

Centre for Distance & Online Education

**UNIVERSITY OF JAMMU
JAMMU**



**SELF LEARNING MATERIAL
OF
GST LAW AND PRACTICE
FOR
M.COM SEMESTER-1**

For the examination to be held in 2025 onwards

Course No MCOMC151

Unit I-IV

SEMESTER: FIRST

Lesson No. 1-20

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GST LAW AND PRACTICE

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CENTRE FOR DISTANCE & ONLINE EDUCATION

UNIVERSITY OF JAMMU

SYLLABUS

M.COM. FIRST SEMESTER (NON-CBCS)

GST LAW AND PRACTICE

Course: MCOMC151

Max Marks: 100 Marks

Credit: 4

External: 70 Marks

Time: 3.00 Hrs

Internal: 30 Marks

(Syllabus for the examinations to be held in 2023 onwards)

COURSE OBJECTIVES

1. To give an overview of the concept of GST.
2. To acquaint the students with provisions of input tax credit and payment of GST.
3. To impart knowledge about procedure compliances under GST.
4. To familiarize students with impact of GST on specific sectors and compensation to the states.

COURSE OUTCOMES

After the completion of this course student will be able to:

1. Acquire knowledge about recent changes taking place in GST Law,
2. Understand the background for introduction of GST in India;
3. Know about eligibility and conditions for availing input tax credit;
4. Learn about registration requirements, maintenance of books of accounts and assessment under GST;
5. Understand impact of GST and compensation to states on account of any loss that occurs due to introduction of GST in the states;

SYLLABUS

UNIT I	INTRODUCTION TO GOODS AND SERVICES TAX	7-85
	Concept; Genesis of GST in India; Legislative framework of GST; Advantages of GST; Composition scheme; Reverse charge mechanism; Exemption from GST; Supply: meaning, scope, composite and mixed supply, time and value of supply; Import and export of goods and services under GST; Impact of GST on E-commerce market place sellers; E-way bill.	
UNIT II	INPUT TAX CREDIT AND PAYMENT OF GST	86-158
	Eligibility and conditions for taking input tax credit; Apportionment of credit and blocked credits; Credit in special circumstances; Distribution of credit by input service distributor; Recovery of Credit; Reversal of credit; ITC Utilisation; Tax Invoice; Credit Notes; Debit Notes, Electronic Cash Ledger; Electronic Credit Ledger; Electronic liability ledger; Manner of payment of Tax-Tax Deduction at Source; Collection of Tax at Source; Refunds.	
UNIT III	PROCEDURAL COMPLIANCE UNDER GST	159-239
	Registration: Person liable, compulsory registration, deemed registration person not liable, procedure, casual taxable person, non-resident taxable person, amendment of registration, cancellation of registration, revocation of cancellation; Furnishing details of supplies; Returns; Accounts and records; Assessment: Overview of various types of assessment.	
UNIT IV	IMPACT OF GST ON INDUSTRY AND COMPENSATION TO STATES	240-316
	GST impact on Health care services; GST impact on Hotels and restaurants; GST impact on education and commercial coaching/ training; GST impact on services and service providers; GST impact on exports and special economic zones; GST impact on Goods transport agency; Compensation to states: levy and collection of cess, GST compensation fund, Compensation payable to states.	

SUGGESTIVE READINGS

1. GST Bare Act
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra

Note: Latest edition of the books may be preferred

NOTE FOR PAPER SETTING

External (End Semester) Assessment will comprise of 70 Marks.

The Question Paper will be divided into two sections, covering whole of the syllabus.

Section A: This section will comprise of 4 questions of short answer type from all four units, selecting one from each unit. All questions will be compulsory and each question will carry 5 marks. (4 x 5 = 20 marks)

Section B: This section will comprise of six questions of long answer type from all four units, selecting atleast one question from each unit. Students will be required to attempt any 5 questions and each question will carry 10 marks. (5 x 10 = 50 marks)

Dear Learners,

Greetings from the **Centre for Distance and Online Education!**

We are delighted to present to you the Self-Learning Material (SLM) for the subject *GST Law and Practice*, an important part of the M.Com. programme. This material has been specially designed to support your academic journey as a distance learner, offering a structured and comprehensive approach to the study of Goods and Services Tax (GST) in India.

The SLM follows a learner-centric format, enabling you to study at your own pace, at a time and place of your convenience. Each unit is thoughtfully crafted with clear learning objectives, well-explained content, practical illustrations and self-assessment questions that help in reinforcing your understanding and preparing effectively for your examinations. Summaries and key terms at the end of each unit will aid in quick revision and concept retention.

Through this material, you will not only gain theoretical knowledge but also develop analytical skills relevant to the real-world application of GST. It also serves as a foundational resource for your Personal Contact Programme (PCP), assignments and viva preparation, making it a vital tool throughout the course.

We encourage you to make the best use of this material, remain consistent in your studies, and participate actively in all academic components. We wish you great success in your academic journey and hope this SLM adds meaningful value to your learning experience.

Centre for Distance and Online Education

INTRODUCTION TO GOODS AND SERVICES TAX

1.0 Learning Objectives and Outcomes

1.1 Introduction

1.2 Concept of GST

1.3 Genesis of GST in India

1.4 Need of GST

1.5 Legislative Framework of GST

1.6 Let Us Sum Up

1.7 Glossary

1.8 Self-Assessment Questions

1.9 Lesson End Exercise

1.10 Suggested Readings

1.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the Constitutional background of GST;
- To analyse the models of GST, how and when CGST and SGST and IGST will be levied and collected;
- To comprehend the need of GST; and
- To be familiar with the legislative framework of GST

Learning Outcomes

After the completion of this lesson, the student will be able to:

- conceptualise the meaning of GST;

- understand the constitutional background of GST;
- comprehend the models of GST; and
- apprehend the legislative framework of GST.

1.1 INTRODUCTION

Indirect taxes are the taxes levied on goods and services. They are called indirect taxes as the burden of tax is passed on to the consumer unlike direct taxes which are supposed to be borne by the persons on whom these taxes are levied.

GST is the most historic indirect tax reform in India since independence, which aims at creating a single, unified Indian market throughout the nation. It is a comprehensive destination based indirect tax levy on goods as well as services at the national level. Its main objective is to consolidate multiple indirect tax levies into a single tax thus subsuming number of tax levies, overcoming the limitations of previous indirect tax structure, and creating efficiencies in tax administration and converted the nation into one market.

GST is a consumption based tax which is levied on the basis of **“Destination principle.”** The concept relates to taxing the supply of goods or services at the point of consumption. It is a comprehensive tax regime covering both goods and services, and is collected on value-added at each stage of the supply chain. Further, GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services. The essence of GST is in removing the cascading effects i.e., tax on tax of both central and state taxes by allowing setting-off of taxes throughout the value chain, right from the original producer and service provider’s point up to the consumer level.

In the earlier indirect tax era, there were many indirect taxes levied by both state and centre. Excise duty was leviable by centre on the goods manufactured in India and service tax on services provided in India. States were collecting Value Added Tax (VAT) on sale of goods. Every state had a separate set of act & rules. Central Sales Tax (CST) was applicable on interstate sale of goods and was taxed by centre and collected by state. Apart from these, there were numerous indirect taxes that were levied by state and centre. GST consolidated multiple indirect tax levies into a single

tax thus subsuming an array of tax levies. However, basic customs duty continues to be levied on imports.

1.2 CONCEPT OF GST

GST is an Indirect tax. It is a destination-based tax on consumption of goods and services. It is levied at all stages right from manufacture up to final consumption with credit of taxes paid at previous stages available as set-off. In a nutshell, only value addition will be taxed and burden of tax is to be borne by the final consumer. Following are features of GST.

1. Value added tax
2. Destination based tax
3. Consumption based tax
4. Tax on both goods and services
5. Tax on supply
6. Comprehensive and continuous chain of Input Tax Credit
7. Final burden on ultimate Consumer

	Treatment under earlier law	Treatment under GST
1	Business has to pay : <ul style="list-style-type: none"> • Excise duty on manufacture • VAT (in a state where sale has been effected) • Service Tax on Services 	Business has to pay only GST: <ul style="list-style-type: none"> • CGST and SGST (If sale is Intrastate) • IGST (if sale is Interstate) [no multiple taxes]
2.	Business was able to take ITC of <ul style="list-style-type: none"> • Excise Duty • Service Tax • VAT Here a manufacturer can use ITC of Excise and Service tax to pay off the liability of Excise as well as Service tax. But this ITC cannot be used to pay off VAT liability. Similarly credit of VAT can be used to pay off VAT liability and not Excise duty and Service Tax.	Under GST Manufacturer, Trader and Service Provider, all are eligible to take the benefit of GST paid on inputs, capital goods and input services Traders can take the benefit of GST paid on Input Services to pay off the GST Liability on supply of goods. (This is one of the biggest advantages)

1.3 GENESIS OF GST IN INDIA

The Kelkar Task Force on Fiscal Responsibility and Budget Management (FRBM) recommended in 2005 introduction of a comprehensive tax on all goods and service replacing central level VAT and state level VATs. It recommended replacing all indirect taxes except the customs duty with value added tax on all goods and services with complete set off in all stages of making of a product.

An announcement was made by the then union finance minister in budget (2006-07) to the effect that GST would be introduced with effect from April 1, 2010.

The implementation of GST was assigned to the Empowered Committee of state finance ministers (EC). In April, 2008, the EC (Empowered Committee) submitted a report, titled “A model and road map for goods and services tax (GST) in India” containing broad recommendations about the structure and design of GST.

A dual GST model for the country has been proposed by the EC (Empowered Committee). This dual GST model has been accepted by centre. Under this model GST have two components viz. Central GST to be levied and collected by the Centre and the State GST to be levied and collected by the respective states. central excise duty, additional excise duty, service tax, and additional duty of customs (equivalent to Excise), state VAT, entertainment tax, taxes on lotteries, betting and gambling and entry tax (not levied by local bodies) would be subsumed within GST.

GST was launched on 1st July, 2017. The journey started with GSTR 1, GSTR 2 and GSTR 3. GSTR 3 was replaced by a composite return GSTR 3B. GSTR 2 and GSTR 3 were suspended.

In 2018 e way bill was introduced. The e-way bill system was introduced nation - wide for inter-State movement of goods with effect from 1st April, 2018 while the states were given the option to choose any date till 3rd June, 2018 for the introduction of the e-way bill system for intra-state supplies. Consequently, all the states had notified the e-way bill system for intra-state supplies, the last being the national capital territory of Delhi which introduced it with effect from 16th June, 2018. Lots of reforms were announced in year 2019. Threshold limit was increased.

An Integrated GST Refunds System was introduced for filing refund applications

which increased transparency and ensured faster disposal of refunds. Lot of extensions and reduction in interest rate was given in 2020 owing to pandemic COVID 19. Recently, the e-invoicing system has been launched on a trial basis starting from January 2020 and applicable from October 2020. This system requires large businesses with an annual aggregate turnover of more than Rs.100 crore to comply with some requirements. They must obtain a unique invoice reference number for every business-to business invoice by uploading on the GSTN's portal known as the invoice registration portal. The portal verifies the correctness and genuineness of the invoice. Thereafter, it authorises using the digital signature along with E-invoicing allows interoperability of invoices and helps reduce data entry errors. It is designed to pass the invoice information directly from the IRP to the GST portal and the e-way bill portal. It will, therefore, eliminate the requirement for manual data entry while filing ANX-1/GST returns and for the generation of part-A of the e-way bills.

A. CHECK YOUR PROGRESS

IMPLEMENTATION OF THE GST IN INDIA

India implemented a dual GST system in 2017, marking the most significant overhaul of its tax structure in decades. The primary aim of this reform was to eliminate the issue of double taxation, or tax on tax, which occurs from the manufacturing stage to the final sale. For instance, a manufacturer of notebooks acquires raw materials costing Rs. 10, which includes a 10% tax, resulting in Rs. 1 in tax on Rs. 9 worth of materials. As the manufacturer adds Rs. 5 in value during production, the total value reaches Rs. 15. The 10% tax on this finished product amounts to Rs. 1.50. However, with GST, the manufacturer can deduct the tax already paid, making the effective tax rate $\text{Rs. } 1.50 - \text{Rs. } 1.00 = \text{Rs. } 0.50$. Next, the wholesaler buys the notebook for Rs. 15 and sells it to the retailer for Rs. 17.50, adding a markup of Rs. 2.50. The 10% tax on this sale is Rs. 1.75. The wholesaler can subtract the tax paid to the manufacturer (Rs. 1.50), resulting in an effective tax of $\text{Rs. } 1.75 - \text{Rs. } 1.50 = \text{Rs. } 0.25$. Finally, if the retailer adds Rs. 1.50 to their margin, the effective tax rate for them will be $(10\% \text{ of Rs. } 19) - \text{Rs. } 1.75 = \text{Rs. } 0.15$. Consequently, the total tax from the manufacturer to the retailer sums up to $\text{Rs. } 1 + \text{Rs. } 0.50 + \text{Rs. } 0.25 + \text{Rs. } 0.15 = \text{Rs. } 1.90$.

1.4 NEED OF GST

The introduction of CENVAT removed cascading burden to a great extent by expanding the coverage of credit for all inputs, including capital goods. CENVAT scheme later also allowed credit of services and the basket of inputs, capital goods and input services could be used for payment of both central excise duty and service tax. Similarly, the introduction of VAT in the states has removed the cascading effect by giving set-off for tax paid on inputs as well as tax paid on previous purchases and has again been an improvement over the previous salestax regime.

But both the CENVAT and the State VAT have certain incompleteness. The incompleteness in CENVAT is that it has yet not been extended to 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 has not yet been removed and the cascading effect of that part of tax burden has remained unrelieved. Moreover, there are several taxes in the States, such as, Luxury Tax, Entertainment Tax, etc. which have still not been subsumed in the VAT. Further, there has also not been any integration of VAT on goods with tax on services at the State level with removal of cascading effect of service tax.

CST was another source of distortion in terms of its cascading nature. It was also against one of the basic principles of consumption taxes that tax should accrue to the jurisdiction where consumption takes place. Despite remarkable harmonization in VAT regimes under the auspices of the EC, the national market was fragmented with too many obstacles in free movement of goods necessitated by procedural requirement under VAT and CST.

In the constitutional scheme, taxation powers on goods was with Central Government but it was limited upto the stage of manufacture and production while States have powers to tax sale and purchase of goods. Centre had power to tax services and States also had powers to tax certain services specified in clause (29A) of Article 366 of the Constitution. This sort of division of taxing powers created a grey zone which led to legal disputes. Determination of what constitutes a goods or service is difficult because in modern complex system of production, a product is normally a mixture of goods and services.

As can be seen from the previous paragraphs, India moved towards value added taxation both at central and state level, and this process was complete by 2005. Integration of Central VAT and State VAT therefore is nothing but an inevitable consequence of the reform process. The Constitution of India envisages a federal nature of power bestowed upon both Union and States in the Constitution itself. As a natural corollary of this, any unification of the taxation system required a dual GST, levied and collected both by the union and the states.

B. CHECK YOUR PROGRESS

Imagine you are a business owner in India who operates a small manufacturing company. You often face challenges with multiple indirect taxes that complicate your accounting and compliance processes.

1. Identify the key needs that prompted the introduction of the Goods and Services Tax (GST) in India.
2. Explain how GST addresses these needs and what concepts underpin its structure.
3. Discuss how the implementation of GST could potentially impact your business operations.

1.5 LEGISLATIVE FRAMEWORK OF GST

Mother of every law in India is constitution so to understand GST it is necessary to understand the constitutional provisions behind GST law.

India has a three-tier federal structure, comprising of the union government, the state governments and the local government. The power to levy taxes and duties is distributed among the three tiers of governments, in accordance with the provisions of the Indian constitution.

The Constitution of India is the supreme law of India. It consists of a Preamble, with 25 parts containing 448 Articles and 12 Schedules.

- **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 within the 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 the union and state Governments for levying tax. Whereas parliament may make laws for the whole of India or any part of the territory of India, the state legislature may make laws for whole or part of the state.
- **Article 246A:** Power to make laws with respect to goods and services Tax: Newly inserted Article 246A
 - (1) Notwithstanding anything contained in Articles 246 and 254, Parliament, and, subject to clause (2), the Legislature of every state, have power to make laws with respect to goods and services tax imposed by the union or by such state.
 - (2) Parliament has exclusive power to make laws with respect to goods and services tax where the supply of goods, or of services, or both takes place in the course of inter-state trade or commerce. Explanation—The provisions of this article, shall, in respect of goods and services tax referred to in clause (5) of Article 279A, take effect from the date recommended by the Goods and Services Tax Council.
 - (3) **Article 248 amended:** Grants the residuary powers to parliament to make laws with respect to any matter not enumerated in the concurrent list or state list. Such power shall include the power of making any law imposing a tax not mentioned in either of those lists. This article has been amended. Now, this power has been subjected to Article 246A, namely the power to make laws with respect to Goods and Services Tax to be imposed by the centre and states.

C. CHECK YOUR PROGRESS

Multiple Choice Questions

1. What is the maximum GST rate for most goods under the GST regime in India?

- A) 5%
- B) 12%
- C) 18%
- D) 28%

Answer: 28%

2. Which of the following is true about the composition scheme under GST?

- A) It allows small taxpayers to pay a fixed percentage of their turnover as tax.
- B) It is available only to service providers.
- C) It is mandatory for all businesses.
- D) It allows claiming input tax credit.

Answer: It allows small taxpayers to pay a fixed percentage of their turnover as tax.

- Following are the acts under GST which were passed and received the President's assent on 12th April, 2017 and became effective from 1st July, 2017-
 - (1) The Central Goods and Services Tax Act, 2017(CGST),
 - (2) The Integrated Goods and Services Tax Act, 2017(IGST),
 - (3) The Union Territory Goods and Services Tax Act, 2017(UTGST),
 - (4) The Goods and Services Tax (Compensation to States) Act, 2017 (Compensation Cess).
- Twenty-eight states excluding Jammu & Kashmir, Union Territories with legislature- Delhi and Puducherry and the remaining five Union Territories have passed their respective State Goods and Services Tax Act (SGST) and Union Territory Goods and Services Tax Act (UTGST) Act by 30th June, 2017 and became effective from 1st July, 2017.
- CGST (Extension to Jammu and Kashmir) Act, 2017 and IGST (Extension to Jammu and Kashmir) Act, 2017 received the assent of the President on 23rd August, 2017 and became effective from 8th July, 2017.

- The Jammu & Kashmir Goods and Services Act, 2017 received the assent of the Governor on 7th July, 2017 and came into force from 8th July, 2017.

1.6 LET US SUM UP

Indirect taxes are the taxes levied on goods and services. They are called indirect taxes as the burden of tax is passed on to the consumer unlike direct taxes which are supposed to be borne by the persons on whom these taxes are levied.

GST is the most historic indirect tax reform in India since Independence, which aims at creating a single, unified Indian market throughout the Nation. It is a comprehensive destination based indirect tax levy on goods as well as services at the national level. Its main objective is to consolidate multiple indirect tax levies into a single tax thus subsuming number of tax levies, overcoming the limitations of previous indirect tax structure, and creating efficiencies in tax administration and converted the nation into one market.

1.7 GLOSSARY

- **Indirect taxes:** Indirect taxes are the taxes levied on goods and services. They are called indirect taxes as the burden of tax is passed on to the consumer unlike direct taxes which are supposed to be borne by the persons on whom these taxes are levied.
- **GST:** The goods and services tax (GST) is a tax on goods and services sold domestically for consumption. The tax is included in the final price and paid by consumers at point of sale and passed to the government by the seller. The GST is a common tax used by the majority of countries globally.
- **CENVAT:** The Central Value Added Tax (CENVAT) is a part of India's central excise framework. It reduces the consumer's tax burden when purchasing any product and offers a transparent picture of tax liabilities at every stage of production.

1.8 SELF-ASSESSMENT QUESTIONS

1. "GST is One Nation One Tax" Explain the Concept.
-

2. Explain the Journey of GST in India?

3. Explain 'GST is not only Tax reform but one of the biggest Business Reform'.

1.9 LESSON-END EXERCISE

1. Write a short note on the destination-based nature of GST.

2. What is the role of the GST Council, and how does it function?

3. Discuss the advantages and disadvantages of GST in India.

1.10 SUGGESTED READINGS

- GST Bare Act, 2024
- Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
- GST Act with Rules and Forms- Taxmann, New Delhi.
- Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
- Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

GOODS AND SERVICES TAX AND ITS ADVANTAGES

2.0 Learning Objectives and Outcomes

2.1 Introduction

2.2 Advantages of GST

2.3 Composition Scheme

2.4 Reverse Charge Mechanism

2.5 Let Us Sum Up

2.6 Glossary

2.7 Self-Assessment Questions

2.8 Lesson End Exercise

2.9 Suggested Readings

2.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the constitutional background of GST;
- To be familiar with the advantages of GST;
- To examine the Composition Scheme; and
- To comprehend the Reverse Charge Mechanism

Learning Outcomes

After the completion of this lesson, the student will be able to:

- understand the constitutional background of GST;

- list out the advantages of GST;
- comprehend the composition schemes; and
- apprehend the Reverse Charge Mechanism

2.2 INTRODUCTION

The introduction of the Goods and Services Tax (GST) in India marked a significant milestone in the country's economic landscape. It is a single indirect tax that has replaced a number of cascading taxes in India. It was introduced on July 1, 2017, with the aim of simplifying the tax structure, reducing tax evasion, and increasing transparency. It has simplified the tax structure, reduced tax evasion, and increased transparency.

The GST has a number of advantages for business and consumers in India. For businesses, the GST eliminates the need to comply with multiple taxes, which can save time and money. It also makes it easier to claim input tax credit, which can reduce the overall tax burden. For consumers, the GST has led to lower prices for goods and services.

The composition scheme is a simplified GST registration option available to small businesses. Under the composition scheme, businesses are required to pay tax at a fixed rate of 1%, 2%, 5% or 6% of their turnover, depending on their business activity. They are also not required to collect tax from their customers or file monthly returns. The GST composition scheme is a valuable option for small business in India. It can help businesses to reduce their compliance burden, lower their tax liability, and improve their liquidity. If you are a small business owner in India, you should consider registering for the composition scheme.

Indirect taxes are the taxes levied on goods and services. They are called indirect taxes as the burden of tax is passed on to the consumer unlike direct taxes which are supposed to be borne by the persons on whom these taxes are levied.

GST is the most historic indirect tax reform in India since independence. It aims at creating a single, unified Indian market throughout the nation. It is a comprehensive destination based indirect tax levy on goods as well as services at the national level. Its main objective is to consolidate multiple indirect tax levies into a single tax thus

subsuming number of tax levies, overcoming the limitations of previous indirect tax structure, and creating efficiencies in tax administration and converted the nation into one market.

GST is a consumption based tax which is levied on the basis of “**Destination principle.**” The concept relates to taxing the supply of goods or services at the point of consumption. It is a comprehensive tax regime covering both goods and services, and is collected on value-added at each stage of the supply chain. Further, GST paid on the procurement of goods and services can be set off against that payable on the supply of goods or services. The essence of GST is in removing the cascading effects i.e., tax on tax of both Central and State taxes by allowing setting-off of taxes throughout the value chain, right from the original producer and service provider’s point up to the consumer level.

In the earlier indirect tax era, there were many indirect taxes levied by both State and Centre. Excise duty was leviable by Centre on the goods manufactured in India and Service Tax on services provided in India. States were collecting Value Added Tax (VAT) on sale of goods. Every state had a separate set of act & rules. Central Sales Tax (CST) was applicable on interstate sale of goods and was taxed by centre and collected by state. Apart from these, there were numerous indirect taxes that were levied by state and centre. GST consolidated multiple indirect tax levies into a single tax thus subsuming an array of tax levies. However, basic customs duty continues to be levied on imports.

2.3 ADVANTAGES OF GST

- 1. Benefits to the exporters:** The subsuming of major central and state taxes in GST, complete and comprehensive setoff of input goods and services and phasing out of Central Sales Tax (CST) would reduce the cost of locally manufactured goods and services. This will increase the competitiveness of Indian goods and services in the international market and give boost to Indian exports. The uniformity in tax rates and procedures across the country will also go a long way in reducing the compliance cost.
- 2. Benefits to small traders and entrepreneurs:** GST has increased the threshold for GST registration for small businesses. Those units having aggregate annual turnover of more than Rs 20 lakhs (10 lakh in case of North

Eastern States) have to be registered under GST. Unlike multiple registrations under different tax regimes earlier, a single registration is needed under GST in one state. An additional benefit under composition scheme has also been provided for businesses with aggregate annual turnover up to Rs 1.5 Cr. With the creation of a seamless national market across the country, small enterprises will have an opportunity to expand their national footprint with minimal investment.

3. **Benefits to agriculture and Industry:** GST will give more relief to industry, trade and agriculture through a more comprehensive and wider coverage of input tax set-off and service tax set-off, subsuming of several central and state taxes in the GST and phasing out of CST. The transparent and complete chain of set-offs which will result in widening of tax base and better tax compliance may also lead to lowering of tax burden on an average dealer in industry, trade and agriculture.
4. **Benefits for common consumers:** With the introduction of GST, the cascading effects of CENVAT, state VAT and service tax will be more comprehensively removed with a continuous chain of set-off from the producer's point to the retailer's point than what was possible under the prevailing CENVAT and VAT regime. Certain major central and state taxes will also be subsumed in GST and CST will be phased out. Other things remaining the same, the burden of tax on goods would, in general, fall under GST and that would benefit the consumers.
5. **Promote "Make in India":** GST will help to create a unified common national market for India, giving a boost to foreign investment and "Make in India" campaign. It will prevent cascading of taxes and make products cheaper, thus boosting aggregate demand. It will result in harmonization of laws, procedures and rates of tax. It will boost export and manufacturing activity, generate more employment and thus increase GDP with gainful employment leading to substantive economic growth. Ultimately it will help in poverty eradication by generating more employment and more financial resources. More efficient neutralization of taxes especially for exports will make our products more competitive in the international market and give boost to Indian exports. It will also improve the overall investment climate in the country which will naturally benefit the development in the states. Uniform CGST SGST IGST rates will reduce the incentive for evasion by eliminating rate arbitrage between neighboring states and that between intra

and inter-state supplies. Average tax burden on companies is likely to come down which is expected to reduce prices and lower prices mean more consumption, which in turn means more production thereby helping in the growth of the industries. This will create India as a “manufacturing hub”.

- 6. Ease of Doing Business:** Simpler tax regime with fewer exemptions along with reduction in multiplicity of taxes that are at present governing our indirect tax system will lead to simplification and uniformity. Reduction in compliance costs as multiple record-keeping for a variety of taxes will not be needed, therefore, lesser investment of resources and manpower in maintaining records. It will result in simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction shall be through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration. It will improve environment of compliance as all returns to be filed online, input credits to be verified online, encouraging more paper trail of transactions. Common procedures for registration of taxpayers, refund of taxes, uniform formats of tax return, common tax base, common system of classification of goods and services will lend greater certainty to taxation system.

GST has also offered various advantages over the previous indirect taxation system. Advantages offered by GST to various parties are as under:

A. To Citizens:

- (i) Simpler tax system
- (ii) Reduction in prices of goods and services due to elimination of cascading effect (i.e., no tax on tax)

- (iii) Uniform prices throughout the country
- (iv) Transparency in taxation system
- (v) Increase in employment opportunities (because of implementation of GST business need more persons to handle their accounting work and other paper work as GST makes provision for monthly and quarterly return filing)

B. To Trade/Industry:

- (i) Reduction in multiplicity of taxes: Around 17 taxes at central level as well as state level have been abolished and one tax- GST has been introduced. This has really given benefit to the businesses.
- (ii) Mitigation of cascading/double taxation
- (iii) More efficient neutralization of taxes especially for exports
- (iv) Development of common national market
- (v) Simpler tax regime-fewer rates and exemptions

C. Central/State Governments:

- (i) A unified common national market to boost foreign investment and “Make in India” campaign
- (ii) Boost to export/manufacturing activity, generation of more employment, leading to reduced poverty and increased GDP growth
- (iii) Improving the overall investment climate in the country which will benefit the development of states
- (iv) Uniform SGST and IGST rates to reduce the incentive for tax evasion 12 PP-ATL
- (v) Reduction in compliance costs as no requirement of multiple record keeping.

