouchers issued in the earlier tax periods are required to be shown in amendment table.
- The suppler is also required to give details of original invoice (No and Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months and are now sought to be amended.
- If a supplier altogether forgets to include the entire original invoice while furnishing the GSTR-1 for a particular month, in such cases also, he would be required to show the details of the said missing invoice which was issued in earlier month in the Amendment Table only, as such type of errors would also be regarded as data entry error.
- If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

- The maximum time limit for rectification is 30th Nov following the end of FY or date of filing annual return whichever is earlier.

2.8 Nil return and other details

- If there is ***no business activity in any particular tax period***, then for such tax period(s), ***a Nil GSTR-1*** is required to be filed by all normal and casual taxpayers.
- ***A Nil GSTR-1 does not have any entry.***
- Thus, a Nil GSTR-1 for a tax period cannot be filed, if the taxpayer has made any outward supply (including exempt, nil rated or non-GST supplies), or it has received supplies on which tax is payable under reverse charge or an amendment needs to be made to any of the supplies declared in an earlier return or any credit or debit notes is to be declared / amended etc.
- A Nil GSTR-1 can be ***filed through an SMS*** using the registered mobile number of the taxpayer. GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility.
- Taxpayer opting for ***voluntary cancellation*** of GSTIN has to file ***GSTR-1 for active period.***
- In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR-1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer.
- The GSTR-1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.

- ***All the above provisions apply to Nil GSTR-3B and Nil GST-CMP08.***

GSTR 1 – Due Dates

Registered persons opting for QRMP	**13th day** of the month succeeding such tax period
Others	11th day of the month succeeding such tax period

3. Quarterly Return Monthly Payment (QRMP) Scheme

- Quarterly return monthly payment – Optional scheme for those whose turnover does not exceed Rs. 5 crore in the preceding FY.

- A registered person intending to opt for QRMP scheme for any quarter shall indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised

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- However, there is **Invoice Furnishing Facility (IFF)**. It is a facility where such registered persons, for each of the first and second months of a quarter, can furnish the details of such outward supplies to a registered person, as he may consider necessary, between the 1st day of the succeeding month till the 13th day of the succeeding month.
- The said details of outward supplies shall, however, **not** exceed the value of **rupees fifty lakh rupees** in each month. (Circular No. 143/13/2020- GST)
- The invoices furnished in IFF shall be reflected in FORM GSTR-2B of the concerned recipient of the relevant month of the quarter and remaining invoices furnished in FORM GSTR-1 shall be reflected in FORM GSTR-2B of the concerned recipient of the last month of the quarter.
- The details of invoices furnished using the said facility in the first two months are not required to be furnished again in FORM GSTR-1
- The taxpayer has to deposit tax using form GST PMT-06 by the 25th of the following month, for the invoices reported in IFF
- The taxpayers can pay their monthly tax liability either in The Fixed Sum Method (FSM), also popular as 35% challan method, or Self Assessment Method (SAM).
- The taxpayer must pay an amount of tax mentioned in a pre-filled challan in the form GST PMT-06 for an amount equal to 35% of the tax paid in cash.

S.no.	Type of tax payer	Tax to be paid
1	Who furnished GSTR-3B quarterly for the last quarter	35% of tax paid in cash in the preceding quarter
2	Who furnished GSTR-3B monthly during the last quarter	100% of tax paid in cash in the last month of the immediately preceding quarter

Self Assessment Method:
In Self Assessment Method, the registered person can also pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, for every month. The taxpayer has to manually arrive at the tax liability for the month and has to pay the same in FORM GST PMT-06.

QRMP - GSTR 3B – Due dates:

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Principal Place of Business of the Registered persons	Due Date
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Union territories of Daman & Diu & Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	22nd day of the month succeeding such quarter
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th day of the month succeeding such quarter

4. First return [Sec 40]

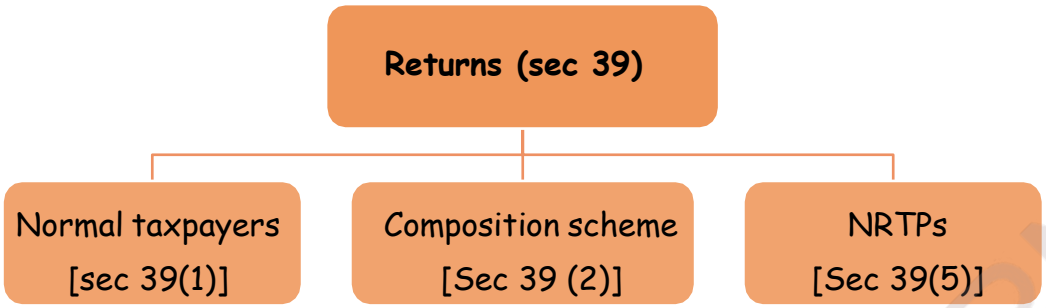
- When a person becomes liable to registration after his ***turnover crosses the threshold limit***, he may ***apply for registration within 30 days*** of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate.
- During the ***intervening period***, such person might have made the outward supplies. Sec 30(3) provides that the registered person may ***issue revised tax invoices against the invoices already issued*** during said period ***within 1 month*** from the date of issuance of certificate of registration.
- ***section 40*** provides that registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration.
- The ***format*** for this return is the ***same as that for regular return***.
- Thus, the first return would consist of:
  - Details of outward supplies, after becoming liable to registration but before grant of the certificate of registration.
  - Details of outward supplies made in first tax period after grant of the certificate of registration.