A. CHECK YOUR PROGRESS

- **Scenario:**

A manufacturing company earlier paid taxes on raw materials under VAT and central excise duty, which were not creditable against each other. After GST implementation, the company can now claim Input Tax Credit (ITC) on all inputs.

Question:

Explain how GST eliminates the cascading effect of taxes in this scenario.

- **Scenario:**

A trader previously had to comply with different tax regulations in each state for inter-state trade. Post-GST, the trader only needs to file a single tax under IGST for inter-state transactions.

Question:

How has GST simplified the tax compliance process for businesses operating across multiple states?

- **Scenario:**

An e-commerce company was earlier required to deal with entry tax and VAT complexities in different states. After GST, the tax structure has become uniform across the country.

Question:

Discuss how GST has facilitated ease of doing business for e-commerce platforms.

- **Scenario:**

A small business owner is contemplating registering under the GST Composition Scheme, which allows for a lower tax rate and simpler compliance.

Question:

What are the benefits of the GST Composition Scheme for small businesses, and how does it encourage their participation in the formal economy?

- **Scenario:**

A consumer noticed that after GST implementation, the overall price of electronic goods has decreased due to the elimination of multiple taxes and improved supply chain efficiency.

Question:

How does GST contribute to reducing the overall cost of goods and services for end consumers?

2.4 COMPOSITION SCHEME

Composition Scheme is a simple and easy scheme under GST for taxpayers. Small taxpayers can get rid of tedious GST formalities and pay GST at a fixed rate of turnover. This scheme can be opted by any taxpayer whose turnover is less than Rs.1.5 crore.

It is a simple and easy scheme under GST for taxpayers. Section 10 of the CGST Act, 2017 contains the provisions regarding Composition levy. A person who has registered under composite scheme has lesser compliance, limited tax liability and high liquidity as taxes are at a lower rate.

A taxpayer whose turnover is below Rs.1.5 crore (applicable from 1st April 2019 onwards) can opt for Composition Scheme. For the states namely (i) Arunachal Pradesh, (ii) Manipur, (iii) Meghalaya, (iv) Mizoram, (v) Nagaland, (vi) Sikkim, (vii) Tripura, (viii) Uttarakhand aggregate turnover limit shall be Rs.75 lakhs.

As per the CGST (Amendment) Act, 2018 a composition dealer can also supply services to an extent of ten percent of turnover, or Rs. 5 Lakhs, whichever is higher. This amendment will be applicable from the 1st of Feb, 2019. Further, GST Council in its 32nd meeting proposed and increase to this limit for service providers on 10th Jan 2019. Turnover of all businesses registered with the same PAN should be taken into consideration to calculate turnover.

For opting composition scheme a taxpayer has to file GST CMP – 02 with the government by logging in to the GST portal. An intimation is required by a dealer at the beginning of every financial year. A dealer is required to file a quarterly return GSTR – 4 by 18th of the month after the end of the quarter. The GSTR 4 is a return under GST that needs to be filed once every 3 months by registered taxpayers who have signed up for the composition scheme (those who opt for this scheme are known as compounding vendors). They would be required to pay taxes at fixed rate without any input tax credit facilities. Also, an annual return GSTR – 9A has to be filed by 31st December of next financial year.

A) Who are not eligible for Composition Scheme?

The following persons are not allowed to opt for the composition scheme

- A casual taxable person or a non-resident taxable person;
- Suppliers whose aggregate turnover in the preceding financial year crossed Rs. 75 lakhs;
- Supplier who has purchased any goods or services from unregistered supplier unless he has paid GST on such goods or services on reverse charge basis;
- Supplier of services, other than restaurant service;
- Persons supplying goods which are not taxable under GST law;
- Persons making any inter-state outward supplies of goods;
- Suppliers making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and
- A manufacturer of following goods :
 - (a) Ice cream and other edible ice, whether or not containing cocoa
 - (b) Pan Masala
 - (c) Tobacco and manufactured tobacco substitutes.

B) What are the conditions for availing Composition Scheme?

The following Conditions must be satisfied in order to opt for composition scheme:

- No Input Tax Credit can be claimed by a dealer opting for composition scheme.
- The dealer cannot supply goods not taxable under GST such as alcohol.
- The taxpayer has to pay tax at normal rates for transactions under the Reverse Charge Mechanism.
- If a taxable person has different segments of businesses (such as textile, electronic accessories, groceries, etc.) under the same PAN, they must register all such businesses under the scheme collectively or opt out of the scheme.
- The taxpayer has to mention the words 'composition taxable person' on every notice or signboard displayed prominently at their place of business.

- The taxpayer has to mention the words ‘composition taxable person’ on every bill of supply issued by him.
- As per the CGST (Amendment) Act, 2018, a manufacturer or trader can now also supply services to an extent of ten percent of turnover, or Rs.5 lakhs, whichever is higher. This amendment will be applicable from the 1st of Feb, 2019.

Note:

- In India: business with annual turnover of more than 40 lakhs (Rs. 20 lakhs) for business in special category states are required to register for GST.
- This limit has also been increased from 10 lakhs to 20 lakhs for special category state.

2.5 REVERSE CHARGE MECHANISM

- **Introduction to Reverse Charge Mechanism (RCM) in GST**

Reverse charge is a mechanism under which the recipient of the goods or services is liable to pay the tax instead of the provider of the goods and services. Under the normal taxation regime, the supplier collects the tax from the buyer and deposits the same after adjusting the output tax liability with the input tax credit available. But under Reverse Charge Mechanism (RCM), liability to pay tax shifts from supplier to recipient. As per Section 24 of CGST Act’ 2017, a person paying tax under the reverse charge mechanism has to compulsorily get registered even if the turnover is below the threshold limit. Reverse Charge Mechanism is generally applicable in three main situations:

1. Supply from an unregistered dealer to a registered dealer: If a vendor who is not registered under GST, supplies goods to a person who is registered under GST, then Reverse Charge would apply. This means that the GST will have to be paid directly by the receiver to the Government instead of the supplier. The registered dealer who has to pay GST under reverse charge has to do self-invoicing for the purchases made. For inter-state purchases the buyer has to pay IGST. For Intra-state purchases CGST and SGST has to be paid under RCM by the purchaser.
2. Services through an e-commerce website: If an e-commerce operator supplies services, then reverse charge will be applicable to the e-commerce operator. He will be liable to pay GST.
3. Supply of specific goods listed by Central Board of Indirect Taxes and Customs (CBIC): CBIC has issued a list of goods and a list of services on which

reverse charge is applicable.

The concept of reverse charge mechanism was introduced in erstwhile service tax laws. Generally, tax is payable by the person who provides services but under reverse charge mechanism the liability to pay tax has shifted to recipient of services. The concept of reverse charge mechanism is incorporated under GST, but in GST regime government has notified not only supply of certain services but also supply of certain goods under RCM. The objective of reverse charge mechanism is to widen the scope of levy of tax on unorganized sectors and give exemption to specific class of supplier of goods/services and import of services.

Therefore, under reverse charge mechanism the liability to pay tax is fixed on the recipient of supply of goods or services instead of the supplier or provider in respect of certain categories of goods or services or both under Section 9(3) or Section 9(4) of the CGST Act, 2017 and under sub-section (3) or sub-section (4) of Section 5 of the IGST Act, 2017.

- **Statutory provision of reverse mechanism**

Section 2(98) of the CGST Act, 2017 has defined the term “reverse charge” and the same is reproduced as follows:

“Reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of Section 9, or under sub-section (3) or sub-section (4) of Section 5 of the Integrated Goods and Services Tax Act.

The plain reading of the cited definition of reverse charge under GST laws, it is clearly stated that reverse charge is not only confined to services rather the scope of reverse charge is extended to goods also. For more detailed provisions of reverse charge as provided under section and sub-section of the CGST Act, 2017 and IGST Act, 2017 is reproduced in the following paras as under:

Section 9(3) of the CGST Act, 2017 provides the provisions of reverse charge and the same is reproduced as follows:

“The government may, on the recommendations of the council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this act shall apply to such recipient as if he is the person liable for paying the

tax in relation to the supply of such goods or services or both.”

- **Reverse Charge Mechanism in respect of Unregistered Person:**

Section 9(4) of the CGST Act, 2017 provides the provisions of reverse charge and the same is reproduced as follows:

“The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

The cited provision has been deferred till 30th September, 2019 vide Notification No. 22/2018-Central Tax dated 6-8-2018 has been rescinded vide Notification No. 1/2019-Central Tax (Rate) dated 29.1.2019 [said section 9(4) has been forced w.e.f.1.2.2019]. But the list of Goods or services not yet declared by the Government for implementation of the provision.

Section 5(3) of the IGST Act, 2017 provides the provisions of reverse charge and the same is reproduced as follows:

“The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Section 5(4) of the IGST Act, 2017 provides the provisions of reverse charge and the same is reproduced as follows:

“The integrated tax in respect of the supply of taxable goods or services or both by

a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

The above provision has been deferred till 30th September, 2019 vide Notification No.23/2018-Integrated Tax., dated 6-8-2018 has been rescinded vide Notification No.1/2019-Integrated Tax (Rate) dated 29.1.2019 [said section 5(4) has been forced w.e.f.1.2.2019].But the list of Goods or services not yet declared by the government for implementation of the provision.

The above cited provisions of CGST Act, 2017 and IGST Act, 2017 says that there are two types of reverse charge scenarios provided in law. First situation is dependent on the nature of supply and/or nature of supplier. This is covered by Section 9(3) of the CGST/SGST/UTGST Act and Section 5(3) of the IGST Act. Second situation is covered by section 9(4) of the CGST/SGST/UTGST Act and Section 5(4) of the IGST Act where a taxable supply by any unregistered person to a registered person is covered. Accordingly, whenever a registered person procures supplies from an unregistered supplier, he needs to pay GST on reverse charge basis. However, supplies where the aggregate value of such supplies of goods or services or both received by a registered person from any or all the unregistered suppliers is less than five thousand rupees in a day are exempted vide Notification No. 8/2017-C.T. (Rate), dated 28-6-2017.

B. CHECK YOUR PROGRESS

• Scenario:

A registered company hires services from an unregistered transporter for transporting goods. Under GST, the company is liable to pay tax on these services instead of the transporter.

Question:

Explain how the Reverse Charge Mechanism applies in this case and why it is implemented for unregistered suppliers.

• Scenario:

A company hires legal consultancy services from an advocate. Since legal services fall under the reverse charge category, the company must pay GST on behalf of the advocate.

Question:

Why are legal services brought under the Reverse Charge Mechanism? Discuss the implications for both the company and the advocate.

• Scenario:

A small business registered under GST procures goods worth ₹1,50,000 from an unregistered dealer. The GST liability falls on the buyer due to reverse charge provisions.

Question:

How does the Reverse Charge Mechanism ensure tax compliance when dealing with unregistered suppliers?

• Scenario:

A hotel avails services of a goods transport agency (GTA) for delivering its supplies. The GTA is not required to pay GST, and the hotel is liable to pay it under RCM.

Question:

Explain the role of Reverse Charge Mechanism in ensuring the collection of GST in the transportation sector.

• Scenario:

An e-commerce platform facilitates sales for multiple sellers, some of whom are unregistered. Under RCM, the platform is required to collect and pay GST on behalf of these sellers.

Question:

Discuss how the Reverse Charge Mechanism applies to e-commerce platforms and the challenges it addresses in the GST framework.

2.6 LET US SUM UP

The structure of Indirect Taxes in India upto 30th June 2017 was based on the seventh schedule of the Constitution of India. This seventh schedule has three lists i.e. union list, in which the central government is empowered to make laws, state list, in which the concerned state governments only can make laws and third one is the concurrent list, in which the central as well as state governments can make the laws. Each state was having its own tax laws on sale/purchase of goods. After the enactment of the Goods and Services Tax Act, 2017, which came into force with effect from 1st of July 2017, there is uniformity in collection of tax throughout the country.

GST is one of the most demanding reforms in the field of indirect taxation. GST is an indirect tax which has replaced many indirect taxes like excise duty, service tax, VAT, CST and many other central and state level taxes.

2.7 GLOSSARY

- **GST:** The goods and services tax (GST) is a tax on goods and services sold domestically for consumption. The tax is included in the final price and paid by consumers at point of sale and passed to the government by the seller. The GST is a common tax used by the majority of countries globally.
- **Composition Scheme:** A simplified GST registration option available to small businesses. Under the composition scheme, businesses are required to pay tax at a fixed rate of 1%, 2%, 5% or 6% of their turnover, depending on their business activity. They are also not required to collect tax from their customers or file monthly returns.
- **Turnover:** The total value of goods and services supplied by a business in a given period.
- **CGST:** The Central Goods and Services Tax, one of the two components of GST. It is levied by the Central Government.
- **SGST:** The State Goods and Services Tax, one of the two components of GST. It is levied by State Government.
- **IGST:** The Integrated Goods and Services Tax, levied on inter-state supplies of goods and services. It is levied by the Central Government.
- **Reverse charge mechanism:** A mechanism under which the recipient of a supply is liable to pay GST, instead of the supplier.
- **Threshold limit:** The maximum turnover limit for a business to be eligible for the composition scheme. The threshold limit is different for different states and categories of businesses.

- **Opt-in:** The process of registering for the composition scheme. Business can opt-in for the composition scheme at any time during the financial year.
- **Opt-out:** The process of opting out of the composition scheme. Business can opt-out of the composition scheme once in a financial year.

2.8 SELF-ASSESSMENT QUESTIONS

1. State the advantages of GST.

2. Explain the concept of Composition scheme in GST.

3. Explain the concept of Reverse charge mechanism in GST.

2.8 LESSON END EXERCISE

1. Discuss how GST promotes a unified national market in India..

2. What are the benefits of GST for consumers?

3. Explain the administrative challenges faced by taxpayers under GST.

2.9 SUGGESTED READINGS

- GST Bare Act, 2024
- Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
- GST Act with Rules and Forms- Taxmann, New Delhi.
- Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
- Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra

SUPPLY

3.0 Learning Objectives and Outcomes

3.1 Introduction

3.2 Meaning of Supply

3.3 Scope of Supply

3.4 Classification of Supply

3.5 Time of Supply

3.6 Value of Supply

3.7 Let Us Sum Up

3.8 Glossary

3.9 Self-Assessment Questions

3.10 Lesson End Exercise

3.11 Suggested Readings

3. 0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the meaning and scope of supply;
- To apprehend the Time of Supply; and
- To be familiar with the concept of the Value of Supply

Learning Objectives

After the completion of this lesson, the student will be able to:

- understand the meaning and scope of supply;

- list out the types of supply;
- comprehend the time of supply; and
- apprehend the value of supply.

3.1 INTRODUCTION

The event of GST starts where there is a case of supply. If there is no case of supply, GST is not required and not to be considered. A word sale has not been taken under GST Act. In place of sale there is a word supply. Various taxable events in pre-GST regime such as purchase, sale, manufacturing, service, entry tax etc. have been subsumed in GST in a single taxable event i.e. supply.

Every tax statute provides an incidence for the levy of tax there under. The Central Excise Act, 1944 mandates manufacture of goods as an incidence for levy of central excise duty. The Customs Act, 1965 mandates import or export of goods for the levy of customs duty. Hitherto, the Finance Act, 1994 provided 'provisioning of service' as an incidence for the levy of service tax. On a similar note, state value added tax (VAT) laws provided for 'sale of goods' as an incidence for levy of VAT. In this perspective, students may note that the goods and service tax law provide for 'supply' as an incidence for the levy of goods and services tax. Thus, for any transaction to be eligible to goods and services tax, it has to fall within the purview of the definition of 'supply'. Fortunately, the CGST Act, 2017, has offered us the definition of 'supply', which we shall read and analyse in the following paragraphs.

Central Goods and Services Act, 2017

Section	Deals with
Section 7	Meaning and Scope of Supply
Schedule I	Activities to be treated as supply even if made without consideration
Schedule II	Activities to be treated as supply of goods or Supply of Services
Schedule III	Activities or Transactions which shall be treated neither as a Supply of Goods nor a Supply of Services
Section 8	Tax Liability on Composite and Mixed Supplies
Section 9	Levy and Collection of GST
Section 10	Composition Scheme

Section 11	Power to grant exemption from tax
Section 12	Time of Supply of Goods
Section 13	Time of Supply of Services
Section 14	Time of Supply in case of change in rate
Section 15	Value of Supply
Section 2(68)	Job Work
Section 143	Job Work Procedure
Section 19	Input Tax Credit in Job work

3.2 MEANING AND SCOPE OF SUPPLY [SECTION 7]

1. General meaning [Sec. 7(1)(a)]

Supply includes –

All forms of supply of goods and/or services and includes agreeing to supply when the supply is for a consideration and in the course or furtherance of business (as defined under Section 7 of the Act). It specifically provides for the inclusion of the following 8 classes of transactions:

- (i) sale,
- (ii) transfer,
- (iii) barter,
- (iv) exchange,
- (v) license,
- (vi) rental,
- (vii) lease or
- (viii) disposal

Analysis:

The definition of supply is inclusive which encompasses various form of supply like sale, barter, etc.

2. Import of services [Sec. 7(1)(b)]

Import of services for a consideration whether or not in the course or furtherance of business;

Analysis:

Here, the business test is not relevant as the import of service may or may not be in the course or furtherance of business. Thus, even the import of services by individuals for personal use is considered as supply and chargeable to tax in India.

The transaction should confirm to the definition of ‘import of service’ as per Section 2(11) of the IGST Act, 2017 which provides that “import of service means the supply of any service, where –

- (i) the supplier of service is located outside India;
- (ii) the recipient of service is located in India; and
- (iii) the place of supply of service is in India;

Among other conditions, place of supply should be in India, which can be ascertained by referring to Section 13 of the IGST Act.

Tax in such cases is payable under reverse charge by the recipient located in the taxable territory with no threshold.

However, section 14 of the IGST Act, 2017 provides that in respect of import of service by way online information and database access or retrieval services by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services.

Example 1: Deepika Padukone received beauty tips from a US-based beauty consultant during an in-person meeting at her residence in Mumbai. It was for a consideration. The subject transaction qualifies as ‘supply’.

Thus, service is chargeable to tax in the hands of Deepika Padukone under reverse charge as the service provider is located in the non-taxable territory and the place of supply is in India.

3. Supply without consideration [Sec. 7(1)(c)]

The activities specified in Schedule I, made or agreed to be made without a consideration. Thus, the activities listed in Schedule I shall be treated as supply even if made without consideration.

4. Deeming certain activities as either supply of goods or supply of services [Sec. 7(1A)]

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

This provision is inserted in place of erstwhile Section 7 (1) (d) vide the Central Goods and Services Tax (Amendment) Act, (2018) retrospectively from 1.7.2017.

The effect of the amendment is that the activities listed in Schedule II shall be treated either as supply of goods or supply of services provided the basic conditions for an activity to be construed as supply as laid down in Section 7(1) are fulfilled.

5. Neither a Supply of goods or services [Sec. 7(2)]

Notwithstanding anything contained in sub-section (1),

- (a) activities or transactions specified in Schedule III; or
- (b) such activities or transactions undertaken by the central government, a state government or any local authority in which they are engaged as public authorities, as may be notified by the government on the recommendations of the council, shall be treated neither as a supply of goods nor a supply of services.

6. Issue of Notification by Government [Sec. 7(3)]

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) a supply of goods and not as a supply of services; or
- (b) a supply of services and not as a supply of goods.

A. CHECK YOUR PROGRESS

Case Study: Supply under GST

Scenario:

ABC Enterprises is a registered business dealing in electronic goods. The company is based in Mumbai, Maharashtra, and sells products both locally and across various states in India. Below are the key transactions undertaken by ABC Enterprises during a particular month:

1. **Transaction 1:** Sold 100 mobile phones to a local distributor in Maharashtra for ₹15,000 each (excluding GST).
2. **Transaction 2:** Exported 50 laptops to a buyer in the United States, each priced at ₹50,000 (FOB value).
3. **Transaction 3:** Supplied 20 televisions to a retailer in Gujarat at ₹30,000 each (excluding GST).
4. **Transaction 4:** Supplied 10 refrigerators as part of a barter arrangement with a furniture manufacturer in exchange for 15 office chairs. The market value of one refrigerator is ₹25,000, and one chair is ₹10,000.
5. **Transaction 5:** Donated 5 washing machines (each valued at ₹20,000) to a charitable organization without any consideration.
6. **Transaction 6:** Purchased raw materials worth ₹5,00,000 from an unregistered supplier.

Additional Information:

- The GST rates applicable are as follows:
 - Mobile phones: 18%
 - Laptops: 18%
 - Televisions: 28%
 - Refrigerators: 28%
 - Washing machines: 28%
- ABC Enterprises follows the regular GST scheme.

Questions

1. **Classification of Supply:**
 - a. Classify each of the above transactions as an intra-state supply, inter-state supply, export, or deemed supply under GST.
 - b. Which of these transactions qualify as a "supply" under Section 7 of the CGST Act, 2017?
2. **Valuation:**
 - a. Calculate the taxable value for each transaction.
 - b. In the case of the barter arrangement (Transaction 4), how should the value of supply be determined?

3. Tax Calculation:

- a. Calculate the GST payable for each transaction.
- b. Are there any exemptions or zero-rated supplies in the given case?

3.3 SCOPE OF SUPPLY

The taxable event in GST is supply of goods or services or both. Various taxable events like manufacture, sale, rendering of service, purchase, entry into a territory of state, etc. have been done away with in favour of just one event i.e., supply. The constitution defines “goods and services tax” as any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption.

The central and state governments will have simultaneous powers to levy the GST on intra-state supply. However, the Parliament alone shall have exclusive power to make laws with respect to levy of goods and services tax on inter-state supply.

‘Section 7’, of CGST act 2017 further explains “Scope of Supply”

- (1) For the purposes of this act, the expression “supply” includes:
 - (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
 - (b) import of services for a consideration whether or not in the course or furtherance of business and
 - (c) the activities specified in Schedule I, made or agreed to be made without a consideration; where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.
- (2) Notwithstanding anything contained in sub-section (1)

- (a) activities or transactions specified in Schedule III; or
- (b) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation - For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;

- (c) such activities or transactions undertaken by the central government, a state government or any local authority in which they are engaged as public authorities, as may be notified by the government on the recommendations of the council, shall be treated neither as a supply of goods nor a supply of services.
- (3) Subject to the provisions of sub-sections (1), (1A) and (2), the government may, on the recommendations of the council, specify, by notification, the transactions that are to be treated as:
- (a) a supply of goods and not as a supply of services; or
 - (b) a supply of services and not as a supply of goods.

B. CHECK YOUR PROGRESS

Multiple-Choice Questions (MCQs) on Supply in GST

1. **Which of the following is considered an inter-state supply under GST?**
- a. Sale of mobile phones to a distributor within Maharashtra.
 - b. Supply of televisions to a retailer in Gujarat.
 - c. Export of laptops to the United States.
 - d. Donation of washing machines to a charitable organization.

Answer: b

2. **What is the GST rate applicable to the supply of refrigerators as per the case study?**
- a. 18%
 - b. 28%
 - c. 12%
 - d. 5%

Answer: b

3. **In the barter transaction (Transaction 4), the value of supply for refrigerators should be based on:**
- a. The market value of the refrigerators.
 - b. The market value of the office chairs received.
 - c. The higher of the market values of the refrigerators or chairs.
 - d. The lower of the market values of the refrigerators or chairs.

Answer: c

4. **Which of the following transactions qualifies as a zero-rated supply under GST?**
- a. Supply of televisions to Gujarat.
 - b. Export of laptops to the United States.
 - c. Donation of washing machines.
 - d. Purchase of raw materials from an unregistered supplier.

Answer: b

5. **Is GST applicable on the donation of washing machines to a charitable organization?**
- a. Yes, as it is considered a supply under Section 7 of the CGST Act.
 - b. No, as donations are exempt from GST.
 - c. Yes, but only if the organization is not registered under GST.
 - d. No, because donations are made without consideration.

Answer: a

6. **For export transactions, which of the following is true under GST?**
- a. Exports are subject to GST at the applicable rate.
 - b. Exports are zero-rated, and the supplier can claim a refund of ITC.
 - c. Exports are exempt supplies, and no ITC can be claimed.

d. Exports are taxed only if the payment is received in foreign currency.

Answer: b

7. **Which document is mandatory for claiming ITC on purchases from an unregistered supplier?**

- a. Tax Invoice
- b. Bill of Supply
- c. Self-Invoice
- d. Debit Note

Answer: c

3.4 CLASSIFICATION OF SUPPLY

There are a few supplies which are made together with two or more items. Such supplies are further classified into Composite and Mixed Supply.

A) Composite Supply

A supply comprising of two or more goods/services, which are necessarily supplied in conjunction with each other as per frequent business practices followed in that area. In other words, these items cannot be supplied individually. There is a principal supply and a secondary supply in the whole transaction. In such cases, the tax rate on principal supply will apply to the entire supply. E.g., buying a dry fruit gift box for diwali. It includes dry fruits, a box, and a wrapper. Box and wrapper cannot be sold individually without the main content which is dry fruit. This is a composite supply.

B) Mixed Supply

A supply comprising of two or more goods/services, wherein the supplies are independent of each other and are not necessarily required to be sold together is called a mixed supply. The first condition to be met for mixed supply is that 'it should not be a composite supply'. In such cases, the tax rate that is higher of the two supplies will be applicable to the entire supply. E.g. Buying a christmas package consisting of cakes, aerated drinks, chocolates, santa caps, and other gift items. Each of these items can be sold separately and are not dependent on the other. This is a mixed supply.

Mixed supply under GST, a mixed supply means two or more individual supplies of

goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply;

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single, price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately. In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply. A supply can be a mixed supply only if it is not a composite supply. As a corollary it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business, then it would be a mixed supply. Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of a supply of goods or services attracting highest rate of tax.

The following illustration given in the education guide of CBEC referred to above can be a pointer towards a mixed supply of services: -

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

Determination of tax liability of Composite and Mixed Supplies

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely: —

- a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- b) a mixed supply comprising two or more supplies shall be treated as a supply

of that particular supply which attracts the highest rate of tax.

3.5 TIME OF SUPPLY (SECTIONS 12 TO 14 OF THE CGSTACT, 2017)

- Time of supply (TOS) is very important concept of GST as it helps you identify the time at which liability to pay tax to the Government arises.
- The liability to pay CGST/SGST on the goods and services shall arise at the time of supply of goods and services, as determined in accordance with the provisions of section 12 of the CGST Act (TOS of goods) and section 13 of CGST Act (TOS of services).

There were frequent changes in the provisions determining the time of supply in case of receipt of advances in respect of supply of goods and services. Earlier, advances received in case of goods were also made taxable. But post the notifications which were being issued on 13th October 2017 & 15th November 2017, advances in case of goods were not required to be taxed. But till date any advance received in case of services is taxable.

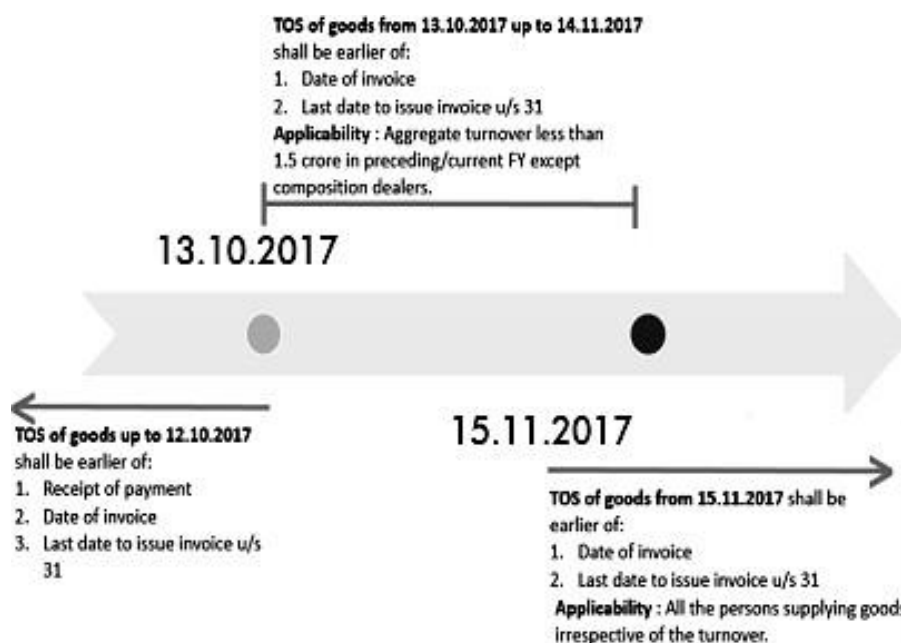


Figure 3.1

- A registered person is required to issue tax invoice before or at the time of removal of goods for the supply to the recipient or delivery of goods or making goods available to the recipient.
- Supplier shall mean the person supplying the goods and services and shall also include an agent acting on behalf of such supplier.

Recipient means:

- Person liable to pay consideration for such goods or services, if consideration is payable.
- Person to whom goods are delivered or possession is given, if consideration is not payable.
- Person to whom the services is rendered, if consideration is not payable.

Time of Supply of Goods is explained in the below diagram:

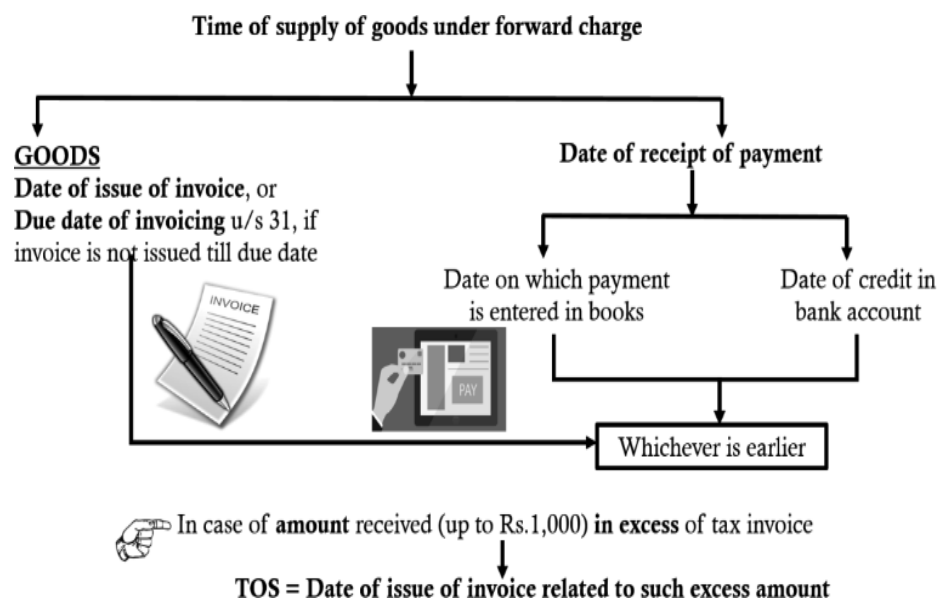


Figure 3.2

- The time of supply in respect of reverse charge mechanism of supply of goods shall be determined as per the provisions of section 12 (3) of CGST

Act, 2017. It clearly states that, time of supply of goods under reverse charge shall be earlier of the following:

- Date of receipt of goods, or
- Date of the payment.

It shall be deemed that the payment has been made on earlier of:

- Payment details are entered into books of account (say cash book, bank book etc.) of recipient of supply.
- Date of debit in his bank account
- Day immediately following 30 days of issue of invoice by the supplier.

Time of Supply of Services is explained in below diagram:

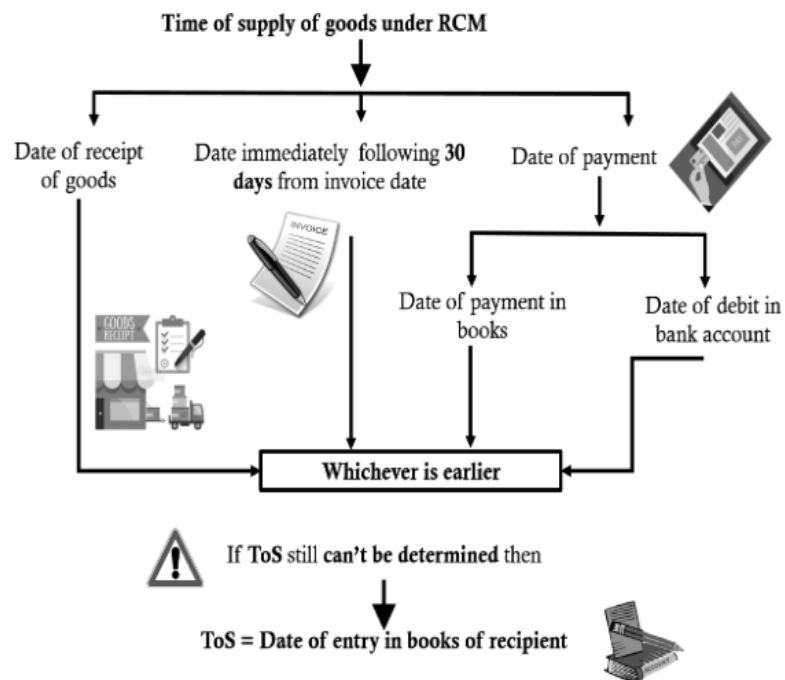
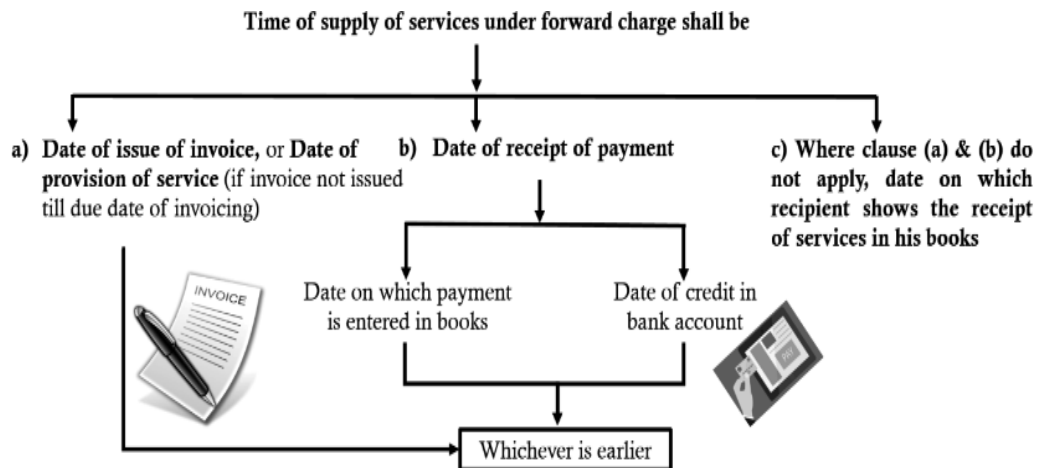


Figure 3.3

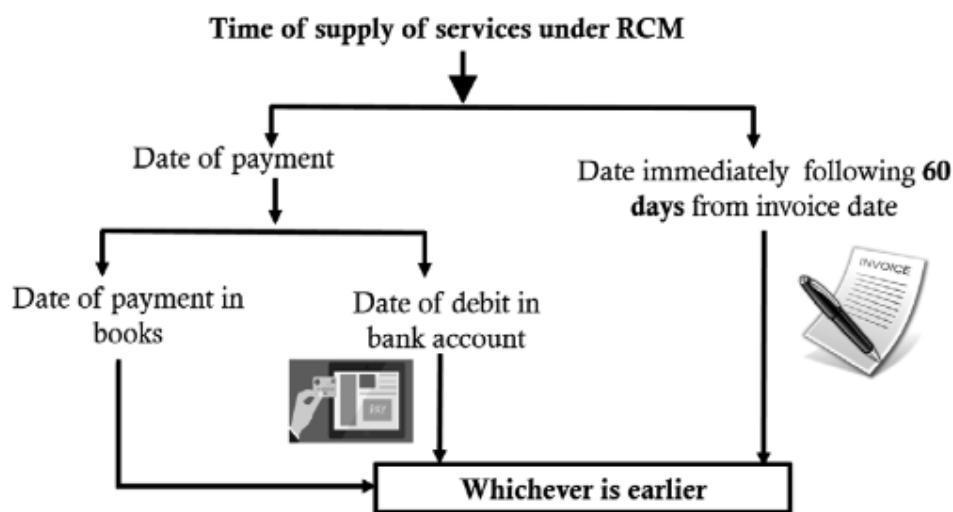
Time of Supply of Services is explained in below diagram:



In case of amount received (up to Rs.1,000) in excess of tax invoice

TOS = Date of issue of invoice related to such excess amount

Figure 3.4

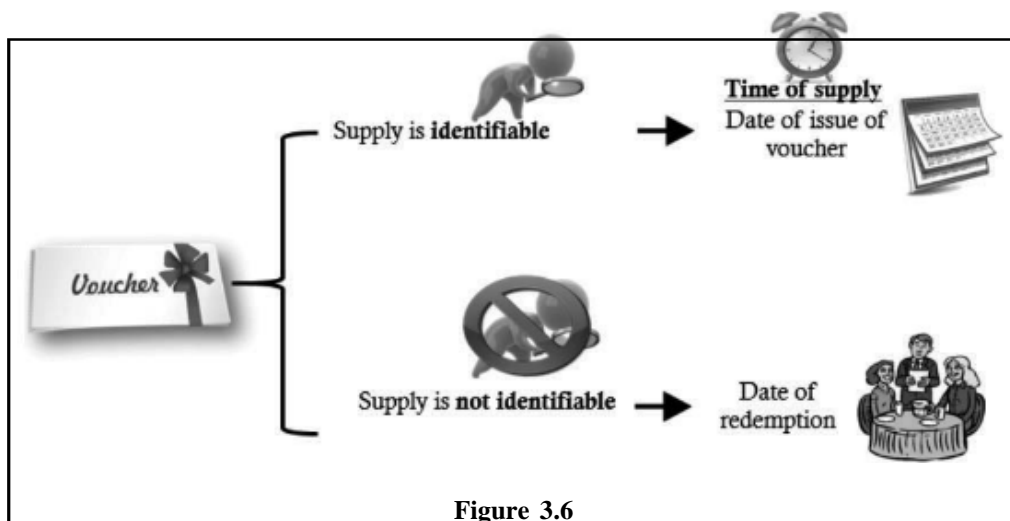


If ToS still can't be determined then

ToS = Date of entry in books of recipient

Figure 3.5

- As per Section 2(118) of the CGST Act, Voucher means the instrument which can be accepted as a consideration or part consideration against the supply. It may or may not specify the potential supplier. Such vouchers do not have universal acceptance but has limited acceptance & that too is subject to certain terms & conditions.
- Time of supply in respect of vouchers shall be determined as per the provisions of section 12(4) of the Act & it states that time of supply shall be:
 - Date of issue of voucher, if supply which it covers is identifiable at that point of time, or
 - Date of redemption of vouchers, in all other cases.



- There are 4 kinds of voucher:
 - Single purpose vouchers
 - Multi-purpose vouchers
 - Monetary voucher
 - Non-monetary voucher

- In case some additional payment is received by the supplier on account of:
 - Interest, or
 - Late fees, or
 - Penalty for delayed payment of consideration
 - Then in such cases, time of supply shall be the date on which the supplier receives such amount.
- In case the services are taken from the associated enterprises, where it is being located outside India, in such cases time of supply shall be earlier of:
 - Date of entry in the books of account of recipient, or
 - Date of payment
- If there is change in tax rate of supply of goods or services, TOS shall be determined as given in the diagram:

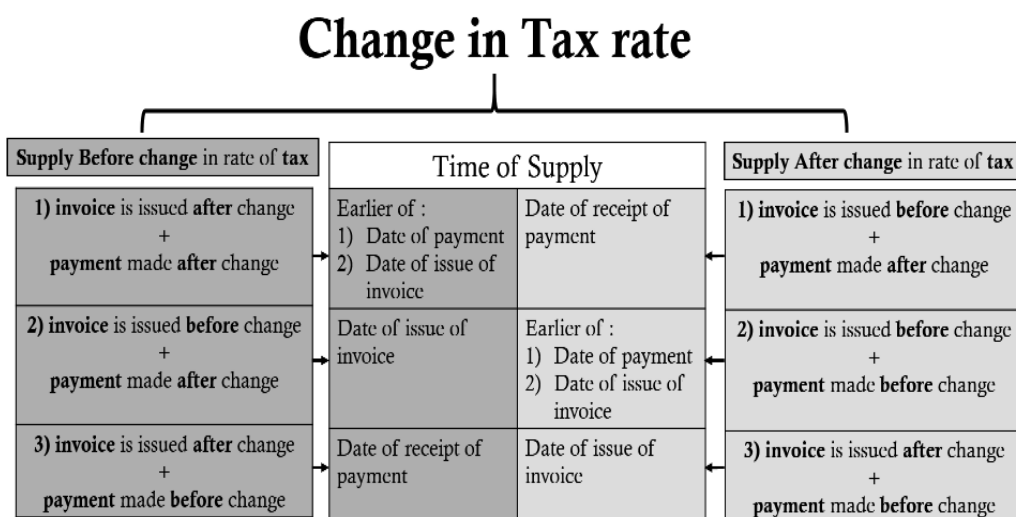


Figure 3.7

C. CHECK YOUR PROGRESS

Case Study 1: Classification of Supply - Goods vs. Services

Scenario:

XYZ Constructions Pvt. Ltd. is a registered business engaged in constructing residential and commercial buildings. During a particular project, the company undertook the following activities:

1. Supplied pre-fabricated building materials to a contractor for ₹50,00,000.
2. Constructed and handed over a fully furnished flat to a customer for ₹75,00,000, inclusive of land value.
3. Installed air-conditioning units in an office building for ₹5,00,000, charging separately for the units and installation service.
4. Provided consulting services to another construction company for designing a blueprint for ₹2,00,000.

Questions:

1. Classify each of the above transactions as supply of goods, services, or a composite/mixed supply under GST.
2. What is the GST implication for each type of supply?
3. How should the company determine the taxable value for the construction of the flat?

Case Study 2: Classification of Supply - Intra-state vs. Inter-state

Scenario:

ABC Electronics, based in Karnataka, manufactures and sells consumer electronics. Below are its transactions for a given month:

1. Sold 500 televisions to a distributor in Karnataka.
2. Exported 200 washing machines to a buyer in Dubai.
3. Supplied 100 refrigerators to a retailer in Tamil Nadu.
4. Donated 50 microwaves to a charitable trust in Karnataka.

Questions:

1. Identify whether each transaction is an intra-state supply, inter-state supply, or zero-rated supply.
2. For the export transaction, what are the available GST benefits?
3. Does the donation of microwaves attract GST? Why or why not?

3.6 VALUE OF SUPPLY (SECTION 15 OF THE CGST ACT, 2017 R/W RULES 27 TO 35 OF THE CGST RULES, 2017)

- Any transactions taking place around us are subject to valuation that makes basis for taxation under Pre or Current regime of GST. Valuation is a subject matter dealt with in section 15 of the CGST Act, 2017.
- Section 15(1) of the CGST Act, 2017, supply of goods under normal course of business are valued at their transaction value. The concept of transaction value follows two fundamental aspects:
 - Parties to supply are not related persons
 - Price is the sole consideration for such supply
- The transaction value means the price actually paid or payable for the supply of goods and/or services.
- As per the provisions contained under section 15(2) & (3), following inclusions and exclusions have been provided herein while deriving transaction value of supply
- Any taxes, duties, Cess, fees, and charges levied under any Act, except GST. GST Compensation Cess will be excluded if charged separately by the supplier.
- Any amount that the supplier is liable to pay which has been incurred by the recipient and is not included in the price.
- The value will include all incidental expenses in relation to sale such as packing, commission etc.
- Subsidies directly linked to the price except subsidies provided by CG & SG will be included.
- Interest/late fee/penalty for delayed payment of consideration will be included

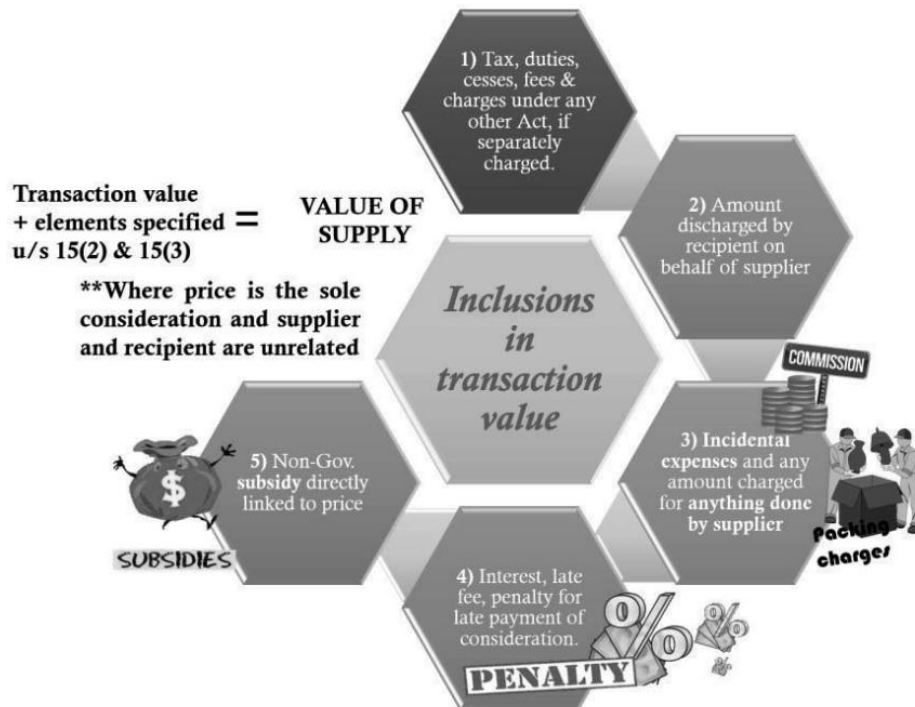


Figure 3.8

- Discount is a commercially accepted measure that can be resorted to by any supplier for a variety of reasons like stock clearance, increasing foot fall in its store etc. Such discounts shall not form part of the taxable value in cases mentioned below:
 - Discounts are allowed before or at the time of supply & shown in the invoices.
 - Discounts are allowed after the supply is made but are in conformity with the agreement that existed at the time of supply & the proportionate input tax credit is reversed by the recipient.
- Valuation rules shall be made applicable in below mentioned cases:
 - Price is not the sole consideration
 - Transaction between the related parties

- Supplies between principal & agent
- Pure agent transactions

Value of supply, where consideration for such supply are not made fully in money, shall be:

- open market value of such supply;
- if the open market value is not available, the value shall be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;
- if the value of supply is still not determinable, then the value shall be the value of supply of goods or services or both of like kind and quality;
- Still if the value is not determinable, then the same shall be determined by the application of rule 30 or rule 31 in that order.

Value of supply of goods or services between distinct or related persons other than through an agent shall be,

- open market value of such supply;
- if the open market value is not available, then the value shall be the value of supply of goods or services of like kind and quality;
- if still the value is not determinable, then the same shall be determined by the application of rule 30 or rule 31, in that order;

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety per cent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person.

- Value of supply made through an agent shall be,

- be the open market value of the goods being supplied, or at the option of the supplier, be ninety per cent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient
- where the value of a supply is not determinable, the same shall be determined by the application of rule 30 or rule 31 in that order.

Value of supply of goods or services or both made on cost shall be, [Residual rule]

- Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be one hundred and ten percent of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.
- Value of supply in case of lottery, betting, gambling & horse racing:

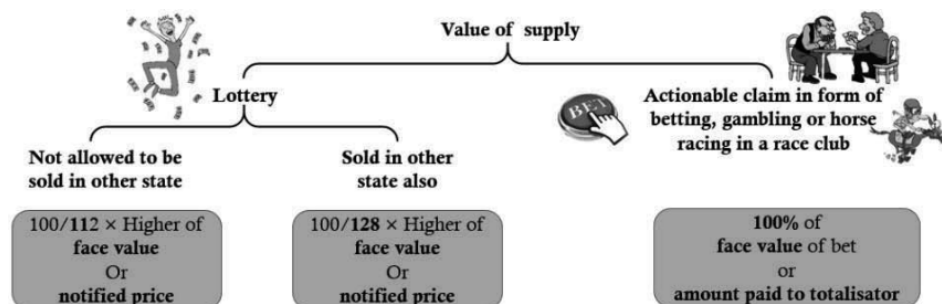


Figure 3.9

- The value of supply of services in relation to the purchase or sale of foreign currency, including money changing, shall be determined by the supplier of services in the following manner, namely:-
- for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India reference rate for that currency at that time, multiplied by the total units of currency:

- Provided that in case where the Reserve Bank of India reference rate for a currency is not available, the value shall be one per cent of the gross amount of Indian rupees provided or received by the person changing the money.
- The value of the supply of services in relation to booking of tickets for travel by air provided by an air travel agent shall be deemed to be an amount calculated at the rate of five per cent of the basic fare in the case of domestic bookings, and at the rate of ten per cent of the basic fare in the case of international bookings of passage for travel by air.

The value of supply of services in relation to life insurance business shall be,

- The gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of services.
- In case of single premium annuity policies other than stated above, 10% of single premium charged from the policy holder; or
- In all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years.
- Further, the above stated clauses shall not apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

Value of supply of services in relation to second hand goods:

A person dealing in such goods may be allowed to pay tax on the margin *e.* the difference between the value at which the goods are supplied and the price at which the goods are purchased.

If there is no margin, no GST is charged for such supply.

- In case any other value is added by way of repair, refurbishing, reconditioning etc., the same shall also be added to the value of goods and be part of the margin.
- Intra-state supplies of second hand goods purchased from unregistered dealer & received by a registered person, dealing in buying and selling of second hand goods and who pays the central tax on the value of outward supply of such second hand goods is exempted.
- Sometimes, the goods taken on loan are being repossessed by the lender in case of default in repayment of the principal amount. The purchase value of such repossessed asset shall be:

Status of defaulting borrower	Purchase price in hands of lender <i>i.e.</i> person repossessing such goods
If the defaulting borrower is unregistered	Purchase price of such goods from the defaulting borrower Less 5% for every quarter or part thereof (between date of purchase & date of disposal by person repossessing such goods)
If the defaulting borrower is registered	The person repossessing shall discharge liability at supply value without reduction from actual/notional purchase value.

- In case of any voucher, token or coupon is used, then the value shall be the money value of the goods or services against which it is being redeemed.
- Where value of supply is inclusive of tax, then tax amount will be determined as follows:

$$\text{Tax amount} = \frac{\text{Value inclusive of tax}}{100 + \text{Tax rate in \%}} \times \text{Tax rate in \%}$$

3.7 SUMMARY

The taxable event under GST shall be the supply of goods or services or both made for consideration in the course or furtherance of business. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as ‘supply’.

The term ‘supply’ is wide in its import covers all forms of supply of goods or services or both that includes sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It also includes import of service. The GST law also provides for including certain transactions made without consideration within the scope of supply.

3.8 GLOSSARY

- **Taxable supply:** A ‘taxable supply’ means a supply of goods or services or both which is chargeable to goods and services tax under the GST Act.
- **Inter-State Supply:** When the supplier and recipient are located in different states, union territories, or one party is located outside India.
- **Time of Supply:** The time of supply fixes the point when the liability to charge GST arises. It also indicates when a supply is deemed to have been made. The CGST/SGST Act provides separate time of supply for goods and services.

3.9 SELF-ASSESSMENT QUESTIONS

1. Explain the taxable event under GST?

2. When does the liability to pay GST arise in respect of supply of goods and supply of services?

3. Write short notes on the followings:

- a. Supply made in the course or furtherance of business
- b. Time of supply

3. 10 LESSON-END EXERCISE

1. Explain the taxable event under GST?

2. What is the Tax treatment of Composite Supply and Mixed Supply under GST? Explain with example.

3.11 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra

IMPORT AND EXPORT OF GOODS AND SERVICE UNDER GST
EXEMPTION FROM GST

4.0 Learning Objectives and Outcomes

4.1 Introduction

4.2 Meaning of Exempted Supply

4.3 Power to Grant Exemption from GST

4.4 Import and Export of Goods and Services under GST

4.5 Let Us Sum Up

4.6 Glossary

4.7 Self-Assessment Questions

4.8 Lesson End Exercise

4.9 Suggested Readings

4.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To have knowledge about the exemption from GST;
- To comprehend the exempted Supply; and
- To understand the Import and Export of Goods and Services Under GST

Learning Outcomes

After the completion of this lesson, the student will be able to:

- understand the exemptions from GST;
- analyse the exempted supply; and

- Import and Export of Goods and Services

In addition to this, certain supplies of goods and services fall under the GST registration exemption list. Let's understand this better by referring to the following section.

4.1 INTRODUCTION

Understanding the taxability of goods and services also includes knowing whether a good or service is exempted from GST registration. Upon knowing this, applicants can get clarity on several other factors. Essentially, the GST exemption limit for businesses depends on their annual aggregate turnover.

Previously, businesses with an annual turnover of up to Rs.20 lakhs did not need to register for GST. The amount was Rs.10 lakhs for North-eastern or hilly states like Meghalaya, Sikkim, Mizoram, Arunachal Pradesh, Nagaland, Himachal Pradesh, Manipur, Assam, Tripura, Uttarakhand, and Jammu & Kashmir.

However, as per the GST council meeting on 10th January 2019, the values doubled for Micro, Small, and Medium Enterprises (MSMEs) in both cases.

4.2 MEANING OF EXEMPTED SUPPLY

Section 2(47) of CGST Act, 2017 provides that “exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11 of Central Goods and Services Tax Act, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Thus exempted supply includes the supply of following type of goods and services:

- (a) Supply attracting nil rate of tax; E.g. jaggery, salt, tender coconut water, cereals etc.
- (b) Supplies wholly exempt from tax;
- (c) Non-taxable supply;

A. CHECK YOUR PROGRESS

Case Study: Exempted Supply under GST

Scenario:

Sunrise Agro Pvt. Ltd., a registered taxpayer, is a business engaged in agricultural operations and related services. The company deals in various products and services during a particular financial year. Below are the key transactions:

1. **Transaction 1:** Supplied fresh fruits and vegetables to a wholesale trader for ₹25,00,000.
2. **Transaction 2:** Provided storage and warehousing services for agricultural produce to local farmers, earning ₹5,00,000.
3. **Transaction 3:** Sold processed fruit juice (packaged and branded) worth ₹15,00,000.
4. **Transaction 4:** Supplied raw cotton to a textile mill for ₹10,00,000.
5. **Transaction 5:** Rented out a cold storage facility for ₹2,00,000 to a company storing dairy products.
6. **Transaction 6:** Exported fresh flowers worth ₹8,00,000 to the United States.

Additional Information:

- GST on processed fruit juice is 12%.
- Export of goods is zero-rated under GST.
- Renting cold storage for agricultural produce is exempt from GST, but for non-agricultural products, it is taxable at 18%.

Questions

1. **Classification of Transactions:**
 - a. Identify which transactions qualify as exempted supplies under GST.
 - b. Which transactions are taxable, and at what rate?
2. **Impact on Input Tax Credit (ITC):**
 - a. Can Sunrise Agro Pvt. Ltd. claim ITC on inputs used for exempted supplies?
 - b. How should the company handle ITC for inputs used in both taxable and exempted supplies?
3. **Tax Treatment:**
 - a. What is the GST implication for the export of fresh flowers?
 - b. Is the supply of raw cotton exempt or taxable? Why?

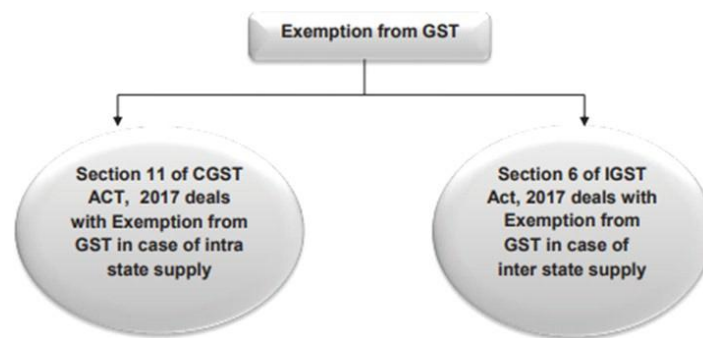


Figure 4.1

4.3 POWER TO GRANT EXEMPTION FROM GST

SECTION 11 OF CGST ACT, 2017- POWER TO GRANT EXEMPTION FROM TAX

- 1) Where the government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
- 2) Where the government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- 3) The government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may

be.