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5. Furnishing of returns [Section 39]

- This section provides for different returns to be furnished by normal taxpayers,taxpayers under composition scheme and NRTPs.



5.1 Return to be furnished by Normal taxpayers [Sec 39(1)]

4.1.1 Who has to file

- ***Every registered person has to file a monthly return called GSTR-3B except***
  1) An input service distributor or
  2) A non-resident taxable person or
  3) A composition taxpayer,
  4) A person deducting tax at source,
  5) A person collecting tax at source, i.e. an electronic commerce operator and
  6) A supplier of OIDAR services located in non-taxable territory providing such services to non- taxable online recipient.

4.1.2 GSTR-3B

- Initially, return in Form GSTR-3 was notified as the return under section 39(1) which was to be filed by 20th day of the month succeeding the relevant calendar month or part thereof. ***However, GSTR-3 never became practically applicable*** as the filing thereof has been deferred by the GST Council since the introduction of GST law.
- Therefore, in lieu of return in Form GSTR-3, ***return in Form GSTR-3B has been notified as the monthly return*** under section 39(1).
- GSTR-3B is a simple return containing ***summary*** of
  - outward supplies,
  - inward supplies liable to reverse charge,
  - eligible ITC,
  - payment of tax etc.

  Thus, GSTR- 3B ***does not require invoice-wise data of outward supplies***.
- GSTR-3B can be submitted ***electronically through the common portal,*** either directly or through a ***Facilitation Centre*** notified by the Commissioner.
- If there is no business activity in any particular tax period, then for such tax period(s),a Nil GSTR-3B is required to be filed.

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- A ***Nil GSTR-3B can be filed through an SMS*** using the registered mobile number of the taxpayer.

4.1.3 Due date of filing

- The ***due date of submission*** for GSTR-3B is being notified as ***20th day of the month succeeding the relevant month.***
- The due date of payment of tax in respect of such period is also 20th day of the succeeding month. Thus, the due date of payment of tax is linked to the due date of filing of return.
- Government has introduced staggered filing of GSTR-3B returns as a ***temporary measure*** to de-stress the GST return filing system.

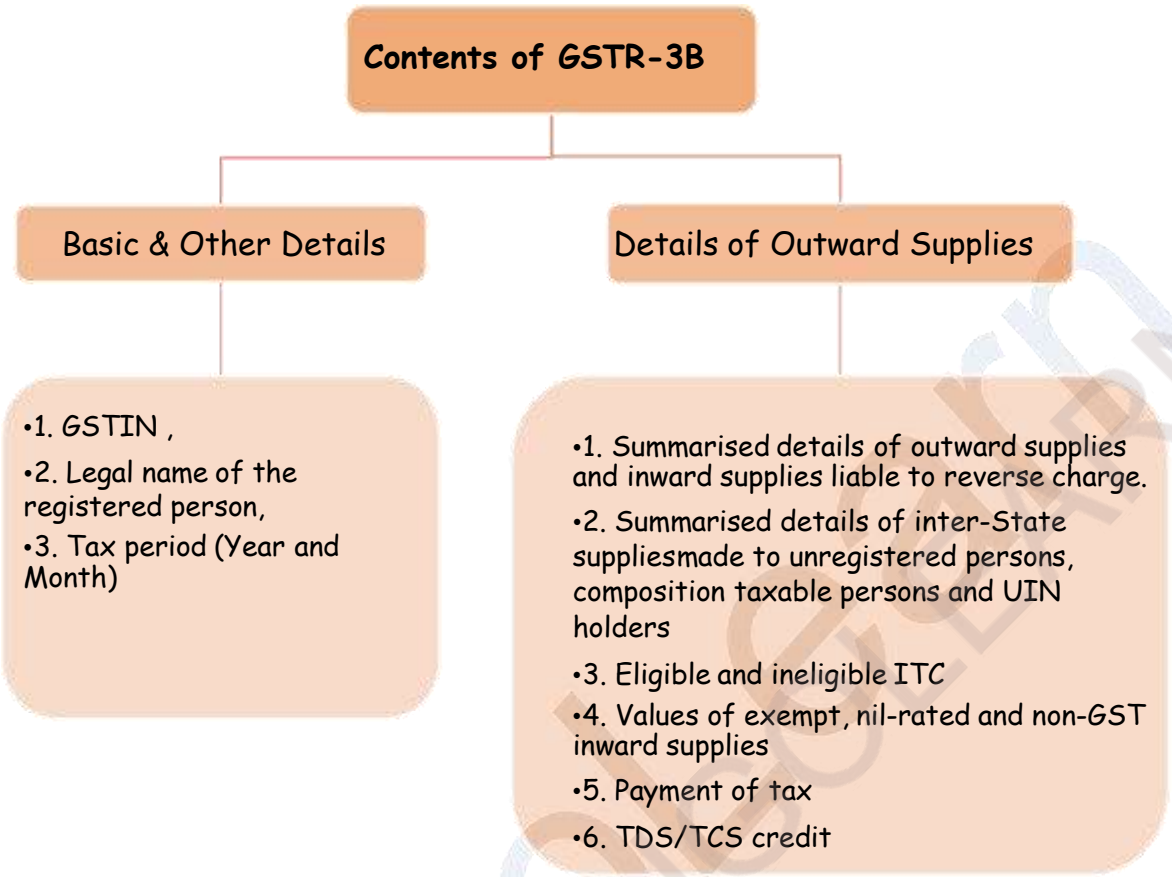
Taxpayers	Last date of filing GSTR-3B
Having Annual turnover >= Rs. 5 crores in the previous financial year	20th of the subsequent month
Having annual turnover below Rs. 5 crore in previous financial year	22nd or 24th of the subsequent month depending upon the State or Union Territory in which they are registered.