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

SECTION 6 OF IGST ACT, 2017- POWER TO GRANT EXEMPTION FROM IGST

- 1) Where the government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.
- 2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.
- 3) The government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

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

4.4 IMPORT AND EXPORT OF GOODS AND SERVICES UNDER GST

A. IMPORTS UNDER GST

The IGST (Integrated Goods and Services) Act, 2017, defines the import of goods as bringing commodities from overseas into India. As such, all imports are considered as inter-state supplies. IGST will be applicable to all imported goods along with custom duties as applicable. As for the import of services, the IGST Act, 2017, defines it as the supply of a service by a supplier who is based outside the country, but the recipient of the services is based in India, and the place at which the service is supplied is also within the geographical boundaries of the country.

Import of Goods

Following the implementation of GST, the import of commodities is not charged with countervailing duty as the same is subsumed in GST. However, the duties such as safeguard duty, education cess, [social welfare cess], basic customs duty, anti-dumping duty, etc. continue to be charged. Article 269A of the GST regime states that the supply of commodities or services or both, if imported into India, will be considered as supply under inter-state commerce or trade and will attract integrated tax. For instance, if the assessable value of a commodity imported into the country is Rs.500, basic customs duty is 10%, Social Welfare Cess is 10% of basic customs duty and the integrated tax rate levied is 18%, the taxes shall be computed in the following manner:

Assessable Value = Rs.500 Basic Customs Duty = Rs.50

Social Welfare Cess = Rs. 5 [10% of Rs. 50]

Value for the levy of integrated tax = Rs.500 + Rs.50 + Rs. 5= Rs.555

Integrated Tax= 18% of Rs.555= Rs.100

Overall Taxes = Rs.50 + Rs. 5 + Rs.100 = Rs.155

Over and above these taxes, commodities may also attract an compensation cess under the GST regime. This cess shall be collected on the value chosen for the levy of integrated tax. In the aforementioned example, the cess will be levied on Rs.555.

Import of Services

The import of services is defined as the supply of a service by a supplier who is based outside the country, but the recipient of the services is based in India, and the place at which the service is supplied is also within the geographical boundaries of the country. The provisions present in Section 7(1)(b) of the Central Goods and Services Tax Act, 2017, mentions that when services are imported with consideration, it will be deemed as a supply, regardless of whether it is utilised in the continuance or course of business. When services are imported without consideration, they will not be deemed as supply. Businesses, however, are not mandated to undertake any tests for service imports to be deemed as a supply.

Moreover, the provisions present in Schedule I of the Central Goods and Services Tax Act, 2017, services imported by registered taxable individuals from relatives or distinct individuals as stated in Section 25 of the Central Goods and Services Tax Act, 2017, in the continuance or course of a business will be considered as supply regardless of whether or not it has been made without consideration.

Input Tax Credit

Under the GST regime, an importer who is registered can use the IGST levied to them when importing goods as input tax credit. During the outward supply of goods by the importer, the input tax credit could be used to pay taxes such as CGST / SGST / IGST. The importer can also avail GST Compensation Cess along with the input tax credit of IGST before transferring it to the ones in the supply chain. The importer, however, will not be able to avail the credit of basic customs duty. In any case, if the importer wishes to avail input tax credit of GST Compensation Cess and IGST, he/she will have to compulsorily declare GSTIN (GST Registration Number) in the Bill of Entry. GSTIN provides provisional IDs which can be utilised over the course of the transition period, and importers are urged to ensure that their GSTIN registration process is complete. Since the GSTIN declared in the bill of entry is the basis for the availability of input tax credit, registered individuals can avail input tax credit only if they furnish Form GSTR 2 which contains all applicable details as mentioned in the invoice rules along with relevant information as required. GSTIN will be interconnected with customs EDI (Electronic Data Interchange) system for the validation of ITC. Moreover, information relating to the bill of entry in non-EDI locations will take a digital format and will be utilised for validating input

tax credit provided by GSTN.

Impact of GST on Imports

In case a commodity attracts IGST, but does not attract any countervailing duty, if the assessable value of the commodity inclusive of landing charges is Rs.500, IGST is levied at 12%, Basic Customs Duty is levied at 10%,

Social Security Cess (SCC) is levied at 10%, the calculation of duty will be:

Assessable Value = Rs. 500 BCD @ 10% of Rs. 500 = Rs. 50

SWCC @ 10% shall be Rs. 5

IGST shall be 12% of [Rs. 500 + Rs. 50 +Rs. 5] = Rs. 66.60

In case a commodity does not attract any countervailing duty, but is subject to IGST and compensation cess, if the Assessable Value of the commodity inclusive of landing charges is Rs.500, IGST is levied at 12%, Basic Customs Duty is levied at 10%, SWCC is levied at 10%, and Compensation Cess is levied at 10%, the calculation of duty will be: Assessable Value = Rs. 500

BCD @ 10% of Rs. 500 = Rs. 50

SCC @ 10% shall be Rs. 5

IGST shall be 12% of [Rs. 500 + Rs. 50 +Rs. 5] = Rs. 66.60

Compensation Cess @ 10% [Rs. 555] = Rs. 55.50

In case a commodity attracts countervailing duty as well as IGST, if the Assessable Value of the commodity inclusive of landing charges is Rs.500, IGST is levied at 28%, Basic Customs Duty is levied at 10%, countervailing duty [say anti-dumping duty] is levied at 12%, SCC is levied at 10%, the calculation of duty will be:

Assessable Value = Rs. 500 BCD @ 10% of Rs. 500 = Rs. 50

Countervailing Duty @ 12% of [Rs. 500 + Rs. 50] = Rs. 66

SWCC @ 10% of [Rs. 50 + Rs. 66] shall be Rs. 11.6

IGST shall be 28% of [Rs. 500 + Rs. 50 + Rs. 66+ Rs. 11.6] = Rs. 75.31

Compensation Cess @ 10% [Rs. 627.6] = Rs. 62.76

In case a commodity attracts countervailing duty, IGST as well as compensation Cess, if the assessable value of the commodity inclusive of landing charges is Rs.500, IGST is levied at 28%, basic customs duty is levied at 10%, countervailing Duty is levied at 12%, SCC is levied at 10% and Compensation Cess is levied at 10%, the calculation of duty will be:

Assessable Value = Rs. 500

BCD @ 10% of Rs. 500 = Rs. 50

Countervailing Duty @ 12% of [Rs. 500 + Rs. 50] = Rs. 66

SCC @ 10% of [Rs. 50 + Rs. 66] shall be Rs. 11.6

IGST shall be 28% of [Rs. 500 + Rs. 50 + Rs. 66+ Rs. 11.6] = Rs. 75.31

Compensation Cess @ 10% [Rs. 627.6] = Rs. 62.76

A. EXPORTS UNDER GST

Exports have been the area of focus in all policy initiatives of the Government for more than 30 years. Now with the 'Make in India initiative', exports continue to enjoy this special treatment because exports should not be burdened with domestic taxes. On the other hand, GST demands that the input-output chain not be broken and exemptions have a tendency to break this chain. Zero-rated supply is the method by which the Government has approached to address all these important considerations.

What is Export of Goods under GST?

As per IGST Act Section 2(5) Export of goods with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India. Export means trading or supplying of goods and services outside the domestic territory of a country.

B. CHECK YOUR PROGRESS

Case Study: Import and Export of Goods and Services under GST

Scenario:

Global Traders Pvt. Ltd., a registered GST taxpayer, is a business involved in international trade. The company imports raw materials from different countries and exports finished goods. Below are the key transactions during a particular financial quarter:

1. **Transaction 1:** Imported electronic components worth ₹50,00,000 from China. The applicable Basic Customs Duty (BCD) is 10%, and Integrated GST (IGST) is 18%.
2. **Transaction 2:** Exported manufactured laptops worth ₹1,00,00,000 to the United States under the Letter of Undertaking (LUT) without paying IGST.
3. **Transaction 3:** Imported software services from a company based in Germany worth ₹20,00,000.
4. **Transaction 4:** Provided IT consulting services to a client in Canada, earning ₹15,00,000.
5. **Transaction 5:** Purchased design services from an unregistered supplier in Singapore worth ₹5,00,000.

Additional Information:

- Imports are treated as inter-state supplies and attract IGST under the reverse charge mechanism (RCM).
- Exports are zero-rated supplies under GST.
- Refund of input tax credit (ITC) is available for exports made without payment of tax under LUT.
- Services imported are subject to GST under RCM.

Questions

Classification and Tax Implications

1. **Transaction 1:**
 - a. Calculate the total customs duty (BCD and IGST) payable on the imported electronic components.
 - b. Can Global Traders claim ITC on the IGST paid?
2. **Transaction 2:**
 - a. Why is the export of laptops considered a zero-rated supply?
 - b. How can the company claim a refund for ITC related to the exported goods?
3. **Transaction 3:**
 - a. Is the import of software services subject to GST? If yes, how should the company discharge the tax liability?

b. Can ITC be claimed on GST paid under RCM for the imported software services?

4. **Transaction 4:**

a. Does the IT consulting service provided to the Canadian client qualify as an export of services? Why or why not?

b. What are the GST implications for this transaction?

5. **Transaction 5:**

a. Does the purchase of design services from an unregistered supplier in Singapore attract GST under RCM?

b. What is the tax treatment if the supplier was registered under GST?

What is Export of Services under GST?

As per IGST Act Section 2(6) “Export of services” means the supply of any service when,

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange;
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person Supply of services having place of supply in Nepal or Bhutan, against payment in Indian rupees is exempted even if the payment is received in Indian currency looking at the business practices and trends.

How are Exports treated under GST Law?

Under the GST Law, export of goods or services has been treated as:

- Inter-state supply (7(5) IGST act) and covered under the IGST Act. Export is treated as inter-state supply under GST.
- ‘Zero rated supply’ (Sec.16 (1) IGST act) i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage. GST will not be levied on any kind of exports of goods or

services.

What is Zero rated Supply? – [Sec.16 (1) IGST ACT]

(1) “zero rated supply” means any of the following supplies of goods or services or both, namely: –

- (a) Export of goods or services or both; or
- (b) Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit: Zero-rated supply does not mean that the goods and services have a tariff rate of ‘0%’ but the recipient to whom the supply is made is entitled to pay ‘0%’ GST to the supplier. In other words, as it has been well discussed in section 17(2) of the CGST Act that input tax credit will not be available in respect of supplies that have a ‘0%’ rate of tax. However, this disqualification does not apply to zero-rated supplies covered by this section. These provisions of zero-rated supplies are introduced in the statute on the basis of the prevalent Central Excise and Service Tax laws. It is widely believed that introduction of this provision will alleviate the difficulty of a supplier who exempts goods or services or both in terms of export competitiveness. This provision also specifically expresses those taxes are not exported. Care must be exercised that while paying taxes, such taxes are not collected from the recipient of goods or services or both. This would result in unjust enrichment. The exporter may utilize such credits for discharge of other output taxes or alternatively, the exporter may claim a refund of such taxes as per section 54 of CGST or Rules made there under.

Judicial Pronouncement –

In Recarnation Hotels Private Limited (2019) – GST AAR Karnataka

Accommodation services provided to SEZ units are to be treated as zero rated supplies. The applicant registered office in New Delhi proposed to operate hotels and rent out the rooms to the employees of SEZ units sought advance ruling whether such accommodation services rendered by the applicant to SEZ units can be treated as ‘zero rated supplies’ under GST. Under GST, supply of goods/ services or both to a SEZ Developer/Unit are treated as ‘Zero Rated Supplies’. Supply to SEZ

developer/units shall be treated as such only if those are used towards authorized operations by SEZ. GST AAR Karnataka held that if the hotel or accommodation services received by SEZ developer/ unit for authorized operations, as endorsed by the specified officer of the zone, the benefit of zero-rated supply shall be available to the supplier. Therefore, accommodation services supplied by the applicant to SEZ units are to be treated as 'zero rated supplies'.

How Exporter can claim refund for Zero rated supply?

A guidance note relating was released by the Indian government which has helped in clearing doubts regarding the claim of input tax credit on zero-rated exports. An exporter dealing in zero-rated goods under GST can claim a refund for zero-rated supplies as per the following options:

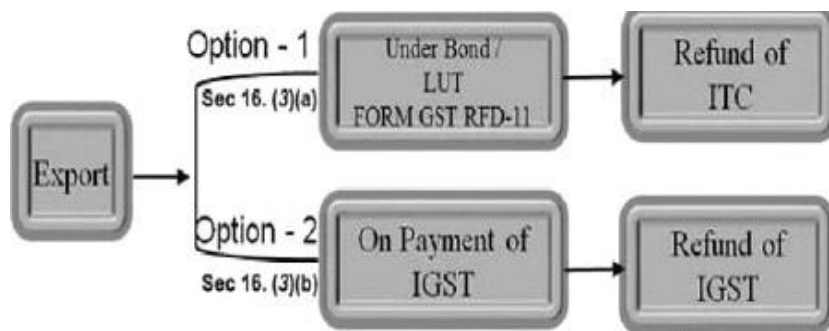


Figure 4.2

How Exporter can claim refund under Option -1 LUT Method?

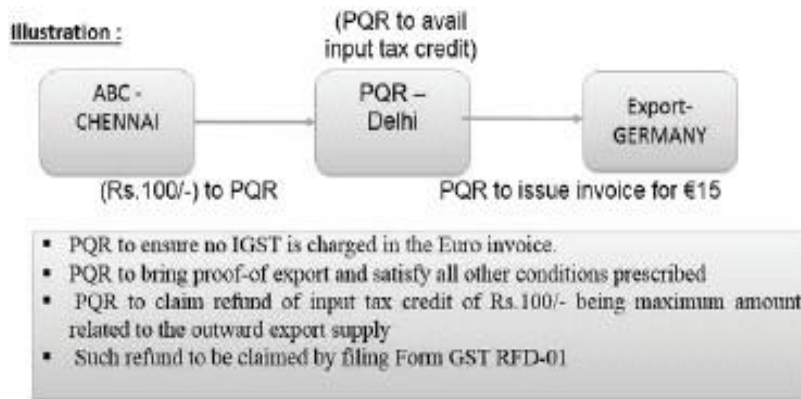


Figure 4.3

He may export the Goods/services under a Letter of Undertaking, without payment of IGST and claim refund of unutilized input tax credit; (Rule 96A of CGST Rules)

Who can export without payment of IGST by furnishing only Letter of Undertaking (LUT) in place of Bond?



Figure 4.4

How Exporter can claim refund under Option -2 Refund of IGST?

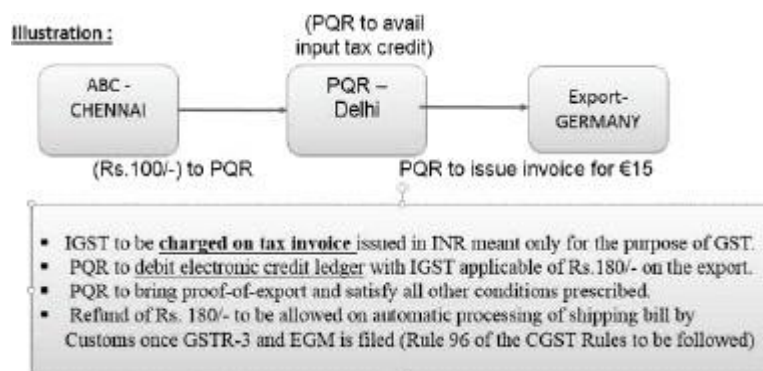


Figure 4.5

Refund of integrated tax paid on goods or services exported out of India. – Rule 96 CGST Rules.

- (1) The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when :-
 - (a) the person in charge of the conveyance carrying the export goods duly files an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

- (b) The applicant has furnished a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be;
- (2) The details of the relevant export invoices in respect of export of goods 48 contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.
- **How tax will be charged when sold to merchant Exporter or in the course of Penultimate Sale.**

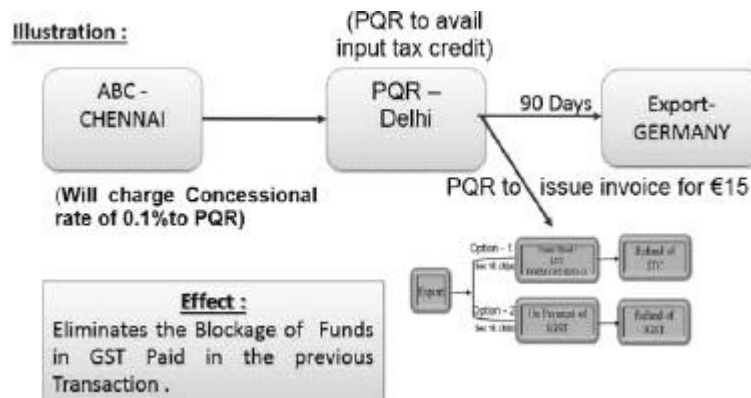


Figure 4.5

Recovery of refund of unutilized input tax credit or integrated tax paid on export of goods where export proceeds not realized [Rule 96B]

- (1) Where any refund of unutilized input tax credit on account of export of goods or of integrated tax paid on export of goods has been paid to an applicant but the sale proceeds in respect of such export goods have not been realized, in full or in part, in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, the person to whom the refund has been made shall deposit the amount so refunded, to the extent of non-realization of

sale proceeds, along with applicable interest within thirty days of the expiry of the said period or, as the case may be, the extended period, failing which the amount refunded shall be recovered in accordance with the provisions of section 73 or 74 of the Act, as the case may be, as is applicable for recovery of erroneous refund, along with interest under section 50:

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realized by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realization of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

- (2) Where the sale proceeds are realized by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realization within a period of three months from the date of realization of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realization of sale proceeds, provided the sale proceeds have been realized within such extended period as permitted by the Reserve Bank of India.

4.5 LET US SUM UP

The taxable event under GST shall be the supply of goods or services or both made for consideration in the course or furtherance of business. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply'.

The term 'supply' is wide in its import covers all forms of supply of goods or services or both that includes sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. It also includes import of service. The GST law also provides for including certain transactions made without consideration within the scope of supply

4.6 GLOSSARY

- **Taxable Event:** The taxable event under GST shall be the supply of goods or services or both made for consideration in the course or furtherance of business. The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply'.
- **Taxable supply:** A 'taxable supply' means a supply of goods or services or both which is chargeable to goods and services tax under the GST Act.

4.7 SELF-ASSESSMENT QUESTIONS

1. Explain the conditions of Exemption under GST.

2. Explain the import of goods and services under GST.

- chargeable to goods and services tax under the GST Act.

4.8 LESSON END EXERCISE

1. Explain the conditions of Exemption under GST.

2. Explain the export of goods and services under GST.

4.9 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

IMPACT OF GST ON E-COMMERCE

5.0 Learning Objectives and Outcomes

5.1 Introduction

5.2 Impact of GST on E-Commerce Marketplace Sellers

5.3 GST Registration for E-Commerce Suppliers

5.4 e-Way Bill

5.5 Let Us Sum Up

5.6 Glossary

5.7 Self-Assessment Questions

5.8 Lesson End Exercise

5.9 Suggested Readings

5.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the impact of GST on E-Commerce Market Place Sellers;
- To comprehend the GST Registration for E-Commerce Suppliers; and
- To familiar with the concept of e-Way Bill

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the impact Of GST On E-Commerce Market Place Sellers;
- understand the GST Registration for E Commerce Suppliers; and

- analyse the concept of e-way bill.

5.1 INTRODUCTION

The Goods and Services Tax (GST) had a significant impact on e-commerce market place sellers in India. The GST has simplified the tax structure for e-commerce transactions, making it easier for sellers to comply with the law. It has also eliminated the cascading effect of taxes, which has led to lower prices for consumers. However, the GST has also introduced some new challenges for e-commerce market place sellers. For example, sellers are now required to collect GST from their customers and file monthly returns. This has increased the compliance burden for sellers, particularly small and medium-sized businesses. Overall, the GST had a mixed impact on e-commerce market place sellers in India. The simplification of the tax structure has been a positive development, but the increased compliance burden has been a challenge.

The e-way bill is required to be carried by the person in charge of the conveyance during the movement of goods. It can be verified by the authorities at any time during the movement. The GST e-way bill is a major step towards the simplification and digitization of the GST regime. It has made it easier for businesses to comply with the law and has also helped to reduce tax evasion.

E-Commerce is defined as the supply of goods or services or both, including digital products over digital or electronic network. One of the significant impacts of GST on the E-commerce is the increased compliance burden. E-commerce companies are required to comply with various GST registration regulations including registering for GST, filing of GST return and collecting and remitting GST on behalf of sellers.

‘Electronic Commerce Operator’ is defined as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

5.2 IMPACT OF GST ON E-COMMERCE MARKETPLACE SELLERS

India's e-commerce market is estimated to have crossed Rs. 211,005 crores in December 2016 as per the study conducted by the Internet and Mobile Association (IAMl) of India. The report further claims that India is expected to generate \$100 billion online retail revenue by the year 2020.

The uprising of electronic commerce in India has also resulted in conception of online marketplaces. A marketplace is an e-commerce platform owned by the e-commerce operator such as Flipkart, Snapdeal and Amazon. Some of the features of a marketplace model are:

Marketplace enables third-party sellers to register and sell online on their platform.

- Marketplace charges a subscription fees/ commission on sale value from listed sellers.
- Third-party sellers under this model gain access to a larger customer base, registered with marketplace.
- Customers on the other hand gain access to multiple sellers and competitive prices for desired products.
- Items purchased on such marketplaces are either shipped by Merchant/ Third-party seller directly or through the fulfillment center managed by Marketplace Operator.

Government has also allowed Foreign Direct Investments under such model to promote e-commerce marketplace business model in India. While the number of third-party sellers has increased exponentially in recent times, such sellers are now skeptic about the compliance requirement that GST is bringing along under the new indirect Tax regime. Goods and Services Tax has extensively covered the e-commerce segment. For the first time, government has taken initiative to regulate the online business, which has largely been unregulated.

A. CHECK YOUR PROGRESS

Case Study: Impact of GST on E-commerce Marketplace Sellers:

Case-Based Question

Case:

Riya owns a small business selling handmade jewelry. She sells her products through an e-commerce marketplace platform like Amazon. Before the introduction of GST, she only had to register for VAT in her state as her turnover was below the threshold limit. However, post-GST implementation, Riya noticed changes in tax compliance, her registration requirements, and the commission charged by the marketplace.

Questions:

- What are the mandatory GST registration requirements for sellers like Riya operating through e-commerce marketplaces, irrespective of their turnover?
 - How has the introduction of GST affected the cash flow of sellers on e-commerce platforms?
 - Discuss the role of the Tax Collected at Source (TCS) mechanism under GST for e-commerce operators. How does it impact sellers like Riya?
 - Explain how GST compliance has added challenges or benefits for small sellers on e-commerce platforms.
-

2. Analytical Question

Question:

“GST has significantly improved tax transparency but increased compliance for sellers on e-commerce platforms.”

Discuss this statement with specific reference to the following:

- Mandatory GST registration requirements.
 - The impact of Tax Collected at Source (TCS) on the working capital of small sellers.
 - Advantages and disadvantages of GST for e-commerce marketplace sellers.
-

3. Problem-Solving Question

Question:

Rohan is a seller of electronic gadgets who uses Flipkart to reach customers. Flipkart deducts 1% TCS (Tax Collected at Source) from Rohan's payments as per GST rules. In one month, Rohan made sales worth ₹1,00,000.

- a. Calculate the TCS amount deducted by Flipkart.
- b. Explain how Rohan can claim the TCS amount while filing his GST returns.
- c. Analyze how TCS impacts Rohan's working capital and suggest ways to manage the impact effectively.

4. Real-World Impact Question

Question:

Evaluate how GST has affected the decision-making process of small and medium-sized sellers in choosing whether to sell through e-commerce marketplaces or through offline methods. Use examples to justify your answer.

5.3 GST REGISTRATION FOR E-COMMERCE SUPPLIERS

Government has specified a threshold limit for all the businesses. A business is liable to register under Goods and Services Tax once such threshold limit is breached. However, such limit is not applicable in case of E Commerce sellers. All the businesses carrying out e-commerce activity are required to get registered under GST irrespective of their turnover.

However, vide Notification No. 65/2017-C.T., dated 15-11-2017, the Government provided that the persons making supplies of services, other than supplies specified under sub-section (5) of section 9 of the said Act through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year, as the category of persons exempted from obtaining registration under the said Act. Similar threshold is ten lakh rupees in case of "special category States" as specified in the first proviso to sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section. As per Clause (iii) to Explanation of Section 22(1) of the said Act, the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.

Option to pay tax under the composition scheme for registered persons supplying goods through E-Commerce Operator.

As per latest Finance Act amendments in 2023, earlier registered persons engaged in intra- state supply of goods through Electronic Commerce Operators could not opt to pay tax under the composition scheme. Now, section 10 has been propose to be amended to allow the registered person supplying goods within the state through E-commerce operator to opt for the composition scheme provided the aggregate turnover in the preceding financial year does not exceeds 50 lakhs.

* yet to be notified by the CBIC

Registration in Each Individual State

As per the provisions under GST law, every business involved in E commerce is required to get registered in each state in which they are supplying goods. Since the e-commerce business model is as such that the seller expects order from all the states, they are liable to obtain registration in all the states.

Tax Collection at Source by Marketplace Operator

Under Notification No. 52/2018-C.T., dated 20-9-2018, electronic commerce operators, not being an agent, are mandatorily required to collect an amount calculated at a rate of half per cent. of the net value of intra-State 146 PP-ATL taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator. This mechanism is being termed as “Tax Collection at Source (TCS)” under the GST law. Eventually the marketplace seller will have to file monthly return under GST to claim the credit of TCS collected by the marketplace operator.

FORM AND MANNER OF SUBMISSION OF STATEMENT OF SUPPLIES THROUGH AN E-COMMERCE OPERATOR [RULE 67 OF CGST RULES, 2017]	
Return by E-Commerce Operator [Rule 67(1)]	<p>Every electronic commerce operator required to collect tax at source under section 52</p> <ul style="list-style-type: none"> ➤ shall furnish a statement in FORM GSTR-8 electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, ➤ containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.
Details available to the recipients [Rule 67(2)]	The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers on the common portal after the filing of FORM GSTR-8.

Figure 5.1

Matching of details furnished by the e-commerce operator with the details furnished by the supplier [Rule 78 of CGST Rules, 2017]

The following details relating to the supplies made through an e-Commerce operator, as declared in Form GSTR-8, shall be matched with the corresponding details declared by the supplier in Form GSTR-1–

- (a) State of place of supply;
- (b) Net taxable value; and

Provided that where the time limit for furnishing Form GSTR-1 under section 37 has been extended, the date of matching of the abovementioned details shall be extended accordingly:

Provided further that the Commissioner may, on the recommendations of the Council, by order, extend the date of matching to such date as may be specified therein.

B. CHECK YOUR PROGRESS

Multiple Choice Questions

• **Who is required to register for GST as an e-commerce supplier?**

- a) Only those with turnover above ₹40 lakhs
- b) Only those supplying goods
- c) All e-commerce suppliers irrespective of turnover
- d) Only those supplying services through their own website

Answer: c) All e-commerce suppliers irrespective of turnover

• **Under GST, which section governs compulsory registration for e-commerce operators?**

- a) Section 22
- b) Section 23
- c) Section 24
- d) Section 25

Answer: c) Section 24

• **Which form is used to apply for GST registration?**

- a) GST REG-01
- b) GST REG-02
- c) GST REG-06
- d) GST REG-05

Answer: a) GST REG-01

• **What is the threshold limit for GST registration for e-commerce suppliers?**

- a) ₹10 lakhs
- b) ₹20 lakhs
- c) ₹40 lakhs
- d) No threshold; registration is mandatory

Answer: d) No threshold; registration is mandatory

• **Which document is mandatory for GST registration of an e-commerce supplier?**

- a) Income Tax Return
- b) PAN card
- c) Business Financial Statements
- d) Sales Invoices

Answer: b) PAN card

• **What is the time limit for applying for GST registration once the liability arises for an e-commerce supplier?**

a) 15 days

b) 30 days

c) 60 days

d) 90 days

Answer: b) 30 days

Penalty provisions for E-Commerce Operator

A new sub-section (1B) has been incorporated in section 122 of the CGST Act, 2017 so as to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of certain conditions relating to supply of goods made through them by unregistered person or composition tax payers.