- ***Presently, the staggered filing has been provided for tax periods till March 2021.***

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4.1.4 Contents of GSTR-3B



4.1.5 Other key points

- A return furnished under section 39(1) on which self- assessed tax has been paid in full is considered as a valid return.

> ***Valid return [Sec 2(117)]*** - means a return furnished under section 39(1) on which self-assessed tax has been paid in full.

- ***Filing of returns for current month is possible only when returns of the previous month have been filed.***
- A taxpayer needs to electronically sign the submitted returns otherwise it will be considered not-filed.
- Taxpayers can electronically sign their returns using a DSC (mandatory for all types of companies and LLPs), E-sign (Aadhaar-based OTP verification), or EVC (Electronic Verification Code sent to the registered mobile number of the authorized signatory).

5.2 Return for composition supplier [Section 39(2) read with rule 62 of the CGST Rules]

4.2.1 Who has file

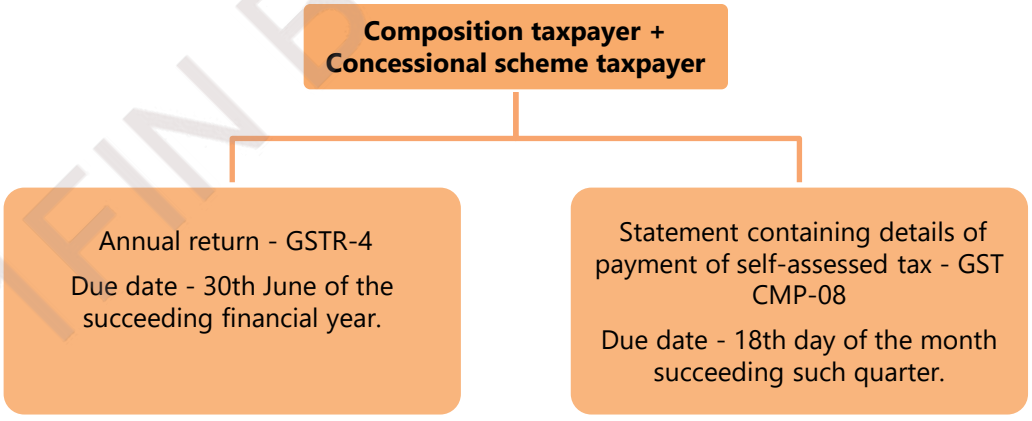
- Every registered person paying tax under section 10, i.e. a composition supplier is required to file an ***annual return in Form GSTR-4.***
- A ***person paying concessional tax*** @ 6% under Notification No. 2/2019 CT (R) dated 07.03.2019 is also required to file GSTR-4.
- All the provisions regarding GSTR-4 are also applicable for persons paying tax under the said notification.

4.2.2 Annual return and quarterly statement

- GSTR-4 for a financial year or part of a financial year should be filed electronically.
- The persons required to file GSTR-4 are also required to furnish a statement in the Form GST CMP-08 containing details of payment of self-assessed tax, for every quarter (or part of the quarter).
- The due date for filing GST CMP-08 by ***18th day of the month succeeding such quarter.***

> ***Quarter [Sec 2(92)]*** - mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of acalendar year.

- GSTR-4 for a financial year should be furnished by ***30th June of the succeeding financial year.***



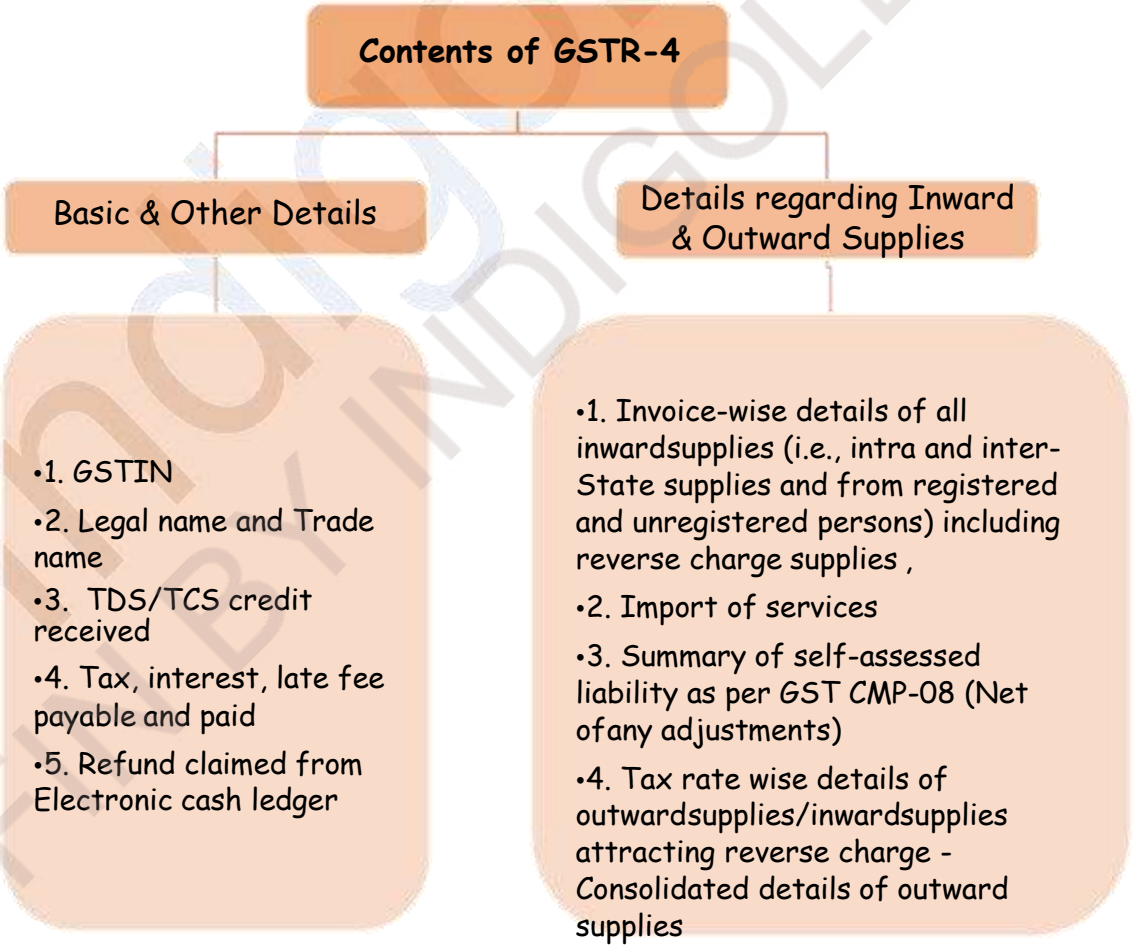
- The ***inward supplies*** of a composition supplier received from registered persons filing GSTR-1 will be ***auto populated in FORM GSTR-4A*** for viewing.
- Even if there is no business activity in any particular tax period, for such taxperiod(s), a Nil GST CMP-08 is required to be filed.

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4.2.3 Consolidated details and discharge of liability

- Composition taxpayers are neither entitled for any ITC nor entitled to pass on any ITC to its customers.
- Therefore, composition taxpayers are required to ***provide consolidated details of outward supplies in GSTR-4*** and not invoice-wise details.
- However, details of inter-State and intra-State inward ***supplies received*** fromregistered and un-registered persons are to be ***provided invoice-wise***.
- Since composition suppliers are not eligible to take ITC, they ***discharge their tax liability only by debiting electronic cash ledger***.

4.2.4 Contents of GSTR-4



4.2.5 Conversion from normal scheme to composition scheme and vice versa

- If a registered person opts to pay tax under composition scheme from the beginning of a financial year, he will, where required, furnish statements/return relating to the period prior to paying tax under composition scheme
- The composition supplier will not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to their opting to pay tax under composition scheme.
- A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer will, where required, furnish-
  - **GST CMP-08** - relating to the period prior to his exiting from composition scheme – Upto 18th of the month succeeding the quarter in which the date of withdrawal falls.
  - **GSTR-4** – Upto 30th April following the end of the financial year during which such withdrawal falls.

5.3 Return for Non-Resident Taxable Persons [Section 39(5) read with rule 63 of the CGST Rules]

- Non-Resident Taxable Persons (NRTPs) are those suppliers who do not have a business establishment in India and have come for a short period to make suppliesin India.
- A registered NRTP is not required to file separately the Statement of Outward Supplies and applicable return for a normal taxpayer.
  Instead, a ***simplified monthly tax return*** has been prescribed in ***Form GSTR-5*** for a NRTP for every calendar month or part thereof.
- The details of outward supplies and inward supplies of a NRTP are incorporated in GSTR-5.
- ***Last date of filing return*** - GSTR-5 should be furnished within
  - 20 days after the end of the calendar month OR
  - within 7 days after the last day of validity period of the registration, whichever is earlier.
- A NRTP should pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or the provisions of CGST Rules, till the last date of filing GSTR-5.
- Thus, the due date of payment is linked with the due date of filing return.
- Also, NRTPs or casual taxable persons are required to make advance deposit of an amount equivalent to their estimated tax liability for the period for which registration is sought or extension of registration is sought in terms of section 27(2).
- A NRTP is not required to file an annual return.
- Non-resident taxable person shall furnish the return for a month by 13th day of the following month