An electronic commerce operator ('ECO') has been made liable to a penalty of Rs. 10,000 or an amount equivalent to the tax involved, whichever is higher, if -

- ECO allows an unregistered person (other than one who has been exempted by the Govt. to obtain registration) to supply goods/services through him.
- ECO allows those persons to carry out inter-state supplies through it who are ineligible to make such inter-state supply (e.g. composition dealer)
- ECO fails to provide information on supplied made through it person exempted from obtaining GST registration.

In the case of a composition dealer, the tax for the purpose of penalty will be equal to the regular tax amount.

5.4 E-WAYBILL

E-Way bill is an electronic way bill for movement of goods to be generated on the e-way bill portal. A GST registered person cannot transport goods in a vehicle whose value exceeds Rs. 50,000 (Single Invoice/bill/delivery challan) without an e-way bill that is generated on ewaybillGST.gov.in.

Alternatively, e-way bill can also be generated or cancelled through SMS, android app and by site-to-site integration through API.

When an e-way bill is generated, a unique e-way bill number (EBN) is allocated and is available to the supplier, recipient, and the transporter.

A. When should e-Way bill be issued?

E-Way bill will be generated when there is a movement of goods in a vehicle/ conveyance of value more than Rs. 50,000 (either each invoice or in aggregate of all invoices in a vehicle/conveyance) –

- In relation to a ‘supply’
- For reasons other than a ‘supply’ (say a return)
- Due to inward ‘supply’ from an unregistered person

For this purpose, a supply may be either of the following:

- A supply made for a consideration (payment) in the course of business
- A supply made for a consideration (payment) which may not be in the course of business.
- A supply without consideration (without payment). In simpler terms, the term ‘supply’ usually means a:
 1. Sale – sale of goods and payment made
 2. Transfer – branch transfers for instance
 3. Barter/Exchange – where the payment is by goods instead of in money

Therefore, e-way bills must be generated on the common portal for all these types of movements. For certain specified goods, the e-way bill needs to be generated mandatorily even if the value of the consignment of goods is less than Rs. 50,000:

1. Inter-state movement of goods by the principal to the job-worker by principal/ registered job-worker***,
2. Inter-state transport of handicraft goods by a dealer exempted from GST registration.

B. Who should Generate an e-way Bill?

- **Registered Person** – e-way bill must be generated when there is a movement of goods of more than Rs 50,000 in value to or from a registered person.A

Registered person or the transporter may choose to generate and carry away bill even if the value of goods is less than Rs 50,000.

- **Unregistered Persons** – Unregistered persons are also required to generate e-way bill. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.
- **Transporter** – Transporters carrying goods by road, air, rail, etc. also need to generate e-Way Bill if the supplier has not generated an e-Way Bill.
- Update as on 23rd Mar 2018:

Until a date yet to be notified, the transporters need not generate the e-way bill (as Form EWB-01 or EWB-02) where all the consignments in the conveyance:

Individually (single Document**) is less than or equal to Rs 50,000

In aggregate (all documents** put together) exceeds Rs 50,000

Unregistered transporters will be issued transporter ID on enrolling on the e-way bill portal after which e-way bills can be generated.

Who	When	Part	Form
Every Registered person under GST	Before movement of goods	Fill Part A	Form GST EWB-01
Registered person is consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods	Before movement of goods	Fill Part B	Form GST EWB-01
Registered person is consignor or consignee and goods are handed over to transporter of goods	Before movement of goods	Fill Part B	The registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01
Transporter of goods	Before movement of goods		Generate e-way bill on basis of information shared by the registered person in Part A of FORM GST EWB-01

An unregistered person under GST and recipient is registered	Compliance to be done by Recipient as if he is the Supplier.		<p>1. If the goods are transported for a distance of fifty kilometers or less, within the same State/Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.</p> <p>2. If supply is made by air, ship or railways, then the information in Part A of FORM GST EWB-01 has to be filled in by the consignor or the recipient</p>
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Note: If a transporter is transporting multiple consignments in a single conveyance, they can use the form GST EWB-02 to produce a consolidated e-way bill, by providing the e-way bill numbers of each consignment. If both the consignor and the consignee have not created an e-way bill, then the transporter can do so by filling out PART A of FORM GST EWB-01 on the basis of the invoice/bill of supply/delivery challan given to them.

A. Cases when e-way bill is not Required

In the following cases it is not necessary to generate e-Way Bill:

1. The mode of transport is a non-motor vehicle
2. Goods transported from a Customs port, airport, air cargo complex or land customs station to Inland Container Depot (ICD) or Container Freight Station (CFS) for clearance by Customs.
3. Goods transported under Customs supervision or under customs seal
4. Goods transported under Customs Bond from ICD to Customs port or from one custom station to another.
5. Transit cargo transported to or from Nepal or Bhutan
6. Movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
7. Empty Cargo containers are being transported
8. Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20 kms, accompanied by a Delivery challan.
9. Goods being transported by rail where the Consignor of goods is the Central Government, State Governments or a local authority.
10. Goods specified as exempt from E-Way bill requirements in the respective State/Union territory GST Rules.

11. Transport of certain specified goods- Includes the list of exempt supply of goods, Annexure to Rule 138(14), goods treated as no supply as per Schedule III, Certain schedule to Central tax Rate notifications.

Note: Part B of the e-Way Bill is not required to be filled where the distance between the consigner or consignee and the transporter is less than 50 Kms and transport is within the same state.

B. Status of Implementation across India

Inter-State movement of goods has seen rise in numbers of generation of e-way bills ever since its implementation began from 1st April 2018. State-wise implementation of e-way bill system has seen a good response with all the States and Union territories joining the league in the generation of e-way bills for movement of goods within the State/UT. However, reliefs have been provided to people of few States by way of exempting them from e-way bill generation in case of monetary limits falling below threshold amount or certain specified items. For Instance, Tamil Nadu has exempted people of its State from the generation of e-way bill if the monetary limit of the items falls below Rs. One Lakh. To know more of such reliefs for other States/UTs, visit commercial tax websites for each of such States/UTs.

C. CHECK YOUR PROGRESS

Application-Based Questions on E-Way Bill

1. Question:

An electronics dealer is transporting goods worth ₹60,000 from Delhi to Haryana using their private vehicle. Is the generation of an e-way bill mandatory? If yes, who should generate it?

Answer:

Yes, the generation of an e-way bill is mandatory as the consignment value exceeds ₹50,000.

- The supplier (electronics dealer) should generate the e-way bill if they are responsible for the movement of goods.

2. Question:

A registered business is transporting goods worth ₹35,000 within the same city. Is an e-way bill required in this case?

Answer:

No, an e-way bill is not required for intrastate movement of goods if the consignment value is below ₹50,000.

3. Question:

A textile supplier sends goods worth ₹70,000 via a transporter to another state. The transporter is refusing to generate the e-way bill. What should the supplier do?

Answer:

The supplier must generate Part A of the e-way bill and share the details with the transporter. If the transporter does not generate Part B, the supplier can complete both parts of the e-way bill themselves.

4. Question:

A furniture manufacturer generates an e-way bill for goods being transported

to a retailer 300 km away. The validity of the e-way bill is one day, but the delivery takes two days. What should be done to comply with GST rules?

Answer:

The manufacturer or transporter must extend the validity of the e-way bill before it expires by updating the details in the e-way bill portal.

5. Question:

An unregistered individual is moving goods worth ₹1 lakh from one state to another. Can an e-way bill be generated in this case? If yes, by whom?

Answer:

Yes, an e-way bill can be generated. In this case, either the unregistered individual or the transporter responsible for the movement of goods can generate the e-way bill using the "Citizen" login on the e-way bill portal.

C. Validity of e-Way Bill

An e-way bill is valid for periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date and time of generation of e-way bill-

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less Than 100 Kms	1 Day
	For every additional 100 Kms or part thereof	additional 1 Day
For Over dimensional cargo	Less Than 20 Kms	1 Day
	For every additional 20 Kms or part thereof	additional 1 Day

Validity of Eway bill can be extended also. The generator of such e-way bill has to either four hours before expiry or within four hours after its expiry can extend e-way bill validity.

A. Documents or Details required to generate e-way Bill

1. Invoice/ Bill of Supply/ Challan related to the consignment of goods
2. Transport by road – Transporter ID or Vehicle number
3. Transport by rail, air, or ship – Transporter ID, Transport document number, and date on the document.

5.5 LET US SUM UP

Government has specified a threshold limit for all the businesses. A business is liable to register under Goods and Services Tax once such threshold limit is breached. However, such limit is not applicable in case of E Commerce sellers. All the businesses carrying out e-commerce activity are required to get registered under GST irrespective of their turnover.

However, vide notification No. 65/2017-C.T., dated 15-11-2017, the Government provided that the persons making supplies of services, other than supplies specified under sub-section (5) of section 9 of the said Act through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year, as the category of persons exempted from obtaining registration under the said Act. Similar threshold is ten lakh rupees in case of “special category states” as specified in the first provision to sub-section (1) of section 22 of the said act, read with clause (iii) of the explanation to the said section. As per Clause (iii) to explanation of section 22(1) of the said Act, the expression “special category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.

5.6 GLOSSARY

- **E-commerce** (electronic commerce) is the buying and selling of goods and services, or the transmitting of funds or data, over an electronic network, primarily the internet. The terms e-commerce and e-business are often used interchangeably.

- **An e-way bill** is a permit needed for inter-state and intra-state transportation of goods worth more than Rs. 50,000.

5.7 SELF-ASSESSMENT QUESTIONS

1. What do you mean by E-Commerce?

2. What is the impact of GST on E-Commerce?

3. Write a short note on e-way bill.

5.8 LESSON END EXERCISE

1. Explain the concept of the e-way bill under GST. What are its objectives, and why is it considered an essential part of the GST compliance system?

2. What is GST registration? Discuss its importance and the categories of taxpayers required to register under GST?

3. Discuss the overall impact of GST on the Indian economy. How has it transformed the indirect tax structure in India?

5.9 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

INPUT TAX CREDIT AND PAYMENT OF GST

6.0 Learning Objectives and Outcomes

6.1 Introduction

6.2 Eligibility and Conditions for Taking Input Tax Credit

6.3 Documentary Requirements and Conditions for Claiming Input Tax Credit

6.4 Reversal of Input Tax Credit in the Case of Non-Payment of Consideration

6.5 Apportionment of Credit & Blocked Credit

6.6 Credit in Special Circumstances

6.7 Let Us Sum Up

6.8 Glossary

6.9 Self-Assessment Questions

6.10 Lesson End Exercise

6.11 Suggested Readings

6.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the Concept of Input tax credit;
- To familiar with the eligibility criteria;
- To comprehend the availability and procedure of ITC in special Circumstances;
and

- To explain the proper order of utilisation of ITC I CGST Rules;

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept of input tax credit and its eligibility criterion;
- understand the Availability and Procedure of ITC in special Circumstances;
and
- analyse the Proper order of utilisation of ITC I CGST Rules

6.1 INTRODUCTION

Taxes paid on inward supply of inputs, capital goods and services are called as input taxes. Such taxes take the shape of Integrated GST, Central GST, State GST or Union Territory GST depending on the nature of underlying transaction.

It also includes tax paid on reverse charge basis taxes paid by the importer of goods and services. However, tax paid under composition levy in terms of section 10 is not available as credit. It is to be noted that GST paid on reverse charge basis be considered as input tax. Input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods.

The credit of the above taxes is called input tax credit, that is, input taxes are available as a set off against the taxes payable on outward taxable supplies. CGST Act, (2017) contains the provisions relating to the eligibility of Input Tax Credit, its availment, utilization and conditions and restrictions attached therewith.

6.2 ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, as specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.
- (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
- (b) he has received the goods or services or both.

Explanation- For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

- (c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply; and
- (d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment.

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

1. Section 16 (1) defines the basis criteria for availing input tax credit i.e. the

underlying goods or services or both are used or intended to be used in the course of or in furtherance of business. Thus, business test is essential. If goods or services are intended to be used for personal use, input tax credit is not available.

2. Further, section 16(2) prescribes four pre-requisites viz.
 - a. Receipt of goods or services
 - b. Receipt of accompanying invoice or debit note
 - c. Payment of tax by the supplier
 - d. Filing of return by the recipient.
 3. In case of capital goods, input tax credit shall not be allowed if tax element is capitalized and depreciation is charged thereon.
 4. Section 16(4) further prescribes timeline for availing credit i.e., latest by 30th September of the following financial year or the date of filing annual return whichever is earlier.
- (3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.
- (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after
- the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or
 - furnishing of the relevant annual return whichever is earlier.

A. CHECK YOUR PROGRESS

Case Study: Eligibility and Conditions for Taking Input Tax Credit (ITC):

XYZ Enterprises is a registered supplier under the Goods and Services Tax (GST) regime. The company is engaged in the manufacturing of electronics and sources raw materials from various vendors. During the financial year, the following transactions occurred:

1. Purchases:

- Raw materials worth ₹10,00,000 were purchased, and GST paid on these purchases amounted to ₹1,80,000.
- Office furniture worth ₹1,00,000 was purchased, and GST paid was ₹18,000.
- Food and beverages for the canteen worth ₹50,000 were purchased, with GST paid of ₹9,000.

2. Tax Filing:

- XYZ Enterprises filed GSTR-3B for all months within the prescribed deadlines except for one, where the return was delayed by 15 days.
- All purchases were made from registered suppliers who had uploaded their invoices on the GST portal.

3. Usage of Goods:

- The raw materials were used entirely for manufacturing taxable goods.
- The office furniture was used in the administrative department.
- The food and beverages were provided to employees free of cost.

4. Tax Compliance:

- XYZ Enterprises had no outstanding GST liability at the time of claiming ITC.
- All payments to suppliers were made within 180 days from the date of invoice.

Questions:

1. Eligibility for ITC:

- Identify which of the purchases qualify for claiming ITC under the GST provisions. Provide reasons for each case.

2. Conditions for ITC:

- Explain whether XYZ Enterprises has fulfilled all conditions for claiming ITC as per the GST Act. If not, specify the conditions that are not met.

3. Restriction on ITC:

- Discuss why ITC cannot be claimed on certain items like food and beverages, referring to the relevant sections or rules of the GST Act.

4. Impact of Delayed Filing:

- Analyze the impact of delayed filing of GSTR-3B on XYZ Enterprises' ability to claim ITC.

5. Practical Application:

- Suggest measures XYZ Enterprises can take to ensure compliance with ITC provisions in the future.

6.3 DOCUMENTARY REQUIREMENTS AND CONDITIONS FOR CLAIMING INPUT TAX CREDIT (RULE 36 OF THE CGST RULES)

In order to give effect to the conditions prescribed under Section 16 (2) of the CGST Act, Rule 36 for Input Tax Credit and Computation of GST Liability 171 CGST Rules lists down the various invoices and other documents which are considered as valid documents for availing input service tax. Besides, it provides a mechanism to operationalize other requirements of Section 16. Rule 36(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- (b) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- (e) an Input service distributor invoice or input service distributor credit note or any document issued by an input service distributor in accordance with the provisions of sub-rule (1) of rule 54.

B. CHECK YOUR PROGRESS

Multiple Choice Questions

1. **Which of the following is NOT a valid document for claiming Input Tax Credit (ITC) under Rule 36 of the CGST Rules?**
- a) Tax invoice issued by the supplier
 - b) Bill of entry for imported goods
 - c) Debit note issued by the supplier
 - d) Purchase order issued by the recipient

Answer: d) Purchase order issued by the recipient

2. **As per Rule 36, ITC can be claimed only if the tax charged in respect of the supply has been:**
- a) Deposited in the recipient's bank account
 - b) Deposited by the supplier in the government treasury
 - c) Verified by the tax officer
 - d) Recorded in the company's accounting software

Answer: b) Deposited by the supplier in the government treasury

3. **What is the maximum percentage of provisional ITC that can be claimed if invoices are not uploaded by the supplier in their GSTR-1?**
- a) 20% of eligible ITC
 - b) 10% of eligible ITC
 - c) 5% of eligible ITC
 - d) No provisional ITC is allowed

Answer: c) 5% of eligible ITC

4. **Which of the following is a mandatory condition for claiming ITC under Rule 36?**
- a) The recipient must pay the supplier within 30 days.
 - b) The recipient must have possession of a valid tax invoice.
 - c) The goods must be sold to an unregistered person.
 - d) The supplier must be registered under the Income Tax Act.

Answer: b) The recipient must have possession of a valid tax invoice.

5. **Under Rule 36, ITC can be claimed on goods only if:**
- a) The goods are delivered to the recipient.
 - b) The goods are consumed by the supplier.

- c) The goods are used for personal purposes.
- d) The goods are lost during transit.

Answer: a) The goods are delivered to the recipient.

6. Which of the following conditions must be fulfilled by the recipient to claim ITC?

- a) Goods or services must be used for exempt supplies.
- b) Tax invoice must be issued by an unregistered supplier.
- c) The tax charged must be reflected in GSTR-2B.
- d) Payment must be made to the supplier within 6 months.

Answer: c) The tax charged must be reflected in GSTR-2B.

7. As per Rule 36, ITC cannot be claimed if:

- a) The tax is paid under the reverse charge mechanism.
- b) The tax invoice is issued by a registered supplier.
- c) The goods are received in installments.
- d) The recipient has not made payment to the supplier within 180 days.

Answer: d) The recipient has not made payment to the supplier within 180 days.

8. What is the consequence of claiming ITC on the basis of a fake invoice under Rule 36?

- a) ITC will be allowed after a penalty is paid.
- b) ITC will be disallowed, and penalties may be imposed.
- c) ITC will be adjusted in the next financial year.
- d) ITC will be converted into cash refund.

Answer: b) ITC will be disallowed, and penalties may be imposed.

- (2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2 by such person: Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of

the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.

- (3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts.
- (4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 10 per cent. Of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.

6.4 REVERSAL OF INPUT TAX CREDIT IN THE CASE OF NON-PAYMENT OF CONSIDERATION [RULE 37 OF THE CGST RULES]

- (1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice:

Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16:

Provided further that the value of supplies on account of any amount added in accordance with the 172 PP-ATL provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.

- (2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.
- (3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.
- (4) The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.

ANALYSIS

I. ELIGIBILITY FOR TAKING ITC [Section 16(1)]

- (1) defines the basis criteria for availing input tax credit i.e., the underlying goods or services or both are used or intended to be used in the course of or in furtherance of business. Thus, business test is essential. If goods or services are intended to be used for personal use, input tax credit is not available.
- (2) Only a registered person will be allowed to take input tax credit. If a person is liable to register but did not register himself under the GST law, input tax credit will not be allowed to such person.

II. CONDITIONS FOR TAKING ITC [Section 16(2)]

For claiming ITC following conditions are required to be fulfilled by a registered taxable person:

- (1) The person should be in possession of tax invoice or debit note or such other taxpaying documents as may be prescribed [Section 16(2)(a) read

with rule 36 of the CGST Rules]

The documents prescribed are as below:

- i) Invoice issued by a supplier of goods and/or services
- ii) Invoice issued by the recipient on receipt of goods and / or services chargeable to tax under
- iii) A debit note issued by the supplier against tax invoice issued in the past
- iv) Bill of entry or similar document prescribed under Customs Act filed for import of goods
- v) Revised or supplementary invoice
- vi) Document issued by input service distributor for distribution of tax to its branches/ factories. The documents listed herein above should contain the relevant particulars as prescribed in Rule 46 of the CGST Rules.

- (2) The person should have received the goods or services or both [Section 16(2)(b)]

The person taking the ITC must have received the goods and / or services. Where the goods are supplied under “Bill to Ship” Model, the registered person on whose direction the goods are consigned directly by the supplier to the third party shall be deemed to have been received the goods for the purpose of availing ITC. Similar is the position where the services are provided by the supplier to any person on the direction of and on account of such registered person. The registered person shall be deemed to have received such services.

- (3) The supplier should have actually paid the tax charged in respect of the supply to the government [Section 16(2)(c)]

Tax should actually have been paid, by cash or through utilization of ITC, on the goods and / or services for which ITC is being taken. Availability of ITC to recipient has been made dependent on payment of tax by supplier. Thus, even if the receiver has paid the amount of tax to the supplier and

the goods and/ or services so procured are eligible for ITC, no credit would be available, till the time, tax so collected by the supplier, is deposited to the Government. However, the above condition is subject to the provision contained section 41(1) of the Act which provides that every registered person shall subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger. At the same time, w.e.f .1.1.2020, the Government has recently made further amendments in the GST law to provide for stricter controls and penal action, wherever ITC is availed without corresponding compliances by the vendors. Sub-rule 4 has been inserted in Rule 36 of CGST Rules to provide that if the mismatched ITC is more than 10% of the matched ITC, then the ITC available during a month would not exceed 110% of matched ITC. Cushion of 10% is given to cater to those vendors who are required to file their GSTR-1 on quarterly basis. Matched ITC would mean the ITC which has been found reported by the suppliers in their GSTR-1 and made available to the recipient in the form of GSTR-2A. Similarly, mis-matched ITC would mean the ITC which has been found not reported by the suppliers in their GSTR-1 and thus not available in GSTR-2A.

- (4) The person should have furnished the return under section 39 [Section 16(2)(d)]

The registered person taking the ITC must have filed his return under section 39.

III. First Provison to section 16(2)

In case the goods covered under an invoice are not received in a single consignment but are received in lots / instalments, the ITC can be taken only upon receipt of the last lot / instalment. Illustration:

Mr. A orders 30000 tons of goods which are to be delivered by the supplier via 3 lots of 10000 each. The lots are sent under a single invoice with the first lot and the payment is made by the recipient for value of supply plus GST and the supplier has also deposited the tax with the government. The 3 lots are supplied in May, June and July 2018. The ITC is available to Mr. A only after

the receipt of the 3rd lot. The reason is simple; one of the conditions to avail ITC is the receipt of goods which is completed only after the last lot is delivered.

IV. Second Provison to section 16(2) read with rule 37 of CGST Rules

The registered person must pay 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 details of such supplies and corresponding credits thereon must be furnished in the GSTR 2 of the month immediately following such 180 days. Such credits availed by the registered person would be added to his output tax liability of the month in which the details are furnished, with interest. Interest will be paid @ 18% from the date of availing credit till the date when the payment is made to the supplier.

Illustration:

- Invoice dated 1.1.2020 received by the recipient involving taxable value of Rs. 1000 and ITC of Rs.180.
- The recipient availed credit against such invoice on 30.1.2020.
- It made payment to the supplier against such invoice on 30.9.2020.
- In this case, since the recipient fails to make payment to the supplier with 180 days from the date of invoice, it is liable to add such credit in its output liability immediately on the expiry of 180 days from the date of invoice.
- Additionally, it is liable to pay interest on Rs. 180 calculated from the date of availment of ITC i.e. 30.1.2020 until such addition in the output liability.

V. If depreciation claimed on tax component, ITC not allowed [Section 16(3)]

Depreciation under Section 32 of the Income Tax Act shall not be claimed on the tax portion on which ITC has been claimed. 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 i.e. dual benefit can't be claimed.

VI. Time limit for availing ITC:

Due date of filing of return for the month of September of succeeding financial

year or date of filing of annual return, whichever is earlier [Section 16(4) read with rule 37 of the CGST Rules]

ITC on invoices pertaining to a financial year or debit notes relating to invoices pertaining to a financial year can be availed any time till the due date of filing of the return for the month of September of the succeeding financial year or the date of filing of the relevant annual return, whichever is earlier. Say Invoice is dated 31st July 2018, Annual return for 2018-19 is filed on 30.11.2019. The ITC therefore needs to be claimed on or before 30.9.2019 in books of accounts and to be reported in the return for September 2019 due to be filed on 20.10.2019.

6.5 SECTION 17- APPORTIONMENT OF CREDIT & BLOCKED CREDIT

- (1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
- (2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this act or under the Integrated Goods and Services Tax Act, and partly foreffecting exempt supplies under the said acts, the amount of credit shall berestricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.
- (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Explanation : For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said schedule.

- (4) A banking company or a financial institution including a non-banking financial

company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse.

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year.

Provided further that the restriction of fifty per cent shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number (PAN).

Analysis –

The input tax credit eligibility is based on the fact as to whether the goods or services or both are used for taxable supplies or exempt supplies. Where the goods or service or both are used for both taxable and exempt supplies, only proportionate credit is allowed to a registered person.

- Proportionate credit: ITC based on usage in business- In simple words use of Input tax credit for business purpose, ITC Available and for other purpose ITC not available. Attribution of ITC to be made as per Rule 42 of CGST RULES, 2017.
- ITC used partly for Taxable supplies including zero rated supply and partly for Non-taxable, Nil Rated and exempt supply so attribution of ITC to be made as per rule 42 of CGST RULES 2017.
- Definition of Exempt Supply- It is very interesting to note that although an exempt supply is defined in section 2(47), section 17(3) read with explanation (2) in rule 45 for purposes of input tax credit reversal includes the following transactions as well –
 - Tax paid under reverse charge
 - Transaction in securities
 - Sale of land and sale of building subject to clause (b) of Paragraph

5 of Schedule II.

5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, the input tax credit shall not be available in respect of the following namely: -

A. motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely: —

- a) further supply of such motor vehicles; or
- b) transportation of passengers; or
- c) imparting training on driving such motor vehicles;

(Aa) vessels and aircraft except when they are used—

(i) for making the following taxable supplies, namely:—

- further supply of such vessels or aircraft; or
- transportation of passengers; or
- imparting training on navigating such vessels; or
- imparting training on flying such aircraft;

(ii) for transportation of goods;

(Ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (A) or clause (Aa):

Provided that the input tax credit in respect of such services shall be available—

(i) where the motor vehicles, vessels or aircraft referred to in clause (A) or clause (Aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

(I) in the manufacture of such motor vehicles, vessels or aircraft;
or

- (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;
- (B) the following supply of goods or services or both
 - (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
 - (ii) membership of a club, health and fitness centre; and
 - (iii) travel benefits extended to employees on vacation such as leave or home travel concession. Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force.
- (C) works contract services when supplied for construction of immovable property, (other than plant and machinery), except where it is an input service for further supply of works contract service.
- (D) goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account, including when such goods or services or both are used in the course or furtherance of business;

Explanation. – For the purpose of clause (C) and (D), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

- (E) goods or services or both on which tax has been paid under section 10;
- (F) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (G) goods or services or both used for personal consumption;
- (H) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (I) any tax paid in accordance with the provisions of sections 74, 129 and 130 .

6.6 CREDIT IN SPECIAL CIRCUMSTANCES

(a) Availability of Input tax credit in case of Compulsory Registration

When a person becomes liable to registration and he has applied for registration within 30 days from the date he becomes liable to registration, he can avail input tax credit of –

1. Inputs held in stock
2. Inputs contained in semi-finished and finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax.

Example: ABC, a company, crosses the turnover limit of Rs.20 Lacs for registration on 01/06/2018 and applies for registration on 20/06/2018 and is granted registration on 01/07/2018 – It can take input tax credit of inputs held in stock/semi-finished/finished goods held in stock as on 31/05/2018.

(b) Availability of Input tax credit in case of Voluntary Registration

When a person takes voluntary registration under sub-section (3) of section 25 of CGST Act, he is eligible to take input tax credit of –

1. Inputs held in stock
2. Inputs contained in semi-finished and finished goods held in stock

on the day immediately preceding the date of grant of registration.

Example: XYZ applies for registration on 15/06/2018 and is granted registration on 01/07/2018, it can take input tax credit of inputs held in stock/semi-finished/finished goods held in stock as on 30/06/2018.

(c) Availability of Input tax credit in case of Composition Scheme ceases

The registered person who pays tax under composition scheme as per section 10, ceases to pay tax under this section, he can take input tax credit in respect of –

1. Inputs held in stock
2. Inputs contained in semi-finished and finished goods held in stock
3. Capital goods on the day immediately preceding the date from which he becomes liable to pay tax as regular tax payer under section 9.

Example: EFG, a composition tax payer ceases to pay tax under section 10 on 01/04/2018, it can take input tax credit of inputs held in stock/semi-finished/finished goods held in stock and input tax credit on capital goods available as on 31/03/2018.

C. CHECK YOUR PROGRESS

Application-Based Questions:

1. **Transition to GST:**

ABC Traders was an unregistered entity under the previous tax regime. After crossing the turnover threshold, it registered under GST on January 1, 2024. The business had raw materials worth ₹5,00,000 on which excise duty of ₹50,000 was paid before GST implementation.

- Can ABC Traders claim ITC on the stock held as of January 1, 2024? If yes, what are the conditions they need to fulfill?

2. **Change in Taxable Status:**

XYZ Pvt. Ltd. was engaged in the supply of exempt goods but started supplying taxable goods from March 1, 2024. The company has a stock of raw materials worth ₹2,00,000 as of February 28, 2024, with GST paid of ₹36,000.

- Is XYZ Pvt. Ltd. eligible to claim ITC on the stock? If so, explain the procedure and conditions for claiming the credit.

3. **Voluntary Registration:**

PQR Enterprises, a small business, opted for voluntary registration under GST on October 1, 2024. The business has purchased goods worth ₹1,50,000 before registration and paid GST of ₹27,000.

- Can PQR Enterprises claim ITC on the goods purchased before registration? If yes, specify the time limit for claiming such credit.

4. **Change in Constitution:**

LMN LLP converted into *LMN Pvt. Ltd.* on May 1, 2024. The LLP had unutilized ITC of ₹1,00,000 in its electronic credit ledger as of April 30, 2024.

- How can LMN Pvt. Ltd. transfer the ITC from the LLP to its account? Mention the conditions for transferring the credit.

5. **Cancellation of Registration:**

OPQ Enterprises has decided to cancel its GST registration due to closure of business. It has an unutilized ITC balance of ₹50,000 in its electronic credit ledger.

- Can OPQ Enterprises claim a refund of the unutilized ITC upon cancellation? Explain the provisions related to ITC in such cases.

(d) Availability of Input tax credit in case of exempted supply becomes taxable supply Where any goods or services or both supplied by a registered person become taxable supply, such person can take input tax credit in respect of –

1. Inputs held in stock – related to such exempt supply
2. Inputs contained in semi-finished and finished goods held in stock – related to such exempt supply
3. Capital goods – used exclusively for effecting exempt supply on the day immediately preceding the date from which such supply becomes taxable.

Specific Conditions:

1. Input tax credit is available for the above said cases only in respect of goods and not in respect of services
2. Input tax credit on the tax invoices older than one year from the date of tax invoice are not eligible
3. Input tax credit in respect of capital goods is available only after reducing the tax paid on such capital goods by 5% per quarter from the date of the invoice
4. The registered person shall make a declaration in Form GST ITC-01 containing the details of stock or inputs or capital goods within 30 days from the date of becoming eligible to avail input tax credit
5. The declaration in Form GST ITC-01 should be duly certified by either a practising chartered accountant or a cost accountant if the aggregate value of the claim exceeds Rs.2 Lacs
6. The input tax credit claim should be verified with the corresponding details furnished by the corresponding suppliers in GSTR 1/GSTR 4

Availability of Input tax credit in case of change in the constitution

A registered person can transfer the remaining balance of input tax credit available in his electronic credit ledger, 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 to such sold, merged,

demerged, amalgamated, leased or transferred business.

Reversal of Input tax credit in special circumstances

1. Where any registered person who is availing input tax credit and later opts for composition scheme under section 10 or where the goods or services or both supplied by him become wholly exempt supply, he shall pay an amount equal to the input tax credit in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods reduced by 5% per quarter from the date of invoice, on the day immediately preceding the date of exercising of such option, by way of debit in his electronic credit ledger or electronic cash ledger. Any remaining credit, after payment, in the electronic ledger will lapse.
2. Where the capital goods or plant and machinery is supplied, the registered person has to pay an amount equal to input tax credit taken on such capital goods or plant and machinery, reduced by 5% per quarter from the date of invoice or the tax on the transaction value determined under section 15, whichever is higher. The taxable person may pay tax on the transaction value of refractory bricks, moulds, dies, jigs and fixtures when supplied as scrap.

Section 18 deals with the situations where either a person was earlier not entitled to avail input tax credit but for change of status, becomes entitled thereto or was earlier entitled to input tax credit but for change of status becomes disentitled thereto. It also provides a mechanism to deal with input tax credit in case of transfer, etc. of existing business. It further provides a legal position for payment of tax on supply of capital goods as such or after use. The accompanying Rules

40, 41, 41A and 44 of the CGST Rules provide for the procedure to give effect to the statutory provisions.



Figure 6.1

Section 18(1) Subject to such conditions and restrictions as may be prescribed–

- a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;
- b) a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;
- c) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9: Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;
- d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of

input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable: Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

Section 18(2) A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

Claim of input tax credit and provisional acceptance thereof [Section 41]

Section 16(2) mandates payment of tax by the supplier as a condition for the recipient to avail input tax credit. However, said provision is subject to Section 41 which provides as below;

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take Input Tax Credit and Computation of GST Liability 211 entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.
- (2) The credit referred to in sub-section (1) shall be utilized only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Matching, reversal and reclaim of input tax credit [Section 42]

- (1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched –
 - (a) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the “supplier”) in his valid return for the same tax period or any preceding tax period;
 - (b) with the integrated goods and services tax paid under section 3 of the

Customs Tariff Act, 1975 in respect of goods imported by him; and

(c) for duplication of claims of input tax credit.

- (2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.
- (3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
- (7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.
- (8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under

the said sub-sections.

- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under subsection (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed: Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.
- (10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall 212 PP-ATL be added to the outputtax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in subsection (3) of section 50.

6.7 LET US SUM UP

Taxes paid on inward supply of inputs, capital goods and services are called as input taxes. Such taxes take the shape of Integrated GST, Central GST, State GST or Union Territory GST depending on the nature of underlying transaction.

It also includes tax paid on reverse charge basis taxes paid by the importer of goods and services. However, tax paid under composition levy in terms of section 10 is not available as credit.

It is to be noted that GST paid on reverse charge basis be considered as input tax. Input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods.

The credit of the above taxes is called input tax credit, that is, input taxes are available as a set off against the taxes payable on outward taxable supplies. CGST Act, 2017 contains the provisions relating to the eligibility of Input Tax Credit, its availment, utilization and conditions and restrictions attached therewith.

6.8 GLOSSARY

- **Under GST**, a seamless flow of credit throughout the value chain is available removing the cascading effect of taxes
- **Input service Distributor** : The office of the company which distributes the credit to the beneficiary units on the basis of their previous year turnover is called input service distributor
- **Input tax credit (ITC)** is a provision of reducing the tax already paid on inputs, to avoid the cascading effect of taxes

6.9 SELF-ASSESSMENT QUESTIONS

1. Explain credit in special circumstances.

2. Write a short note on Input Tax Credit.

3. Explain the provisions of a job worker and an input service distributor?

6.10 LESSON END EXERCISE

1. Discuss the provisions under the GST law that determine the eligibility of a registered person to claim ITC.

2. Elaborate on the mandatory conditions for claiming ITC under Section 16 of the CGST Act.

6.11 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR
STRUCTURE

- 7.0 Learning Objectives and Outcomes
- 7.1 Introduction
- 7.2 Distribution of Credit by Input Service Distributor
- 7.3 Recovery of Credit
- 7.4 Reversal of Credit
- 7.5 ITC Utilization
- 7.6 Let Us Sum Up
- 7.7 Glossary
- 7.8 Self-Assessment Questions
- 7.9 Lesson End Exercise
- 7.10 Suggested Readings

7.0 LEARNING AND OBJECTIVES AND OUTCOMES

Learning Objectives

- To analyse the Input credit under GST;
- To comprehend the distribution of credit by input service distributor;
- To understand the Recovery/Reversal of Credit; and
- To analyse the concept of ITC Utilization

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept of input credit;
- understand the distribution of credit by input service distributor;
- apprehend the application of recovery/ reversal of credit; and
- analyse the concept of ITC Utilization

7.1 INTRODUCTION

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

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

7.2 INPUT SERVICE DISTRIBUTOR (ISD)

According to section 2(61), Input Service Distributor means

1. An office who supplies goods or services or both, and
2. Receives input services with a valid invoice as per section 31, and
3. Issues a prescribed document for the purpose of distribution of credit of IGST, CGST, SGST or UTGST on the said services to a taxable supplier of goods or services or both having the same Permanent Account Number (PAN) of that of the said office.

Registration of Input Service Distributor (ISD)

Input service distributor to get registration separately as ISD even it is registered already in a state.

Conditions for Distribution of Credit

The Input service distributor can distribute the credit of IGST, CGST, SGST or UTGST to the recipient of such credit subject to certain conditions as below:

1. Credit can be distributed against a document containing such details as prescribed.
2. The amount of credit to be distributed should not exceed the credit available for distribution.
3. When the credit on input service is attributable to a particular recipient of credit, such credit should be distributed only to that recipient.
4. If the credit on input service is attributable to more than one recipient or all recipients, credit is to be distributed among the recipients on pro rata basis of the turnover of such recipients in their state during the relevant period to the aggregate of the turnover of all such recipients as applicable.
5. Such recipients should be operational in current year

The recipients of credit are the persons who is having the same Permanent Account Number (PAN) as that of the Input service distributor.

How to Distribute Input Tax Credit by ISD

An Input Service Distributor should follow the below procedures while distributing the input tax credit:

1. Input tax credit should be distributed in the same month in which it is received.
2. The details of the input tax distributed should be furnished in GSTR 6.
3. Ineligible input credit should be separately distributed.
4. ITC on account of IGST, CGST, SGST, UTGST should be distributed separately.
5. ITC of IGST should be distributed as IGST only.
6. ITC of CGST, SGST or UTGST should be distributed as CGST, SGST or UTGST

if the ISD and recipient are located in the same state/union territory.

7. ITC of CGST, SGST or UTGST should be distributed as IGST as aggregate of CGST and SGST or UTGST if the ISD and recipient are located in different states/union territories.
8. ISD has to issue invoice as per rule 54(1) clearly indicating in such invoice that it is issued only for distribution of ITC.
9. ISD has to issue credit note in case of reduction in the ITC already distributed.
10. ISD can also distribute any additional ITC through a debit note.
11. When ITC is reduced through credit note, ITC should be reduced in the same ratio by which it was distributed earlier in the original invoice. Credit is either reduced from the distributed credit in the month in which the credit note is included in GSTR 6 or added to output tax liability when the distributed credit is lesser than the reducing credit.
12. If the distributed credit is reduced later on due to any reason for any recipient, including credit distributed to wrong recipient, the same process as mentioned in Point No.11 shall be followed. Such wrong credit can be distributed through an invoice to the eligible recipient. Such credit note and invoice should be recorded in return GSTR 6 in the same month.

Calculation Input Credit to be distributed

Input credit which is to be distributed to any recipient, whether registered or not, including the recipient who is making exempted supply shall be calculated in the following manner:

$$C1 = (t1 \div T) \times C$$

C – Amount of input credit to be distributed.

t1 – Turnover of a particular recipient to whom the credit to be distributed.

T – Aggregate turnover of all recipients, eligible to receive the ITC.

C1 – ITC amount is to be distributed to a particular recipient

Example:

Total ITC to be distributed (C) – Rs.50,000/-

A. CHECK YOUR PROGRESS

Application-Based Questions:

1. Practical Scenario:

A registered dealer purchases raw materials worth ₹2,00,000 and pays GST of ₹36,000 on it. He also avails services worth ₹50,000 with GST of ₹9,000. The final product is sold for ₹3,00,000 with an applicable GST of ₹54,000. Calculate the net GST payable after availing Input Tax Credit.

2. Decision-Making Scenario:

XYZ Ltd. purchased goods worth ₹1,00,000 for its business and paid ₹18,000 as GST. However, a portion of the goods was damaged during transit and sold as scrap for ₹20,000 with GST at 5%. Can the company claim the full ITC of ₹18,000? Justify your answer.

3. Compliance Scenario:

ABC Traders purchased office furniture worth ₹1,50,000 for their administrative office and paid ₹27,000 as GST. Can ABC Traders claim Input Tax Credit on this purchase? Explain with reference to GST rules.

Turnover of Chennai Branch (t1) – Rs.5,00,000/-

Total turnover of all branches (T) – Rs.20,00,000/-

Answer Rs.12500/- = $(500000 \div 2000000) \times 50000$

ITC to be distributed to Chennai branch is Rs.12,500/- (C1)

7.3 RECOVERY OF CREDIT

Tax administration occasionally comes across situations where the tax dues are not paid correctly by the tax payers, most of the times inadvertently and sometimes deliberately. To minimise the inadvertent short payment of taxes, the concept of ‘Matching’ details of ‘outward supplies’ of supplier with the details of ‘Inward supplies’ of recipient has been introduced in the GST Act. Moreover, the self-assessed tax has

to be paid by the due date prescribed under the GST Act and in case of any failure to pay the same by the due date, the Input Tax Credit will not be available to customers and also the tax payer will not be able to file any return for further period. Effectually these provisions work as a self-policing system and take care of any mismatch in the payment of taxes.

However, despite these provisions, there may arise some instances where the tax was not paid correctly. To deal with such situations, the provisions for recovery are incorporated in any tax law. Accordingly, the GST Act contains elaborate provisions for the recovery of tax under various situations, which can be broadly classified into the following two categories:

- (i) Tax short paid or erroneously refunded or Input Tax Credit wrongly availed; and
- (ii) Non-payment of self-assessed tax or amount collected as representing the Tax.

7.4 REVERSAL OF CREDIT

The credit of GST paid on the purchases like raw materials/services used for manufacturing or selling products is known as an Input tax credit (ITC). If the input tax credit is wrongly claimed, then it should be reversed by making payment to that extent of wrongly availed ITC. In certain situations, even if the basic conditions for claiming ITC is satisfied, ITC claimed must be reversed (e.g., Blocked Credits like health insurance, food & beverages expenses, etc.) Reversal of ITC means the credit of inputs, input service and capital goods utilized earlier would now be added to the output tax liability, effectively nullifying the credit claimed earlier. Depending upon when such reversal is done, payment of interest may also be required.

THE REVERSAL OF ITC IS TO BE DONE IN THE FOLLOWING SCENARIOS:

- The recipient fails to pay consideration to the supplier (whether fully or partly) for a particular supply. (Rule 37 of CGST Rules).
- ITC has been availed on 'blocked credits' as per Section 17(5) of CGST Act.
- Inputs have been used to make a full or partial exempt supply or supply

which is not for business purpose or used for personal consumption. (Rule 42 of CGST Rules).

- Inputs used in goods that were given out as free samples or used in goods that were lost, destroyed, stolen, etc.
- Cancellation of GST registration or swITChes to Composition Scheme. (Rule 44 of CGST Rules).
- Inputs taken on Capital Goods for supply of wholly exempt goods or taxable and exempt goods. (Rule 43 of CGST Rules)
- Depreciation under the Income Tax Act has been claimed on the GST component of capital goods purchased.
- Reversal of 50% of ITC by banking and other financial companies under special rules.
- Credit note issued to Input Service Distributor (ISD). (Rule 39 of CGST Rules)

B. CHECK YOUR PROGRESS

Multiple Choice Questions

1. Which of the following is eligible for claiming Input Tax Credit (ITC)?

- A. Goods used for personal consumption
- B. Motor vehicles for personal use
- C. Goods purchased for resale
- D. Membership fees for clubs

Answer: C. Goods purchased for resale

2. Which of the following is NOT a condition for availing ITC under GST?

- A. The recipient must possess a tax invoice or debit note.
- B. The goods or services must be used for business purposes.
- C. The supplier must have filed their GST returns.
- D. The recipient must make payment to the supplier within 180 days.

Answer: D. The recipient must make payment to the supplier within 180 days.

3. A registered person can claim ITC on goods and services if:

- A. The goods are lost or destroyed.
- B. The tax is paid under the Composition Scheme.
- C. The tax is used for exempt supplies.
- D. The goods are used for taxable supplies.

Answer: D. The goods are used for taxable supplies.

4. ITC cannot be claimed on which of the following goods/services?

- A. Health insurance for employees (not mandatory by law)
- B. Goods used for export
- C. Capital goods used in manufacturing
- D. Raw materials used in taxable supplies

Answer: A. Health insurance for employees (not mandatory by law)

5. What is the time limit for claiming ITC for a financial year?

- A. 31st December of the following year
- B. Due date of September return of the following year
- C. 31st March of the following year
- D. Due date of November return of the following year

Answer: B. Due date of September return of the following year

6. If a registered person switches from a regular scheme to the Composition Scheme, what happens to the ITC balance?

- A. ITC balance is refunded.
- B. ITC balance is carried forward.
- C. ITC balance lapses.
- D. ITC balance can be used for personal consumption.

Answer: C. ITC balance lapses.

7. Which of the following taxes can be claimed as ITC?

- A. IGST on imports
- B. CGST paid on inter-state supply
- C. SGST paid in one state and used in another
- D. GST paid under reverse charge

Answer: A. IGST on imports

Reversal of ITC under Rule 37: You being a recipient, if you fail to pay the invoice amount to the supplier within 180 days the ITC has to be reversed. If part of the invoice is paid the ITC will be reversed on a proportionate basis.

Reversal of ITC under Rule 42 & 43: Both rules pertain to reversal of Inputs utilised for supplies that are exempt or used for personal consumption. If the credit can specifically be attributable to a supply – either taxable, nontaxable, or supply consumed for personal use, such ITC amount should be distinguished from the

total ITC since it can be easily identified. Taxpayer must reverse that amount of ITC directly attributable to a particular supply that is non-taxable/used for personal consumption, only when wrongly availed.

ITC amount that cannot be attributable to a specific supply but is used for partly making both the taxable and non-taxable supplies/supplies used for personal consumption need to be reversed proportionately to the extent of supplies that are non-taxable/used for personal consumption. The remaining ITC left is eligible for claim. The calculation differs for: a) Inputs or input services- covered by Rule 42. b) Capital goods- covered by Rule 43.

Reversal of ITC under Rule 44: The aim of this rule is to reverse all the ITC that has been availed by a registered person in the event that he chooses to pay tax under the composition scheme or his registration gets cancelled for any reason. For inputs held in stock or contained in semi-finished goods and finished goods in stock, the ITC which is to be reversed should be calculated proportionately to corresponding invoices on which credit was taken. In case of capital goods, ITC availed will be based on the useful life (in months) and shall be computed on a pro-rata basis.

Reversal of ITC the availment of which is blocked under Section 17(5): Inputs on goods or services used for personal consumption, inputs on goods which are lost, stolen, destroyed or written off or disposed of by way of gift or free samples, and any ITC availed which is blocked as per Section 17(5) need to be reversed by the recipient.

Chapter X of the CGST Act, 2017 enumerates the provisions relating to 'payment of tax'. Section 50 in this Chapter lays down the circumstances in which interest would be required to be paid. The Section provides for payment of interest in two circumstances:-

- a. Where a person liable to pay tax fails to pay the same [Section 50(1)].
- b. Where a person makes an undue or excess claim of input tax credit under the provisions relating to matching of ITC [Section 50(3)].

It appears that the first provision (a) would cover all cases where there is a shortfall in payment of tax which inter alia may be on account of payment of tax using irregularly availed credit. In other words, there may be short payment of tax by utilization of

ineligible credits.

By plain reading of the section it conveys that mere availment of credit, without utilization, may not fall within the scope of this provision as it would get triggered only due to failure to pay the tax.

The second provision provides for levy of interest where undue or excess claim of input tax credit has been made because of mismatch in the returns. This provision would not cover a scenario wherein an ineligible credit has been availed by an assessee for reasons other than that of excess availment.

Section 50 does not provide for payment of interest for mere wrongful availment of credit, except wherein an ineligible credit has been availed by an assessee. Once there is no interest payable under section 50, an argument can be advanced that the CGST Act does not provide for a provision to demand interest in cases where availment of credit is irregular. As the provisions relating to recovery of interest under CGST Act does not envisage the scenario of irregular availment of credit, it appears there cannot be any levy of interest on mere wrongful availment of credit for reasons other than those covered under Section 50(3) viz. wrongful availment on account of mismatch [Section 50(3) is explained in the next part].

Rate of Interest on Reversal of ITC:

Section 50(3) specifies that interest rate should not exceed 24% p.a. and intends to exclusively cover cases of contravention as per section 42 (10) and section 43 (10). Whereas section 50(1) is a residuary section which covers all cases other than cases falling under section 50(3). Interest rate specified u/s 50(1) is 18% p.a.

Section 42(10) specifies that interest should be charged at 24% p.a. only in those cases where there is reclaiming of ITC as per Section 42(7) which was reversed by the recipient when he has claimed ITC in excess of tax declared by the supplier in his GSTR-1 or supplier has not declared such supplies in his GSTR-1.

Similar provisions are contained in section 43 and are dealing with credit note.

Hence the rate of interest for reversal of ITC is 24% p.a. only in case of reclaim of credit reversed earlier. In other cases, interest will be paid @18% p.a. u/s 50 (1).

7.5 INPUT TAX CREDIT (ITC) UTILIZATION

The input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.

Order of utilisation of input tax credit [Section 49B]

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

Rule 88A

ITC of IGST should first be utilized towards payment of IGST.

Remaining ITC of IGST, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order, i.e. ITC of IGST can be first utilized either against CGST or SGST.

ITC of CGST, SGST/UTGST can be utilized towards payment of IGST, CGST SGST/UTGST only after the ITC of IGST has first been utilized fully.

Utilization of ITC

Input Tax Credit (ITC) is credited to a person's electronic credit ledger. The person may use this to its output tax liability.

Input tax credit on account of	Output liability on account of Integrated tax	Output liability on account of Central tax	Output liability on account of State tax/ Union Territory tax
Integrated tax	(I)	(II) – In any order	and in any proportion
(III) Input tax credit	on account of	Integrated tax to be	completed exhausted mandatorily
Central tax	(V)	(IV)	Not permitted
State tax/ Union Territory tax	(VII)	Not permitted	(VI)

There is no offset available between the CGST and the SGST/ UTGST.

In other words, first fully exhaust ITC on IGST towards output liability of IGST and CGST/SGST/UTGST. CGST/ SGST/UTGST output liability payment can be in any order or ratio. Later, utilize ITC on CGST to pay output liability of CGST and balance of IGST, if any. Further, utilize ITC on SGST/UTGST to pay output liability of SGST/UTGST and balance of IGST, if any.

7.6 LET US SUM UP

Taxes paid on inward supply of inputs, capital goods and services are called as input taxes. Such taxes take the shape of Integrated GST, Central GST, State GST or Union Territory GST depending on the nature of underlying transaction.

It also includes tax paid on reverse charge basis taxes paid by the importer of goods and services. However, tax paid under composition levy in terms of section 10 is not available as credit.

It is to be noted that GST paid on reverse charge basis be considered as input tax. Input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods.

The credit of the above taxes is called input tax credit, that is, input taxes are available as a set off against the taxes payable on outward taxable supplies. CGST Act, 2017 contains the provisions relating to the eligibility of Input Tax Credit, its availment, utilization and conditions and restrictions attached therewith.

7.7 GLOSSARY

- **Cascading effect of taxes:** Under GST, a seamless flow of credit throughout the value chain is available removing the **cascading effect of taxes**
- **Input service distributor:** The office of the company which distributes the credit to the beneficiary units on the basis of their previous year turnover is called **input service distributor**
- **Input tax credit (ITC):** It is a provision of reducing the tax already paid on inputs, to avoid the cascading effect of taxes.

7.8 SELF-ASSESSMENT QUESTIONS

1. Explain the concept of Input distributor.

2. Discuss the role of mismatched invoices in ITC reversal and its impact on taxpayers.

7.9 LESSON END EXERCISE

1. Define the situations under which ITC can be recovered or reversed..

2. Discuss the procedure of availing input tax credit if the goods manufactured by the assessee become liable to tax.

7.10 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

**TAX INVOICE, CREDIT NOTES, DEBIT NOTES, ELECTRONIC CASH
LEDGER, ELECTRONIC CREDIT LEDGER.**

8.0 Learning Objectives and Outcomes

8.1 Introduction

8.2 Tax Invoice

8.3 Credit Notes

8.4 Debit Notes, Electronic Cash Ledger

8.5 Electronic Credit Ledger

8.6 Let Us Sum Up

8.7 Glossary

8.8 Self-Assessment Questions

8.9 Lesson End Exercise

8.10 Suggested Readings

8.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To analyse the concept of tax invoices;
- To comprehend the type of Credit notes;
- To apprehend the debit notes electronic cash ledger; and
- To familiar with the concept of Electronic credit ledger

Learning Outcomes

After the completion of this lesson, the student will be able to:

- Comprehend the concept of tax invoices;
- learn about the application of credit notes;
- understand the Debit notes electronic cash ledger; and
- analyse the concept of Electronic credit ledger

8.1 INTRODUCTION

Generally speaking, an invoice is a commercial instrument issued by a seller to a buyer. It identifies both the trading parties and lists, describes, and quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and delivery and payment terms.

In certain cases, (especially when it is signed by the seller or seller's agent), an invoice serves as a demand for payment and becomes a document of title when paid in full. Types of invoice include commercial invoice, consular invoice, customs invoice, and proforma invoice. It is also called a bill of sale or contract

8.2 TAX INVOICE

Under the GST regime, an “invoice” or “tax invoice” means the tax invoice referred to in section 31 of the CGST Act, 2017. This section mandates issuance of invoice or a bill of supply for every supply of goods or services. It is not necessary that only a

person supplying goods or services need to issue invoice. The GST law mandates that any registered person buying goods or services from an unregistered person needs to issue a payment voucher as well as a tax invoice. The type of invoice to be issued depends upon the category of registered person making the supply. For example, if a registered person is making or receiving supplies (from unregistered persons), then a tax invoice needs to be issued by such registered person. However, if a registered person is dealing only in exempted supplies or is availing of composition scheme (composition dealer), then such a registered person needs to issue a bill of supply in lieu of invoice. The invoice should contain description, quantity and value & such other prescribed particulars (in case of supply of goods) and the description and value & such other prescribed particulars (in case of supply of services). An invoice or a bill of supply need not be issued if the value of the supply is less than Rs. 200/- subject to specified conditions.

Importance of tax invoice under GST

Under GST a tax invoice is an important document. It not only evidences supply of goods or services, but is also an essential document for the recipient to avail Input Tax Credit (ITC). A registered person cannot avail input tax credit unless he is in possession of a tax invoice or a debit note.

GST is chargeable at the time of supply. Invoice is an important indicator of the time of supply. Broadly speaking, the time of supply of goods or services is the date of issuance of invoice or receipt of payment whichever is earlier. However, a special procedure for payment of tax has been prescribed for registered persons (other than composition dealers) supplying goods. Such category of persons (suppliers of goods other than composition dealers) need to pay GST only at the time of issue of invoice irrespective of when they receive payment.

Thus the importance of invoice under GST cannot be overemphasized. Suffice it to say, the tax invoice is the primary document evidencing the supply and vital for availing input tax credit.

When a tax invoice or a bill of supply should be issued by a registered person

a. Goods

The time for issuing invoice would depend on the nature of supply viz whether it is a supply of goods or services. A registered person supplying taxable goods shall, before or at the time of removal of goods (where supply involves movement of goods) or delivery or making available thereof to the recipient, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars has been prescribed in the Invoice Rules. 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.

Contents of invoice

There is no format prescribed for an invoice, however, Invoice rules makes it mandatory for an invoice to have following fields (only applicable field are to be filled):

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN or UIN, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered and where the value of taxable supply is fifty thousand rupees or more;
- (f) HSN code of goods or Accounting Code of services;
- (g) description of goods or services;
- (h) quantity in case of goods and unit or Unique Quantity Code thereof;
- (i) total value of supply of goods or services or both;
- (j) taxable value of supply of goods or services or both taking into account discount or abatement, if any;

- (k) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (l) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) address of delivery where the same is different from the place of supply;
- (o) whether the tax is payable on reverse charge basis; and
- (p) signature or digital signature of the supplier or his authorized representative.