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6. Rectification of errors/omissions [Section 39(9)]

- In GST since the returns are built from details of individual transactions, there is norequirement for having a revised return.
- ***Instead of revising the return already submitted, the system allows for amendment.*** Thus, one can change the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in anyof the future GSTR- 1 in the tables specifically provided therein for the purposes of amending previously declared details.
- Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the tax period during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest.
- ***Section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection, or enforcement activities by tax authorities.***
- Hence, assessee may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of any of the afore-mentioned situations.
- The maximum time limit within which the rectification of errors/omissions is permissible is ***earlier of the following dates***:
    - 30th November following the end of the financial year or
    - Actual date of filing of the relevant annual return
- The last date of filing of annual return for a financial year is 31st December of next financial year.

7. Annual return and Final return

7.1 Annual Return [Section 44 read with rule 80 of the CGST Rules]

7.1.1 Who is required to file

- All registered persons are required to file an annual return ***except:***
    1) Casual taxable persons.
    2) Non- resident taxable person
    3) Input service distributors
    4) Persons authorized to deduct/collect tax at source under section 51/52 and
    5) Person supplying OIDAR services from outside India to unregistered persons in India
- Filing of annual return in respect of ***financial years 2017-18, 2018-19 and 2019-20 has been made voluntary*** for the registered persons whose turnover is less than Rs. 2 crore and who have not furnished the said annual return before the duedate.

7.1.2 Due date

- The annual return for a financial year needs to be filed by ***31st December of the next financial year.***

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- The due date of filing annual return may be extended by the Commissioner/ Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification.

7.1.3 Prescribed form

- **Normal taxpayers:** The annual return is to be filed electronically in **Form GSTR-9** through the common portal.
- **Composition scheme supplier**: A person paying tax under composition scheme is required to file the annual return in **Form GSTR-9A.**
- GSTR-4 and GSTR-9A are two different returns and both are mandatory.

7.1.4 Statements to be filed with Annual return

- If aggregate turnover exceeds 5 Crore then GSTR 9 shall be accompanied by reconciliation statement in Form GSTR 9C which is self certified by the registered person.

7.2 Final Return [Section 45 read with rule 81 of the CGST Rules]

- Every registered person who is required to furnish return u/s 39(1) and ***whose registration has been surrendered or cancelled*** is required to file a final return
- It has to be electronically in ***Form GSTR-10*** through the common portal.
- The final return has to be filed within 3 months of the:
  - Date of cancellation or
  - Date of order of cancellation

  whichever is later.
- This provision is not applicable to composition taxpayers. Thus, they are not required to file final return if their registration is surrendered or cancelled.

7.3 Details of inward supplies of persons having UIN [Rule 82 of the CGST Rules]

- Unique Identification Number, **UIN**, is a special class of **GST** registration for foreign diplomatic missions and embassies which are not liable to taxes in the Indian territory.
- Any amount of tax (direct or indirect) collected from such bodies is refunded back to them.
- **When UIN is issued for claiming refund of taxes paid on inward supplies -** Such person shall furnish the details of the inward supplies of taxable goods and/or services on which refund of taxes has been claimed, in ***Form GSTR- 11***, ***along with application for such refund claim***.
- **When UIN is issued for purposes other than refund of taxes paid -** Such person shall furnish the details of inward supplies of taxable goods and/or services ***as may be required by the proper officer in Form GSTR-11.***

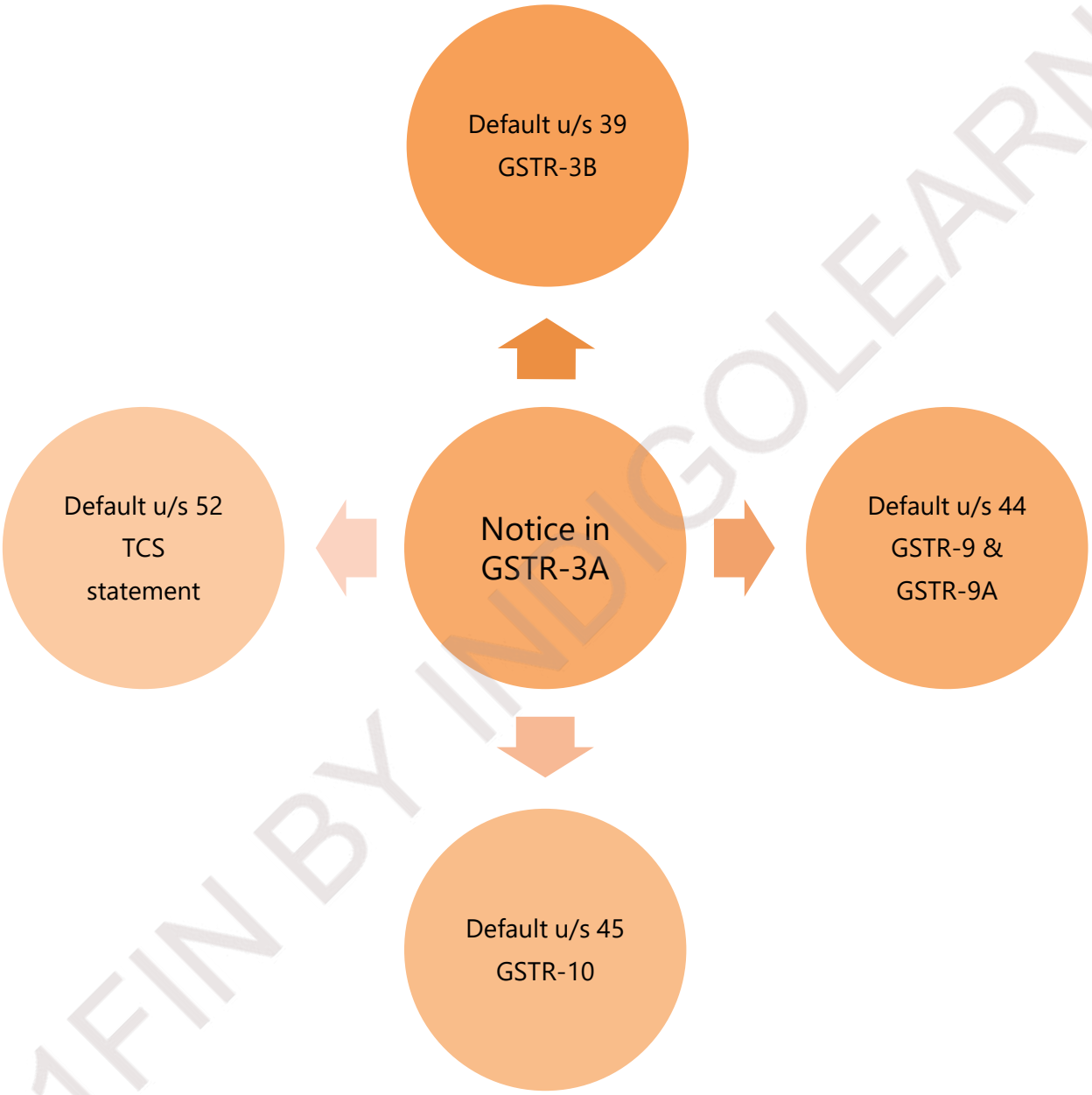
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8. Defaults and consequences of defaults

8.1 Notice to return defaulters [Section 46 read with rule 68 of the CGST Rules]

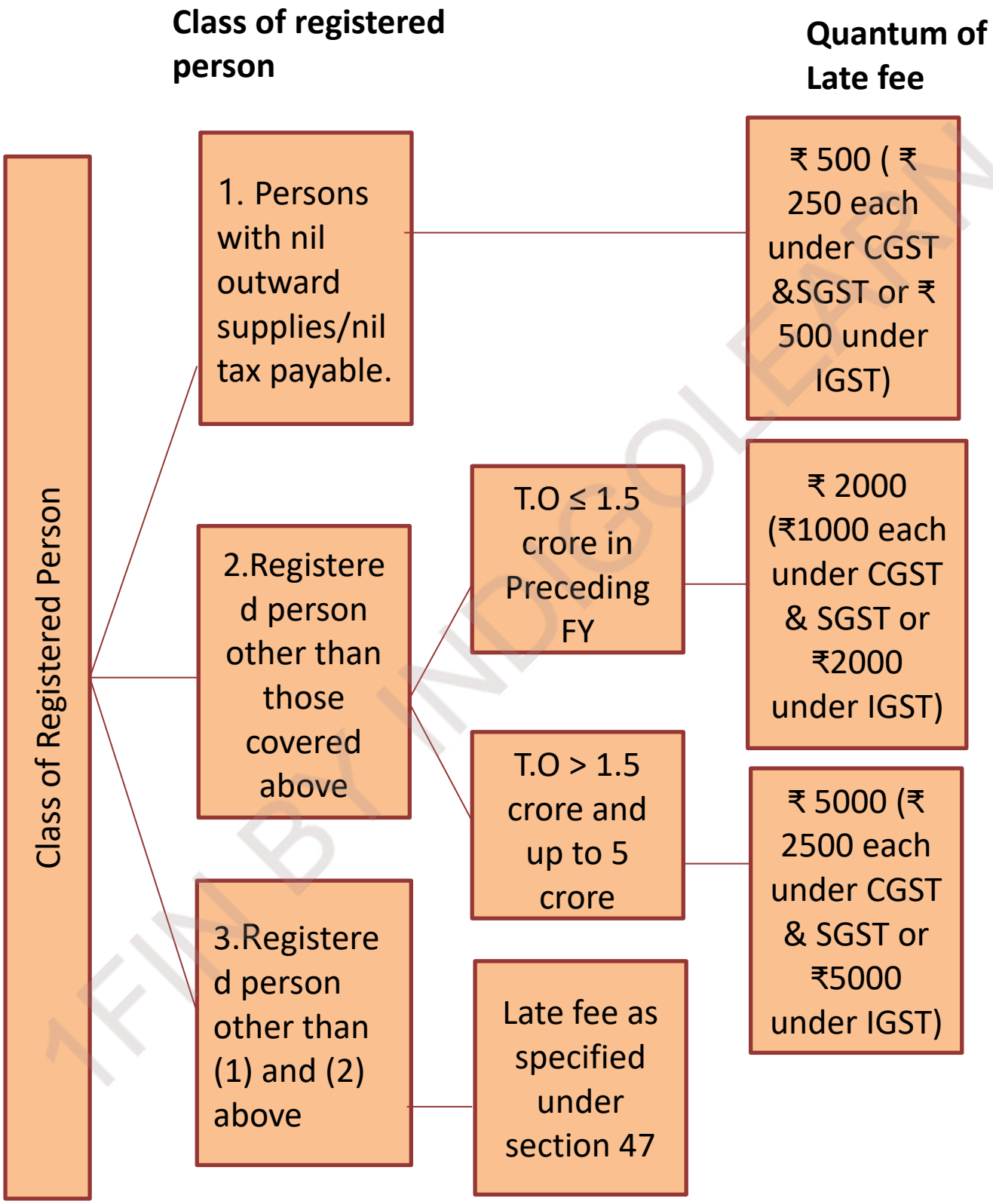
- A notice is issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement].
- The prescribed form for the notice is ***GSTR-3A.***
- The notice requires the registered person to ***furnish the return within 15 days.***