Contents of Bill of Supply

A bill of supply shall be issued by the supplier containing the following details:-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue
- (d) name, address and GSTIN or UIN, if registered, of the recipient;
- (e) HSN Code of goods or Accounting Code for services;
- (f) description of goods or services or both;
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorized representative.

b. Services

A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as has been prescribed in the Invoice Rules. The Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify

the categories of services in respect of which—

- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- (b) tax invoice may not be issued.

Thus it can be seen that in case of goods, an invoice has to be issued before or at the time of supply. In case of services, however, invoice has to be issued before or after provision of services. If the invoice is issued after provision of service, it has to be done within the specified period of 30 days from the date of supply of service, as per invoice rules.

Manner of issuing invoice: The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner: – (a) the original copy being marked as ORIGINAL FOR RECIPIENT; (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER. The invoice shall be prepared in duplicate, in case of supply of services, in the following manner: - (a) the original copy being marked as ORIGINAL FOR RECIPIENT; and (b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER. The serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in FORM GSTR-1.

Manner of issuing invoice

The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner: –

- (a) the original copy being marked as ORIGINAL FOR RECIPIENT;
- (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER;
and
- (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.

The invoice shall be prepared in duplicate, in case of supply of services, in the following manner:-

- (a) the original copy being marked as ORIGINAL FOR RECIPIENT; and
- (b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER. The

serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in FORM GSTR-1.

8.3 CREDIT NOTES

Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient what is called as a credit note containing the prescribed particulars.

Format

There is no prescribed format but credit note issued by a supplier must contain the following particulars, namely:

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) nature of the document;
- (c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (d) date of issue;
- (e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
- (h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited to the recipient; and
- (i) signature or digital signature of the supplier or his authorised representative.

A. CHECK YOUR PROGRESS

Application-Based Questions on Credit Notes in GST

1. Practical Scenario:

ABC Pvt. Ltd. supplied goods worth ₹1,00,000 (excluding GST) to XYZ Traders, charging GST at 18%. However, due to a quality issue, ABC Pvt. Ltd. agreed to reduce the invoice value by ₹20,000. Prepare the credit note details and calculate the revised GST liability of ABC Pvt. Ltd.

2. Compliance Scenario:

A supplier issued an invoice to a customer on 1st October 2024. Due to a pricing error, the supplier issued a credit note on 20th December 2024. Discuss whether the supplier can adjust the GST liability using the credit note, considering the time limits prescribed under GST.

3. Accounting and Adjustment:

XYZ Ltd. supplied services worth ₹5,00,000 and issued an invoice with GST of ₹90,000. Later, due to a customer complaint, they issued a credit note for ₹50,000 (including GST). How should XYZ Ltd. adjust this credit note in its GSTR-1 and GSTR-3B filings?

4. Business Scenario:

A dealer sold goods to a customer with an invoice value of ₹2,00,000 (including GST). The customer returned a portion of the goods worth ₹50,000 (including GST). Explain how the dealer should issue a credit note and adjust the tax liability under GST.

5. Legal and Procedural Compliance:

A registered supplier issued a credit note for goods supplied but did not declare it in the GSTR-1. What are the consequences of such non-compliance, and how can the supplier rectify this error in subsequent returns?

Adjustment of tax liability

The person who issues a credit note in relation to a supply of goods or services or both must declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier. In other words, the output tax liability cannot be reduced in cases where credit note has been issued after September.

The output tax liability of the supplier gets reduced once the credit note is issued and it is matched. The details of the credit note relating to outward supply furnished by the supplier for a tax period shall, be matched:

- (a) with the corresponding reduction in the claim for input tax credit by the recipient in his valid return for the same tax period or any subsequent tax period; and
- (b) for duplication of claims for reduction in output tax liability.

The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated to the supplier. The reduction in output tax liability of the supplier shall not be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons. Whereas, the duplication of claims for reduction in output tax liability shall be communicated to the supplier.

The amount in respect of which any discrepancy is communicated and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier in his return for the month succeeding the month in which the discrepancy is communicated.

The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

Records

The records of the credit have to be retained until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records. Where such accounts and documents are maintained manually, it should 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.

8.4 DEBIT NOTE

A debit note (Or a Debit Memo) issued post sale when an invoice needs alterations. It's a commercial document utilized by the buyer or seller after completing a transaction.

Issued by Seller:

Invoice requires adjustment: The seller provided the buyer with an invoice after delivery but mistakenly billed a lower per unit price.

Incorrect tax rate: The invoice reflects a 12% GST instead of the correct 18%, necessitating correction.

Total invoice amount discrepancy: Though unit prices are accurate, the total due must be corrected and issued correctly.

Issued by a Buyer:

Invoice discrepancy: Although the sale is finalized & invoiced, the amount listed by the seller is inaccurate.

Goods damaged upon delivery: Post-delivery the buyer discourses some items received are claimaged.

Cancellation of Transaction: Unforeseen circumstances may necessitate the buyer to cancel the purchase and return the goods to the seller.

B. CHECK YOUR PROGRESS

Application-Based Question

1. Practical Scenario:

ABC Ltd. supplied goods worth ₹1,00,000 (excluding GST) to XYZ Traders, charging GST at 18%. Later, it was discovered that the value of goods was under-reported by ₹20,000. Prepare the debit note details and calculate the revised GST liability of ABC Ltd.

2. Compliance Scenario:

A supplier issued an invoice on 1st September 2024 for ₹3,00,000 (including GST). Later, due to additional services provided, the supplier issued a debit note on 15th November 2024 for ₹50,000 (including GST). Explain how the supplier should declare this debit note in GSTR-1 and GSTR-3B filings.

3. Business Adjustment:

XYZ Pvt. Ltd. supplied goods to a customer and issued an invoice for ₹5,00,000 (excluding GST). Later, it was found that additional transportation costs of ₹10,000 (excluding GST) were not included in the invoice. If GST is applicable at 18%, calculate the value of the debit note and explain its impact on GST liability.

4. Legal and Procedural Compliance:

A registered taxpayer issued a debit note for additional taxable value but failed to report it in the GST return of the relevant month. What are the consequences of this non-compliance, and how can it be rectified in subsequent filings?

5. Practical Usage:

A supplier issued an invoice for ₹2,00,000 (excluding GST). Later, due to a contractual change, an additional charge of ₹30,000 was agreed upon. The supplier issues a debit note for this additional amount. Explain the procedure to issue a debit note and adjust the GST liability, including any applicable timelines.

DEBIT NOTE FORMAT

As an SME manufacturer in India, there isn't a prescribed debit note format to adhere to, but authorities deem contain fields essential. These include:

Company Details: Supplier and buyer names, addresses and GSTIN.

Serial Number: An alphanumeric sequential code specifying the unique number for the debit note.

Associated Invoice Number: The alphanumeric sequential code of the corresponding invoice.

Relevant Dates: Invoice creation date and debit note issuance date.

Detailed Description: Comprehensive accounts of goods details and description.

Legally Authorized Signatures: Signatures of authorized representatives from the issuing party.

8.5 ELECTRONIC CASH LEDGER

Every deposit made by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or by over-the-counter deposit will be credited to the electronic cash ledger. The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable.

The electronic cash ledger shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount. The payment required to be made by an unregistered person, can be made on the basis of a temporary identification number generated through the common portal.

A challan in FORM GST PMT-06 can be generated on the common portal in which the details of the amount to be deposited towards tax, interest, penalty, fees or any other amount is to be entered. This challan will be valid for a period of fifteen days.

The deposit can be made through any of the following modes, namely:

- (i) Internet Banking through authorised banks;

- (ii) Credit card or Debit card through the authorised bank;
- (iii) NEFT or RTGS from any bank; or
- (iv) Over the Counter payment through authorised banks for deposits up to Rs 10,000/- per challan per tax period, by cash, cheque or demand draft.

When the payment is made by way of NEFT or RTGS mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made. The mandate form shall be valid for a period of fifteen days from the date of generation of challan.

On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number (CIN) shall be generated by the collecting bank and the same shall be indicated in the challan.

On receipt of the CIN from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.

In case the bank account is debited but CIN has not been generated or generated but not communicated to the common portal, then the person has to represent electronically in FORM GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.

The amount deducted under section 51 or collected under section 52 and claimed in FORM GSTR-2 by the registered person from whom the said amount was deducted or, as the case may be, collected will be credited to his electronic cash ledger.

Refund from cash ledger can only be claimed only when all the return related liabilities for that tax period have been discharged. A registered person, claiming refund of any balance in the electronic cash ledger in accordance can claim such refund in Part B of the return in FORM GSTR-3 and such return shall be deemed to be an application filed under section 54 of the CGST Act, 2017.

8.6 ELECTRONIC CREDIT LEDGER

The electronic credit ledger is maintained in FORM GST PMT-02 for each registered person on the common portal and every claim of input tax credit is to be credited to this ledger. The input tax credit as self-assessed in the return by a registered person is credited to his electronic credit ledger. The only way the electronic credit ledger can be credited is through filing of returns. Earlier the amount of transitional credit was also credited to the electronic credit ledger on filing of FORM GST TRAN-1 and FORM GST TRAN-2. It may be noted that last date for filing of these two forms has already expired long back. The amount available in the electronic credit ledger can be used for making any payment towards output tax under the CGST/SGST/UTGST/IGST/Cess Acts.

C. CHECK YOUR PROGRESS

Multiple Choice Questions

1. Which of the following is eligible for claiming Input Tax Credit (ITC)?

- A. Goods used for personal consumption
- B. Motor vehicles for personal use
- C. Goods purchased for resale
- D. Membership fees for clubs

Answer: C. Goods purchased for resale

2. Which of the following is NOT a condition for availing ITC under GST?

- A. The recipient must possess a tax invoice or debit note.
- B. The goods or services must be used for business purposes.
- C. The supplier must have filed their GST returns.
- D. The recipient must make payment to the supplier within 180 days.

Answer: D. The recipient must make payment to the supplier within 180 days.

3. A registered person can claim ITC on goods and services if:

- A. The goods are lost or destroyed.
- B. The tax is paid under the Composition Scheme.
- C. The tax is used for exempt supplies.
- D. The goods are used for taxable supplies.

Answer: D. The goods are used for taxable supplies.

4. ITC cannot be claimed on which of the following goods/services?

- A. Health insurance for employees (not mandatory by law)
- B. Goods used for export
- C. Capital goods used in manufacturing
- D. Raw materials used in taxable supplies

Answer: A. Health insurance for employees (not mandatory by law)

5. What is the time limit for claiming ITC for a financial year?

- A. 31st December of the following year
- B. Due date of September return of the following year
- C. 31st March of the following year
- D. Due date of November return of the following year

Answer: B. Due date of September return of the following year

6. If a registered person switches from a regular scheme to the Composition Scheme, what happens to the ITC balance?

- A. ITC balance is refunded.
- B. ITC balance is carried forward.
- C. ITC balance lapses.
- D. ITC balance can be used for personal consumption.

Answer: C. ITC balance lapses.

7. Which of the following taxes can be claimed as ITC?

- A. IGST on imports
- B. CGST paid on inter-state supply
- C. SGST paid in one state and used in another
- D. GST paid under reverse charge

Answer: A. IGST on imports

In case a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim is debited in the said ledger.

If the refund so filed is rejected, either fully or partly, the amount debited to the extent of rejection, is re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03.

Unless otherwise allowed, entries are not allowed to be made directly in the electronic credit ledger under any circumstance.

8.6 LET US SUM UP

Chapter VII of the CGST Act, 2017 read with Chapter VI of the CGST Rules, 2017 deals with various documents which a registered person is required to issue in the course of making supply of goods and/ or services. Such documents include Tax Invoice, Bill of Supply, Credit and Debit Notes, Delivery Challan, Receipt Voucher, Payment Voucher, etc.

Generally speaking, an invoice is a commercial instrument issued by a seller to a buyer. It identifies both the trading parties and lists, describes, and quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and delivery and payment terms.

In certain cases, (especially when it is signed by the seller or seller's agent), an invoice serves as a demand for payment and becomes a document of title when paid in full. Types of invoice include commercial invoice, consular invoice, customs invoice, and proforma invoice. It is also called a bill of sale or contract of sale

8.7 GLOSSARY

- **Tax invoice:** Tax invoice is an invoice issued for taxable supply of goods & services.
- **Debit note:** A debit note is issued in exchange for a credit note.
- **Credit note:** A credit note is issued in exchange for a debit note.

8.8 SELF-ASSESSMENT QUESTIONS

1. Who are the persons liable to take a Registration under the GST Law?

2. Write short notes on:

- (a) Debit note
- (b) Credit note

8.9 LESSON END EXERCISE

1. Define a credit note and explain its purpose under GST?

2. Discuss the situations in which a debit note can be issued as per GST laws.

8.10 SUGGESTED READINGS

- 1. GST Bare Act, 2024.
- 2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
- 3. GST Act with Rules and Forms- Taxmann, New Delhi.

4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

**ELECTRONIC LIABILITY LEDGER & MANNER OF PAYMENT OF
TAX-TAX DEDUCTION AT SOURCE**

- 9.0 Learning Objectives and Outcomes
- 9.1 Introduction
- 9.2 Electronic Liability Ledger
- 9.3 Manner of Payment of Tax – Tax Deduction at Source
- 9.4 Let Us Sum Up
- 9.5 Glossary
- 9.6 Self-Assessment Questions
- 9.7 Lesson End Exercise
- 9.8 Suggested Readings

9.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the concept of Electronic liability ledger; and
- To comprehend the manner of payment of tax-Tax Deduction at Source

Learning Outcomes

After the completion of this lesson, the student will be able to:

- explain the concept of Electronic liability ledger; and
- learn about the manner of payment of tax-Tax Deduction at Source.

9.1 LEARNING OBJECTIVES AND OUTCOMES

On the common portal each registered taxpayer will have one electronic register called the electronic liability register and two electronic ledgers namely Electronic Cash Ledger and Electronic Credit Ledger. These register and ledgers will reflect the amount of tax payable, the amount available to settle the tax liability online, and input credit balance. This is a handy tool provided in the GST system wherein the registered taxpayer can

have information about his liabilities and credits at a single location which can be viewed from any place by simply logging into the common portal. Electronic liability register, electronic cash ledger and electronic credit ledger of taxpayer will be updated on generation of GSTR-3 by the taxpayer. A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger. The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic Debit liability register. In case of any discrepancy in his electronic liability ledger, electronic cash ledger or electronic credit ledger the registered person has to communicate the same to the officer exercising jurisdiction in the matter, through the common portal in FORM GSTPMT-04.

9.2 ELECTRONIC LIABILITY LEDGER

Electronic liability register:

The electronic liability register is maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register. The electronic liability register will be maintained in two parts at the common portal.

Part I will be for maintaining the return related liabilities. All liabilities accruing due to return and payments made against the same will be recorded in this part of the register. Liabilities due to opting for composition and cancellation of registration will also be covered in this part. Such liabilities shall be populated in the liability register of the tax period in which the date of application or order falls, as the case may be.

Part II will be for maintaining the complete description of the transactions of all liabilities accruing, other than return related liabilities. Such other liabilities may include the following: Liabilities due to reduction or enhancement in the amount payable due to decision of appeal, rectification, revision, review etc.;

- a. Refund of pre-deposit that can be claimed for a particular demand if appeal is allowed;
- b. Payment made against the show cause notice or any other payment made voluntarily;
- c. Reduction in amount of penalty (which would be automatically shown) based

on payment made after show cause notice or within the time specified in the Act or the rules.

The electronic liability register of the person shall indicate the following:

1. the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;
2. the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;
3. the amount of tax and interest payable as a result of mismatch of input tax credit
4. or any amount of interest that may accrue from time to time;
5. the amount deducted by the Government authorities from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakhs and fifty thousand rupees;
6. the amount required to be collected by every electronic commerce operator on 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;
7. the amount payable on reverse charge basis;
8. the amount payable under the Composition levy scheme;
9. amount payable towards interest, penalty, fee;
10. Any other amount under the GST Act.

Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic liability register shall be credited accordingly.

The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability

register shall be credited accordingly.

Electronic cash ledger:

Every deposit made by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) or by over the counter deposit will be credited to the electronic cash ledger. The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable.

The electronic cash ledger shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount. The payment required to be made by an unregistered person, can be made on the basis of a temporary identification number generated through the common portal.

A challan in FORM GST PMT-06 can be generated on the common portal in which the details of the amount to be deposited towards tax, interest, penalty, fees or any other amount is to be entered. This challan will be valid for a period of fifteen days.

The deposit can be made through any of the following modes, namely:

- I. Internet Banking through authorised banks;
- II. Credit card or Debit card through the authorised bank;
- III. NEFT or RTGS from any bank; or
- IV. Over the Counter payment through authorised banks for deposits up to Rs 10,000/- per challan per tax period, by cash, cheque or demand draft.

When the payment is made by way of NEFT or RTGS mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made. The mandate form shall be valid for a period of fifteen days from the date of generation of challan.

On successful credit of the amount to the concerned government account maintained

in the authorised bank, a Challan Identification Number (CIN) shall be generated by the collecting bank and the same shall be indicated in the challan.

On receipt of the CIN from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.

In case the bank account is debited but CIN has not been generated or generated but not communicated to the common portal, then the person has to represent electronically in FORM GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.

The amount deducted under section 51 or collected under section 52 and claimed in FORM GSTR-2 by the registered person from whom the said amount was deducted or, as the case may be, collected will be credited to his electronic cash ledger.

Refund from cash ledger can only be claimed only when all the return related liabilities for that tax period have been discharged. A registered person, claiming refund of any balance in the electronic cash ledger can claim such refund in Part B of the return in FORM GSTR-3 and such return shall be deemed to be an application filed under section 54 of the CGST Act, 2017.

A. CHECK YOUR PROGRESS

Case Study: Electronic Liability Ledger under GST

Introduction

The Goods and Services Tax (GST) regime in India is a comprehensive tax structure that mandates businesses to maintain various electronic ledgers, including the **Electronic Liability Ledger**, **Electronic Credit Ledger**, and **Electronic Cash Ledger**. These ledgers help in tracking and managing the tax liabilities, input tax credits (ITC), and cash payments for GST. The **Electronic Liability Ledger** specifically reflects the liabilities a taxpayer owes to the government for various GST taxes, which can be settled using the available balance in the **Electronic Credit Ledger** or **Electronic Cash Ledger**.

Theoretical Scenario

XYZ Pvt. Ltd. is a manufacturer of machinery parts and is registered under GST. The company is required to file its GST returns (GSTR-3B) monthly. In the month of October 2024, XYZ Pvt. Ltd. had the following transactions:

1. Outward Supply (Sales):

- Local taxable supply: ₹10,00,000 (GST @ 18%)
- Inter-state taxable supply: ₹5,00,000 (GST @ 18%)

2. Inward Supply (Purchases):

- Local purchase of raw materials: ₹6,00,000 (GST @ 18%)
- Import of machinery parts: ₹2,00,000 (IGST @ 18%)

3. Input Tax Credit (ITC):

XYZ Pvt. Ltd. has accumulated the following input tax credits from its purchases:

- ITC on local purchase of raw materials: ₹1,08,000 (18% of ₹6,00,000)
- ITC on import of machinery parts: ₹36,000 (18% of ₹2,00,000)

4. GST Liability:

Based on the outward supply, the total GST liability for XYZ Pvt. Ltd. for the month of October is:

- GST on local supply: ₹1,80,000 (18% of ₹10,00,000)
- GST on inter-state supply: ₹90,000 (18% of ₹5,00,000)
- **Total GST liability: ₹2,70,000**

The Electronic Liability Ledger

The **Electronic Liability Ledger** is where the total GST liability is reflected, showing the amount that the taxpayer needs to pay to the government. This ledger is automatically updated based on the outward supplies and other taxable events.

The company must settle this liability using the available balances in its **Electronic Credit Ledger** and **Electronic Cash Ledger**.

1. Electronic Credit Ledger:

The company can utilize the Input Tax Credit (ITC) from the Electronic Credit Ledger to set off its liability. ITC can be used in the following order:

- First, to set off **IGST** liability,
- Then, **CGST** and **SGST** liabilities.

In this case, XYZ Pvt. Ltd. has an ITC of:

- **CGST:** ₹1,08,000
- **SGST:** ₹1,08,000
- **IGST:** ₹36,000

Based on the available ITC, the company can utilize:

- ₹36,000 from the **IGST** balance to set off the **IGST** liability of ₹90,000, leaving a balance of ₹54,000 for the IGST liability.
- ₹1,08,000 from the **CGST** balance to set off the **CGST** liability of ₹1,80,000, leaving a balance of ₹72,000 for the CGST liability.
- ₹1,08,000 from the **SGST** balance to set off the **SGST** liability of ₹90,000, leaving a balance of ₹18,000 for the SGST liability.

2. Electronic Cash Ledger:

After utilizing the ITC, XYZ Pvt. Ltd. will still have a remaining liability:

- ₹54,000 IGST (outstanding)
- ₹72,000 CGST (outstanding)
- ₹18,000 SGST (outstanding)

These remaining amounts must be paid in cash, and the company will use its **Electronic Cash Ledger** to make the payment. If the balance in the **Electronic Cash Ledger** is insufficient, the company will need to deposit additional funds.

Key Questions

1. Computation of GST Liability:

- What is the total GST liability for XYZ Pvt. Ltd. in October 2024?
- How much of this liability can be set off using the available ITC?

2. Utilization of ITC:

- In what order should XYZ Pvt. Ltd. utilize the available ITC to minimize cash payments?
- After utilizing the ITC, how much of the liability remains to be paid in cash?

3. Impact on Ledgers:

- How will the transactions affect the **Electronic Liability Ledger, Electronic Credit Ledger, and Electronic Cash Ledger**?
 - What will be the closing balances in these ledgers after settling the liability?
4. **Compliance and Reporting:**
- What are the consequences if XYZ Pvt. Ltd. fails to settle its liability on time?
 - How would late payment impact the Electronic Liability Ledger and the company's compliance status?
5. **Conceptual Understanding:**
- What is the role of the **Electronic Liability Ledger** in the GST framework?
 - Explain how the **Electronic Liability Ledger, Electronic Credit Ledger, and Electronic Cash Ledger** interact with each other.

Electronic credit ledger:

The electronic credit ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit on the common portal and every claim of input tax credit will be credited to this ledger. The amount available in the electronic credit ledger can be used for making any payment towards output tax.

In case a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be debited in the said ledger.

If the refund so filed is rejected, either fully or partly, the amount debited to the extent of rejection, shall be recredited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03.

Unless otherwise allowed, entries will not be allowed to be made directly in the electronic credit ledger under any circumstance.

9.3 MANNER OF PAYMENT OF TAX-TAX DEDUCTION AT SOURCE

The concept of Tax Deduction at Source (TDS) was there in the erstwhile VAT Laws. GST Law also mandates Tax Deduction at Source (TDS) vide Section 51 of the CGST/SGST Act 2017, Section 20 of the IGST Act, 2017 and Section 21 of the UTGST Act, 2017. GST Council in its 28th meeting held on 21.07.2018 recommended the introduction of TDS from 01.10.2018. Following would be the

deductors of tax in GST under section 51 of the CGST Act, 2017 read with notification No. 33/2017-Central Tax dated 15.09.2017:

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; or
- (c) Governmental agencies; or
- (d) 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; or
- (e) a society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860); or
- (f) public sector undertakings.

When tax deduction is required to be made in GST:

Tax is required to be deducted from the payment made / credited to a supplier, if the total value of supply under a contract in respect of supply of taxable goods or services or both, exceeds Rs. 2,50,000/- (Rupees two lakh and fifty thousand).

This value shall exclude the taxes leviable under GST (i.e. 'Central tax', 'State tax', 'UT tax', 'Integrated tax' & Cess).

Conditions for & amount of deduction:

Tax deduction is required if all the following conditions are satisfied –

- a) Total value of taxable supply > Rs.2.5 Lakh under a single contract. This value shall exclude taxes & cess leviable under GST.
- b) If the contract is made for both taxable supply and exempted supply, deduction will be made if the total value of taxable supply in the contract > Rs.2.5 Lakh. This value shall exclude taxes & cess leviable under GST.
- c) Where the location of the supplier and the place of supply are in the same State/UT, it is an intra-State supply and TDS @ 1% each under CGST Act

and SGST/UTGST Act is to be deducted if the deductor is registered in that State or Union territory without legislature.

- d) Where the location of the supplier is in State A and the place of supply is in State or Union territory without legislature - B, it is an inter-State supply and TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State or Union territory without legislature - B.
- e) Where the location of the supplier is in State A and the place of supply is in State or Union territory without legislature B, it is an inter-State supply and TDS @ 2% under IGST Act is to be deducted if the deductor is registered in State A.
- f) When advance is paid to a supplier on or after 01.10.2018 to a supplier for supply of taxable goods or services or both.

When tax deduction is not required to be made under GST:

Tax deduction is not required in following situations:

- a) Total value of taxable supply? Rs. 2.5 Lakh under a contract.
- b) Contract value > Rs. 2.5 Lakh for both taxable supply and exempted supply, but the value of taxable supply under the said contract? Rs. 2.5 Lakh.
- c) Receipt of services which are exempted. For example, services 10 exempted under notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.
- d) Receipt of goods which are exempted. For example, goods exempted under notification No. 2/2017 – Central Tax (Rate) dated 28.06.2017 as amended from time to time.
- e) Goods on which GST is not leviable. For example, petrol, diesel, petroleum crude, natural gas, aviation turbine fuel (ATF) and alcohol for human consumption.

B. CHECK YOUR PROGRESS

Multiple Choice Questions

MCQs on Manner of Payment of Tax - Tax Deduction at Source (TDS) under GST

1. **Which of the following entities is responsible for deducting tax at source (TDS) under GST?**
- a) Supplier of goods or services
 - b) Recipient of goods or services
 - c) Government departments or local authorities
 - d) GST authorities

Answer: c) Government departments or local authorities

2. **Under GST, TDS is applicable when the total value of supply exceeds ₹_____.**
- a) ₹2,50,000
 - b) ₹1,00,000
 - c) ₹2,00,000
 - d) ₹10,00,000

Answer: c) ₹2,00,000

3. **What is the rate of TDS applicable on the payment made to the supplier under GST for government contracts?**
- a) 2%
 - b) 5%
 - c) 1%
 - d) 0.1%

Answer: a) 2%

4. **Which of the following is true regarding TDS under GST?**
- a) TDS is deducted by the supplier
 - b) TDS is deducted by the recipient
 - c) TDS is deducted only on inter-state supplies
 - d) TDS is applicable on exempt supplies

Answer: b) TDS is deducted by the recipient

5. **Which of the following supplies is not subject to TDS under GST?**
- a) Supply of goods by a government department

- b) Supply of goods by a registered dealer
- c) Supply of goods by an unregistered dealer
- d) Supply of services by a government department

Answer: c) Supply of goods by an unregistered dealer

6. What is the maximum time limit for depositing the TDS under GST after deducting the tax?

- a) 10 days from the date of deduction
- b) 15 days from the date of deduction
- c) 30 days from the date of deduction
- d) 7 days from the date of deduction

Answer: b) 15 days from the date of deduction

7. Which form is used by the deductor to report the TDS deductions under GST?

- a) GSTR-1
- b) GSTR-3B
- c) GSTR-7
- d) GSTR-9

Answer: c) GSTR-7

8. Who can claim the TDS credit under GST?

- a) The recipient of the goods or services
- b) The supplier of the goods or services
- c) The person who has deducted the TDS
- d) Any registered taxpayer

Answer: a) The recipient of the goods or services

9. TDS under GST is applicable only to which type of supplies?

- a) Only goods
- b) Only services
- c) Both goods and services
- d) Only inter-state supplies

Answer: c) Both goods and services

10. What is the primary objective of introducing TDS under GST?

- a) To increase the tax rate
- b) To ensure the timely payment of taxes

- c) To simplify the filing process
- d) To prevent tax evasion

Answer: d) To prevent tax evasion

- f) Where a supplier had issued an invoice for any sale of goods in respect of which tax was required to be deducted at source under the VAT Law before 01.07.2017, but where payment for such sale is made on or after 01.07.2017 [Section 142(13) refers].
- g) Where the location of the supplier and place of supply is in a State(s)/UT(s) which is different from the State / UT where the deductor is registered.
- h) All activities or transactions specified in Schedule III of the CGST/SGST Acts 2017, irrespective of the value.
- i) Where the payment relates to a tax invoice that has been issued before 01.10.2018.
- j) Where any amount was paid in advance prior to 01.10.2018 and the tax invoice has been issued on or after 01.10.18, to the extent of advance payment made before 01.10.2018.
- k) Where the tax is to be paid on reverse charge by the recipient i.e., the deductee.
- l) Where the payment is made to an unregistered supplier.
- m) Where the payment relates to “Cess” component.