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8.2 Late fees levied for delay in filing return [Section 47]

- **Late fee for delayed filing of GSTR 1 and/or GSTR 3B**



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- **Late fee for delayed filing of GSTR 4**

- Where in case of registered persons whose tax payable is Nil, late fee will be ₹ 500(₹250 each under CGST & SGST or ₹ 500 under IGST).
- In case of registered persons other than above late fee will be ₹ 2000 (₹ 1000 each under CGST & SGST or ₹ 2000 under IGST)

Late fee for delayed filing of GSTR 9 – Annual return is as under:

- If turnover does not exceed 5 Crore -50 per day or 0.04% of turnover whichever is lower
- If turnover exceeds 5 crore but does not exceed 20 crore -100 per day or 0.04% of turnover whichever is lower
- If turnover is more than 20 crore – 200 per day or 0.5% of turnover whichever is lower.

9. Goods and Services tax practitioners [Section 48]

Goods and services tax practitioner [Sec 2(55)] - means any person who has been approved under section 48 to act as such practitioner.

- A registered person may authorise an approved GSTP to furnish information, on his behalf, to the Government.
- GSTN provides separate user ID and Password to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords. They can do all the work on behalf of taxpayers as allowed under GST Law.
- A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.
- A GSTP enrolled in any State or Union Territory shall be treated as enrolled in the other States/Union territories.
- When a registered person opts to furnish his return through GSTP, he gives his consent in prescribed form to any GSTP to prepare and furnish his return. ***However, the responsibility for correctness of any particulars furnished in the return or other details filed by the GSTP continues to rest with the registered person.***
- The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation is treated as deemed confirmation.
- The GSTP should prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials.
- If the GSTP is found guilty of misconduct, his enrolment will be liable to be cancelled and a show cause notice would be issued to him

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9.1 Eligibility criteria for GSTP

8.1.1 Pre-requisites

1) He is an Indian citizen
2) He is a Person of sound mind
3) He is Not adjudicated as insolvent
4) He is Not been convicted by a competent court

8.1.2 Conditions to satisfy

- He should satisfy ***any of the following conditions:***
  1) Retired officer of Commercial Tax Department of any State Govt./CBIC who, during service under Government had worked in a post not lower than the rankof a Group-B gazetted officer for a period ≥ 2 years
  2) Enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws for a period of not less than 5 years
  3) Has acquired any of the prescribed qualifications.

8.1.3 Prescribed qualifications

1) Graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force
2) Degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in clause (1)
3) Any other examination notified by the Government, on the recommendation of the Council, for this purpose.
4) Any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination
5) Has passed final examination of ICAI/ ICSI/ Institute of Cost Accountants ofIndia.

9.2 Activities which can be undertaken by a GSTP

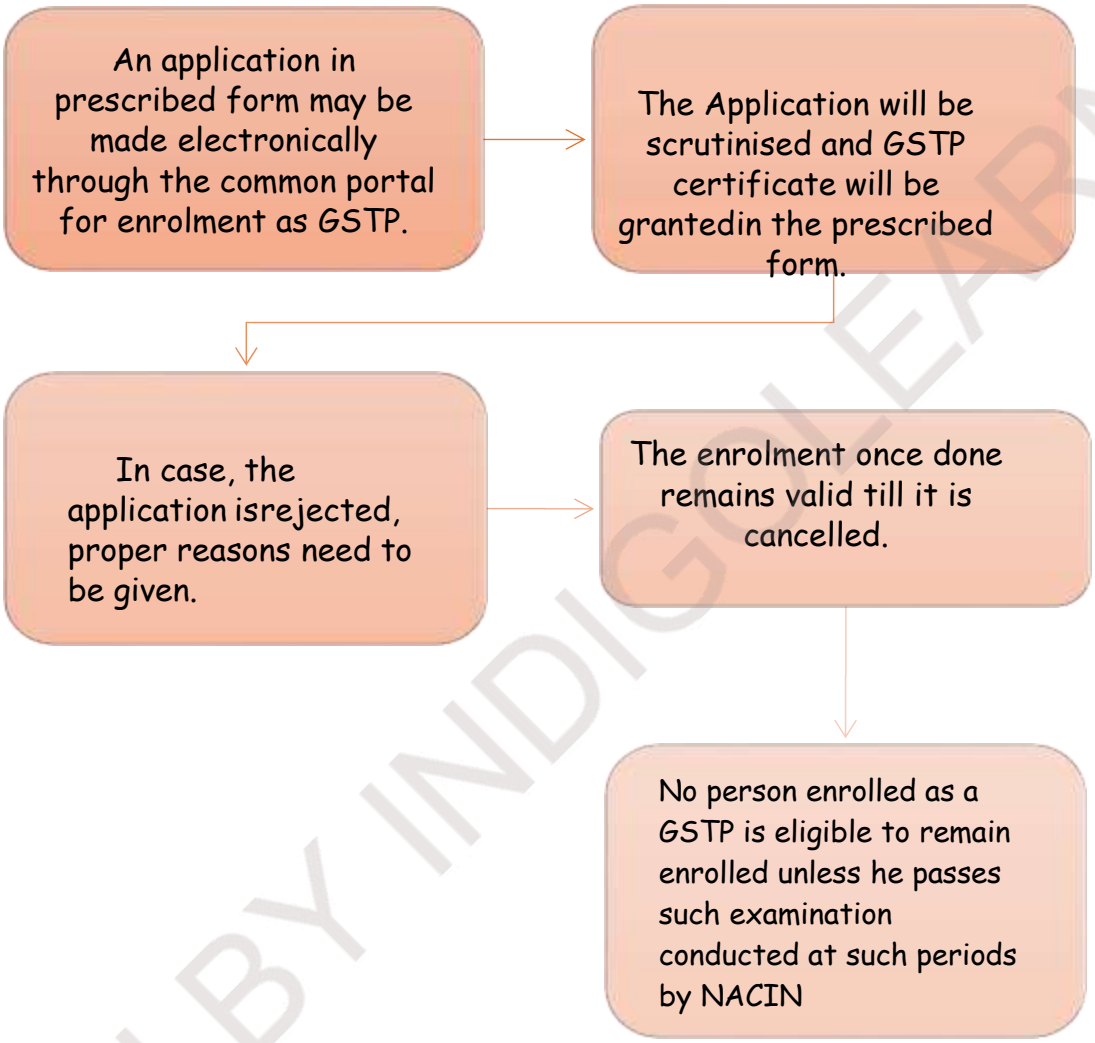
- A GSTP can undertake ***any/all*** of the following activities on behalf of a registered person, if so authorised by him:
  1) Furnish details of outward and inward supplies and Furnish monthly, annual or final return
  2) Make deposit for credit into electronic cash ledger
  3) Furnish information for generation of e-way bill
  4) File an intimation to pay tax under the composition scheme or withdraw fromthe said scheme
  5) File a claim for refund or File an application for registration amendment/ cancellation

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6) File an application for amendment or cancellation of enrolment under rule 58
7) Also allowed to appear as authorised representative before any officer or department, Appellate authority or Appellate tribunal, on behalf of such a registered person provided he is enrolled as GSTP under rule 83.

9.3 Procedure for enrolment as GSTP



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- Any person who has been enrolled as GSTP by virtue of him being enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws can remain enrolled only for a period of 30 months from the appointed date unless he passes the said examination within the said period of 30 months. NACIN - Stands for National academy of Customs, Indirect taxes and Narcotics

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Illustration 1

Mr. X, a regular tax player, did not make any taxable supply during the month of July.Is he required to file any goods and services tax return?

Illustration 2

If a return has been filed, how can it be revised if some changes are required to be made?

Illustration 3

Explain the provisions to filing of Annual Return under Section 44 of CGST Act, 2017 and rules there under.

Illustration 4

What kind of invoice details of outward supplies are required to be furnished in GSTR for outward supplies?

Illustration 5

M/s Cavenon Enterprises, a registered supplier of designer weeding dresses under regular scheme, has aggregate annual turnover of Rs. 30 lacs in the preceding financial year.

It is of the view that in the current financial year, it is permitted to file its monthly statement of outward supplies – GSTR-1 – on a quarterly basis while its accountant advises it to file the same on monthly basis. You are required to advice M/s Cavenon Enterprises on the same.

During a given tax period in the current financial year, owing to an off-season, M/s Cavenon Enterprises has not made any taxable supply. Therefore, M/s Cavenon Enterprises opines that no return under GST is required to be filed for the said period. You are required to examine the technical veracity of the opinion of M/s Cavenon Enterprises.

Illustration 6

Mr. X is an NRTP. Is he required to file any return? If yes, what is the return to be filed?

Illustration 7

Whether Audit Report is required to be obtained from Chartered Accountant or Cost Accountant and attached along with Annual return?

Illustration 8

What are the consequences if any person who is required to file return, does not file any return?

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