9.4 LET US SUM UP

Chapter VII of the CGST Act, 2017 read with Chapter VI of the CGST Rules, 2017 deals with various documents which a registered person is required to issue in the course of making supply of goods and/ or services. Such documents include Tax Invoice, Bill of Supply, Credit and Debit Notes, Delivery Challan, Receipt Voucher, Payment Voucher, etc.

Generally speaking, an invoice is a commercial instrument issued by a seller to a buyer. It identifies both the trading parties and lists, describes, and quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and delivery and payment terms.

In certain cases, (especially when it is signed by the seller or seller's agent), an invoice serves as a demand for payment and becomes a document of title when paid in full. Types of invoice include commercial invoice, consular invoice, customs invoice, and proforma invoice. It is also called a bill of sale or contract of sale

9.5 GLOSSARY

- **Filing of Return:** Every person registered under GST will have to file returns in some form or other. A registered person will have to file returns either monthly (normal supplier) or quarterly basis (Supplier opting for composition scheme). An ISD will have to file monthly returns showing details of credit distributed during the particular month. A person required to deduct tax (TDS) and persons required to collect tax (TCS) will also have to file monthly returns showing the amount deducted/collected and other specified details. A non-resident taxable person will also have to file returns for the period of activity undertaken.
- **TCS:** The e-commerce operator is required to collect an amount calculated at the rate not exceeding one percent of the net value of taxable supplies made through it, where the consideration with respect to such supplies is to be collected by such operator. The amount so collected is called as Tax Collection at Source (TCS). However, Section 52 of the CGST Act, 2017 which deals with TCS has not come into force as of yet and GST Council has recommended to keep this provision in abeyance till 31.03.2018.

9.6 SELF-ASSESSMENT QUESTIONS

1. Write a short note on Electronic Invoicing.

2. What do you mean by TDS?

9.7 LESSON END EXERCISE

3. Write a short note on Electronic Invoicing.

1. Write a short note on Electronic Invoicing.

9.8 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.

4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C. and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

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COLLECTION OF TAX AT SOURCE & REFUNDS

10.0 Learning Objectives and Outcomes

10.1 Introduction

10.2 Collection of Tax at Source

10.3 Refunds

10.4 Let Us Sum Up

10.5 Glossary

10.6 Self-Assessment Questions

10.7 Lesson End Exercise

10.8 Suggested Readings

10.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the statutory provisions of tax at source under GST; and
- To familiar with the concept of manner of Return under GST.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept and provisions of collection of tax at source under GST; and
- understand the returns with respect to GST.

10.1 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the statutory provisions of tax at source under GST; and
- To familiar with the concept of manner of Return under GST.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept and provisions of collection of tax at source under GST; and
- understand the returns with respect to GST.

10.2 COLLECTION OF TAX AT SOURCE

Tax Collection at Source (TCS) has similarities with TDS, as well as has distinctive features also. TDS refers to tax which is deducted when recipient of goods or services makes some payments under a contract etc. while TCS refers to tax which is collected by the electronic commerce operator when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator.

We will discuss the exact nature of TCS with an example. There are many e-Commerce operators, like Amazon, Flipkart, Jabong, etc. operating in India. These operators displays / lists on their portal products as well as services which are actually supplied by some other person to the consumer. The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/ services the actual supplier supplies the selected product/ services to the consumer. The price/consideration for the product/services is collected by the Operator from the consumer and passed on to the actual supplier after deducting his commission by the Operator. The Government has placed the responsibility on the Operator to collect the 'tax' at a rate of 1% from the supplier. This shall be done by the Operator by paying the supplier the price of the product

/services, less the tax, calculated at the rate of 1%. The said amount will be calculated on the net value of the goods/ services supplied through the portal of the operator.

Suppose a certain product is sold at Rs. 1000/- through an Operator by a seller. The Operator would deduct tax @ 1% of the net value of Rs. 1000/- i.e. Rs. 100/-.

A. CHECK YOUR PROGRESS

Application-Based Questions on Collection of Tax at Source (TCS) under GST

1. Scenario-Based Question

ABC E-Commerce Ltd., an online marketplace, facilitates the sale of goods for various sellers on its platform. During November 2024, the platform collected the following amounts from its sellers:

- Seller X: ₹5,00,000
- Seller Y: ₹8,00,000
- Seller Z: ₹3,00,000

Calculate the amount of Tax Collected at Source (TCS) that ABC E-Commerce Ltd. is required to deduct under GST. How should this amount be reported and deposited?

2. Practical Compliance Question

XYZ Pvt. Ltd., an e-commerce operator, deducted TCS for October 2024 but failed to deposit it within the prescribed timeline. What are the penalties or interest applicable for this delay? How can the e-commerce operator rectify this non-compliance?

3. Credit Utilization Question

PQR Enterprises sells its products through an e-commerce platform that deducts TCS under GST. In the month of October 2024, TCS amounting to ₹20,000 was deducted from PQR Enterprises.

- How can PQR Enterprises claim the TCS amount as credit?
- In which GST return should this credit be reflected, and how will it impact their overall tax liability?
- How would late payment impact the Electronic Liability Ledger and the company's compliance status?

6. Conceptual Understanding:

- What is the role of the **Electronic Liability Ledger** in the GST framework?
- Explain how the **Electronic Liability Ledger**, **Electronic Credit Ledger**, and **Electronic Cash Ledger** interact with each other.

Statutory provisions relating to TCS.

a. Registration:

The ecommerce operator as well as the supplier supplying goods or services through an operator need to compulsorily register under GST. The threshold limit of Rs. 20 lakhs (10 lakhs for special category states) is not applicable to them. Section 24(x) of the CGST Act, 2017 makes it mandatory for every e-Commerce Operator to get registered under GST. Similarly, section 24(ix) of the CGST Act, 2017 makes it mandatory for every person who supplies goods/services through an Operator to get registered under GST.

b. Power to collect tax:

Section 52 of the CGST Act, 2017 provides for Tax Collection at source, by e-Commerce operator in respect of the taxable supplies made through it by other suppliers, where the consideration in respect of such supplies is collected by him. TCS Statement: The amount of tax so collected by the operator is required to be deposited by the 10th of the following month, during which such collection is made. The operator is also required to furnish a monthly statement in Form GSTR-8 by the 10th of the following month. The Operator is also required to file an Annual statement in prescribed form by the 31st of December following the end of every financial year. The Operator can rectify errors in statements filed, if any, latest by the return to be filed for the month of September, following the end of every financial year.

The details furnished by the operator in GSTR-8 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the Common Portal after the due date of filing of FORM GSTR-8.

c. Credit of tax collected:

The tax collected by the operator shall be credited to the cash ledger of the supplier who has supplied the goods/services through the Operator. The supplier can claim credit of tax collected and reflected in the return by the Operator in his [supplier's] electronic cash ledger.

d. Matching of details of supplies:

The details of the supplies, including the value of supplies, submitted by every operator in the statements will be matched with the details of supplies submitted by all such suppliers in their returns. If there is any discrepancy in the value of supplies, the same would be communicated to both of them. If such discrepancy in value is not rectified within the given time, then such amount would be added to the output tax liability of such supplier.

The supplier will have to pay the differential amount of output tax along with interest.

e. Notice to the Operator:

An officer not below the rank of Deputy Commissioner can issue notice to an Operator asking him to furnish details relating to volume of goods/ services supplied, stock of goods lying in warehouses/ godowns, etc. The Operator is required to furnish such details within 15 working days. In case an Operator fails to furnish the information, besides being liable for penal action under section 122 shall also be liable for penalty up to Rs. 25,000/-

The GST Council in their 22nd meeting held on 6th October, 2017 at New Delhi decided that operationalization of TDS/ TCS provisions shall be postponed till 31.03.2018.

10.3 REFUNDS

Accumulation of Input Tax Credit happens when the tax paid on inputs is more than the output tax liability. Such accumulation will have to be carried over to the next financial year till such time as it can be utilised by the registered person for payment of output tax liability. However, the GST Law permits refund of unutilised ITC in two scenarios, namely if such credit accumulation is on account of zero rated supplies or on account of inverted duty structure, subject to certain exceptions.

As per Section 54(3) of the CGST Act, 2017, a registered person may claim refund of unutilised input tax credit at the end of any tax period. A tax period is the period for which return is required to be furnished. Thus, a taxpayer can claim refund of unutilised ITC on monthly basis.

B. CHECK YOUR PROGRESS

Multiple Choice Questions

• **Which of the following is a valid reason for claiming a refund under GST?**

- a) Export of goods or services under a Letter of Undertaking (LUT) without payment of tax
- b) Supply of exempt goods
- c) Payment of tax by an unregistered person
- d) Filing of GSTR-1

Answer: a) Export of goods or services under a Letter of Undertaking (LUT) without payment of tax

• **What is the time limit for filing a refund application under GST?**

- a) 6 months from the date of payment
- b) 1 year from the date of supply
- c) 2 years from the relevant date
- d) No time limit

Answer: c) 2 years from the relevant date

• **In which form should a taxpayer file a refund application under GST?**

- a) GST REG-01
- b) GST RFD-01
- c) GSTR-3B
- d) GSTR-7

Answer: b) GST RFD-01

• **Which of the following types of refunds requires submission of a bond or Letter of Undertaking (LUT)?**

- a) Refund of ITC on account of zero-rated supplies
- b) Refund of excess cash balance in the Electronic Cash Ledger
- c) Refund due to excess tax paid
- d) Refund due to tax deducted at source

Answer: a) Refund of ITC on account of zero-rated supplies

• **What is the maximum time limit for processing a refund under GST if the application is complete?**

- a) 30 days from the date of application

- b) 60 days from the date of application
- c) 90 days from the date of application
- d) 180 days from the date of application

Answer: c) 90 days from the date of application

Refund of unutilized input tax credit is allowed only in following two cases

a) Zero rated supplies made without payment of tax: As per Section 16(3) of the IGST Act, 2017, a registered person making zero rated supply is eligible to claim refund under either of the following options, namely: –

- Supply of goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
- Supply of goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.

The first category pertains to refund of unutilised ITC for which the registered person has to supply under Bond/LUT (as prescribed in Rule 96A of CGST Rules) and in the second category supply has been made after payment of Tax (IGST). In both the cases, refund can be applied under Section 54 of the CGST Act, 2017 read with Rule 89 or Rule 96, as the case may be, of the CGST Rules, 2017

b) Inverted duty structure: Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.

In such cases also, refund can be applied under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

It should be noted that no refund of unutilised input tax credit is allowed in cases where the goods exported out of India are subjected to export duty. Further, no refund of input tax credit is allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Refund of ITC on account of zero-rated supplies

The application filed for refund of unutilized ITC on account of zero-rated supplies (with payment of tax or without payment of tax under Bond/LUT) has to be accompanied by documentary evidence as may be prescribed to establish that a refund is due to the applicant; and such documentary or other evidence (including the documents referred to in section 33 of the CGST Act, 2017) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person.

Rule 89(2) of the CGST Rules, 2017, specifies documents to be attached with the refund application in case of different types of Refund applicants.

However, it has been provided under section 54(4) of the CGST Act, 2017, that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

It has also been provided under section 54(6) of the CGST Act, 2017, that in cases where the claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as maybe notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted; and the final order shall be issued within sixty days from the date of receipt of the application complete in

all respects (section 54(7) of the CGST Act, 2017 refers).

Rule 91 of CGST Rules, 2017 provide that the provisional refund is to be granted within 7 days from the date of acknowledgement of the refund claim. An order for provisional refund is to be issued in Form GST RFD 04 along with payment advice in the name of the claimant in Form GST RFD 05. The amount will be electronically credited to the claimant's bank account. The rules also prescribe the provisional refund will not be granted to if the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, been prosecuted for any offence under the Act or under an earlier law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;

It may also be noted that by default, the refund is to be credited to the Consumer Welfare Fund, except in the cases below: -

- (a) Refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- (b) Refund of unutilised input tax credit under section 54(3) of the CGST Act, 2017;
- (c) Refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) Refund of tax in pursuance of section 77;
- (e) The tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) The tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

10.4 LET US SUM UP

The e-commerce operator is required to collect an amount calculated at the rate not exceeding one percent of the net value of taxable supplies made through it, where the consideration with respect to such supplies is to be collected by such operator. The amount so collected is called as Tax Collection at Source (TCS). However,

Section 52 of the CGST Act, 2017 which deals with TCS has not come into force as of yet and GST Council has recommended to keep this provision in abeyance till 31.03.2018.

10.5 GLOSSARY

- **TCS:** The e-commerce operator is required to collect an amount calculated at the rate not exceeding one percent of the net value of taxable supplies made through it, where the consideration with respect to such supplies is to be collected by such operator. The amount so collected is called as Tax Collection at Source (TCS). However, Section 52 of the CGST Act, 2017 which deals with TCS has not come into force as of yet and GST Council has recommended to keep this provision in abeyance till 31.03.2018.
- **Refund: “Refund”** includes, (a) any balance amount in the electronic cash ledger so claimed in the returns, (b) any unutilized input tax credit in respect of (i) zero rated supplies made without payment of tax or, (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), (c) tax paid by specialized agency of United Nations or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries on any inward supply.

10.6 SELF-ASSESSMENT QUESTIONS

1. What is Tax Collection at Source (TCS)?

2. Explain the procedure for Filing of Return.

10.7 SELF-ASSESSMENT QUESTIONS

1. What is the difference between Annual Return and Final Return in GST regime?

2. ABC Pvt. Ltd. paid excess GST of ₹50,000 due to a clerical error while filing its GSTR-3B for October 2024. The company now wants to claim a refund of the excess amount.

- What steps should ABC Pvt. Ltd. take to file the refund application?
- Which form is required to be submitted for claiming the refund?

- What is the time limit for filing the refund application?

10.8 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

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PROCEDURAL COMPLIANCE UNDER GST

11.0 Learning Objectives and Outcomes

11.1 Introduction

11.2 Registration under GST

11.3 Person Liable

11.4 Compulsory Registration

11.5 Deemed Registration / Person Not Liable

11.6 Let Us Sum Up

11.7 Glossary

11.8 Self-Assessment Questions

11.9 Lesson End Exercise

11.10 Suggested Readings

11.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the concept of Person liable to get register under GST;
- To familiar with the process of Compulsory registration; and
- To comprehend the deemed registration person not liable under GST

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the person liable to get register under GST;
- understand the compulsory registration process of GST; and

- apprehend the deemed registration person not liable under GST.

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After the completion of this lesson, the student will be able to:

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- understand the compulsory registration process of GST; and
- apprehend the deemed registration person not liable under GST.

11.2 REGISTRATION UNDER GST

Statutory provisions under the Act relating to Registration: Chapter VI of the Central Goods and Services Tax Act, 2017 (No. 12 of 2017) (In Short CGST Act) comprising of section 22 to 30 deals with the provisions relating to the registration. Further the Rules relating to the registration are contained in Chapter III of the Central Goods and Services Tax (CGST) Rules, 2017 (In Short CGST Rules) comprising of Rules 8 to 26.

- (c) goods.

A. CHECK YOUR PROGRESS

Application-Based Questions

1. XYZ Enterprises, a small business in Karnataka, started operations on 1st November 2024. The business expects its annual turnover to exceed ₹25 lakhs.

- By when should XYZ Enterprises apply for GST registration?
- What are the documents required for registration?
- What will happen if the business fails to register within the prescribed time?

2. ABC Traders, located in Maharashtra, plans to start supplying goods to other states. Currently, their turnover is ₹18 lakhs, and they are not registered under GST.

- Is GST registration mandatory for ABC Traders?
- If yes, what type of registration should they apply for?
- What are the consequences of making inter-state supplies without GST registration?

Need and advantages of registration

Registration will confer the following advantages to a taxpayer:

- He is legally recognized as supplier of goods or services.
- He is legally authorized to collect tax from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
- He can claim input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- Seamless flow of Input Tax Credit from suppliers to recipients at the national level.

11.3 PERSON LIABLE

GST being a tax on the event of “supply”, every supplier needs to get registered. However, small businesses having all India aggregate turnover below Rupees 20

lakh (10 lakh if business is in Assam, Arunachal Pradesh, Himachal Pradesh, Uttarakhand, Manipur, Mizoram, Sikkim, Meghalaya, Nagaland or Tripura) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

The aggregate turnover includes supplies made by him on behalf of his principals, but excludes the value of job-worked goods if he is a job worker. But persons who are engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax or an agriculturist, to the extent of supply of produce out of cultivation of land are not liable to register under GST. Also, if all the supplies being made by a supplier are taxable under reverse charge, there is no requirement for such a supplier to register in light of Notification No. 5/2017-Central Tax dated 19.06.2017.

Section 22 of the CGST Act provides that:

- (1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(Note: W.e.f. 01.04.2019 – the basic limit beyond which obtaining registration becomes mandatory for sale of goods are increased from Rs. 20 lakhs to Rs. 40 lakhs for Normal Category States and Rs. 10 lakhs to Rs. 20 lakhs for special category states vide notification No. 10/2019-Central Tax, dated 07.03.2019.)

Explanation.– For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in 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.

B. CHECK YOUR PROGRESS

Application-Based Questions:

1. Case Study 1:

Ramesh owns a retail store in a small town with an annual turnover of ₹18 lakhs. He supplies only intra-state goods and services.

- Is Ramesh liable to register under GST? Why or why not?
- What would change if Ramesh started supplying goods to other states?

2. Case Study 2:

Priya, a freelance graphic designer, works for clients both within India and overseas. Her annual turnover is ₹22 lakhs.

- Does Priya need to register under GST?
- How would her liability change if she exclusively worked for overseas clients?

3. Scenario 1:

XYZ Pvt. Ltd. operates in multiple states in India. The company's total turnover across all states is ₹50 lakhs, with ₹10 lakhs turnover in State A.

- Is the company required to register in all states?
- What are the implications if the company only registers in one state?

4. Scenario 2:

Aditi operates an e-commerce platform selling handmade jewelry across India. She expects her annual turnover to be ₹12 lakhs.

- Is she liable to register under GST?
- How does her registration liability differ from a local trader with the same turnover?

Person: In terms of section 2(84) of the CGST Act, the word, “person” includes –

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

11.4 COMPULSORY REGISTRATION

As per the section 24 of CGST Act 2017, certain categories of persons shall be compulsorily required to be registered under GST, even if their aggregate turnover is below specified exemption limit and are exempted from GST registration under section 22(1) – section 24(1) of CGST and SGST Act.

1. Persons making any inter-State taxable supply:-

A persons making any inter-State taxable supply of goods is required to be registered under GST irrespective of turnover limit.

Exemption from compulsory GST registration even making interstate supply:-

- (a) A person making inter-state supply of services is not required to register under GST if his aggregate turnover is less than Rs 20/10 lakhs.
- (b) Persons engaged in supply of handicraft goods making inter-state supply are exempt from GST registration, if the aggregate value of all their supplies on all India bases is less than Rs 20 lakhs/10 lakhs per annum.
- (c) A job worker with turnover less than 20/10 lakhs is exempt from registration, even if he makes inter-State supplies to registered person. This exemption is not available to Jewellery, goldsmiths' and silversmiths' wares and other articles manufactured on job work basis.

2. Casual taxable persons making taxable supply

As per section 24 of CGST Act 2017, a casual taxable person is required to obtain compulsory registration irrespective of the aggregate turnover in the previous year. However exemption has been given to person engaged in the supply of "Handicraft goods". A casual taxable person making taxable supplies of handicraft goods is exempted from obtaining registration if aggregate turnover to be computed on all India basis not exceeding an amount of 20 Lakhs. Casual taxable person meaning- As per sec 2(20) of CGST Act means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance

of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

3. Persons who are required to pay tax under reverse charge

A person who is required to pay tax under reverse charge has to take compulsory registration as he has to take registration to submit tax under reverse charge. The important point should be taken into consideration that Section 24 overrides sec 22 only so any person who is exclusively in the business under section 23 i.e. any person engaged exclusively in the business of supplying goods or services not liable to tax or wholly exempt from tax then he is not required to get himself registered.

4. Electronic Commerce Operator

Electronic Commerce Operator who is required to collect tax at source under section 52;] [The words ‘required to collect ‘inserted vide CGST (Amendment) Act, 2018 w.e.f. 1-2-2019].

Thus, an e commerce operator would require registration only when he is required to collect tax at source under section 52 of CGST Act. Persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52; [Under section 9(5) of CGST Act, Government can notify e-commerce operators who will be liable to pay entire GST] However, persons who are suppliers of service and supplying services through e-commerce operator are not required to register under GST if their aggregate turnover is less than Rs 20 lakhs per annum (Rs 10 lakhs in case of specified States). This relaxation is not applicable to supplier of goods.

5. Non-resident taxable persons making taxable supply

A non-resident person who is making any kind of taxable supply in the taxable territory then he has to take compulsory registration. As per section 2(77) of CGST Act 2017, "Non-resident taxable person" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

6. Persons who are required to deduct tax under section 51, whether or not separately registered under this Act

A person who is required to deduct TDS the authorities as notified a department or establishment of the Central Government or State Government; or local authority; or Governmental agencies; or such persons or category of persons as may be notified by the Government are required to get itself registered under GST compulsorily

7. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise

A person who is working as an agent or otherwise and also making taxable supply then as per section 24 of CGST Act 2017 he has to compulsorily get registered so any kind of agent who is making taxable supply needs to get registered under GST immediately. As per section 2(5) of CGST Act 2017 "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

C. CHECK YOUR PROGRESS

Multiple Choice Questions

• **Which of the following persons is compulsorily required to register under GST, irrespective of turnover?**

- a) A person supplying exempted goods only
- b) A casual taxable person
- c) A person engaged in intra-state supply of goods with turnover below ₹20 lakhs
- d) A person providing agricultural produce directly from farms

Answer: b) A casual taxable person

• **What is the turnover threshold for compulsory GST registration for businesses engaged in inter-state supply of goods?**

- a) ₹20 lakhs
- b) ₹40 lakhs
- c) No threshold, registration is mandatory
- d) ₹10 lakhs

Answer: c) No threshold, registration is mandatory

• **Who among the following is mandatorily required to register under GST, regardless of turnover?**

- a) An e-commerce operator
- b) A trader with an annual turnover of ₹18 lakhs
- c) A person dealing in only exempt supplies
- d) A farmer selling agricultural produce

Answer: a) An e-commerce operator

• **A non-resident taxable person must register under GST:**

- a) Only if the turnover exceeds ₹20 lakhs
- b) Only if the turnover exceeds ₹10 lakhs
- c) Before making any taxable supply in India
- d) Registration is not required for non-residents

Answer: c) Before making any taxable supply in India

• **Which of the following is NOT compulsorily required to register under GST?**

- a) A person liable to pay tax under reverse charge
- b) A person making inter-state taxable supply

- c) A person supplying goods through an e-commerce operator
- d) A person exclusively dealing in exempt supplies

Answer: d) A person exclusively dealing in exempt supplies

• **An Input Service Distributor (ISD) is required to register under GST:**

- a) Only if the turnover exceeds ₹40 lakhs
- b) Only if they are engaged in inter-state supply
- c) Compulsorily, regardless of turnover
- d) Only if they provide taxable supplies

Answer: c) Compulsorily, regardless of turnover

8. Input Service Distributor, whether or not separately registered under this Act

Input service distributor has to get compulsory registration under GST. As per 2(61) of CGST Act 2017 “Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office.

11.5 DEEMED REGISTRATION PERSON NOT LIABLE

Section 23(1) of the CGST Act states that the following persons shall not be liable to registration, namely: –

- a. any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act (In short IGST Act)
- b. an agriculturist, to the extent of supply of produce out of cultivation of land.

(2) The Government may, on the recommendations of the Council, by notification,

specify the category of persons who may be exempted from obtaining registration under this Act.

Judicial Pronouncement: AUTHORITY FOR ADVANCE RULINGS, KOLKATA, Joint Plant Committee, In re. CASE NO. 02 OF 2018, March 21, 2018, it was opined that an applicant engaged exclusively in supplying goods and services that are wholly exempt from tax is not required to be registered under GST Act if he is not otherwise liable to pay tax under reverse charge under section 9(3) of GST Act or section 5(3) of IGST Act.

Illustration: A, a farmer produces goods through cultivation from his own land and supplies the same to traders. The goods so supplied during the whole of the year aggregates to Rs 21 lacs. He is not liable to get the registration in terms of Section 23(1)(b) of the CGST Act.

Compulsory registration in certain cases

Section 24 of the CGST Act states that notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act, –

- i. Persons making any inter-State taxable supply [Notification No.65/2017 dated 15-11-2017]:

Specifies the persons making supplies of services other than supplies specified under Section 9(5) of the Act through an electronic commerce operator, who is to make TCS under Section 52 and having an all-India aggregate turnover not exceeding an amount of Rs. 20 lakhs in a financial year as the category of persons exempted from obtaining registration under the Act. For special category

States, the turnover limit is Rs. 10 lakhs.;

- ii. However, vide Notification no. 32/2017-Central Tax dated 15/09/2017, Casual taxable persons making taxable supply of handicraft goods have been exempted from taking registration provided that the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of twenty lakh rupees in a financial year and ten lakh rupees in case of special category state:
- iii. persons who are required to pay tax under reverse charge;

- iv. person who are required to pay tax under sub-section (5) of section 9;
- v. non-resident taxable persons making taxable supply;
- vi. persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- vii. persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- viii. Input Service Distributor, whether or not separately registered under this Act;
- ix. persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;
- x. every electronic commerce operator who is required to collect tax at source under section 52.
- xi. every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person

In addition to above, the Government may notify other person or class of persons, as may be notified by the Government on the recommendations of the Council, who shall be required to be registered mandatorily.

Judicial Pronouncement:

IN RE: HABUFA MEUBELLEN B.V. 2018 (14) G.S.T.L. 596 (A.A.R. - GST),

(A) Facts

M/s. Habufa Meubelen B.V. (hereby referred to as HO), is a company originally incorporated in Netherlands. The applicant is the Indian Office of M/s. Habufa Meubelen B.V. (HO) which is established as a Liaison Office at C-36, Raghu Marg, Main Hanuman Nagar, Vaishali Nagar, Jaipur (Raj.) w.e.f. 18-12-2007, with the prior permission of RBI subject to various conditions. The liaison office does not have any independent revenue or clients. The office has been established for the purpose of liasoning with the suppliers with regard to quality control of goods. The purchase order or

contracts are entered with the clients with the HO and liaison office does not enter into any contract with the clients. Payments for the supplies are made by HO directly to the account of supplier and all the expenses incurred by liaison office is claimed from HO as per clear instructions of RBI. There is no amount charged by liaison office from HO for any services. It seeks only reimbursement of salary and expenses incurred by it from HO. HO is also responsible for payment of gratuity and other benefits of employees, etc.

(B) Issue for Determination

The questions/issues before the Authority for Advance Ruling (AAR) for determination are:

1. Whether the reimbursement of expenses and salary paid by M/s. Habufa Meubelen B.V. (HO) to the liaison office established in India is liable to GST as supply of service, especially when no consideration for any services is charged/paid.
2. Whether the applicant i.e., the Liaison Office is required to get registered under GST?
3. If it is assumed that the reimbursement of expenses and salary claimed by liaison office is a consideration towards a service, then what will be the place of supply of such service?

(C) Findings

1. As submitted by the applicant, they are working as the Indian Office of M/s. Habufa Meubelen B.V. which is established as a Liaison Office with the prior permission of RBI. Except proposed liaison work, this office in India would not undertake any activity of trading, commercial or industrial nature nor would they enter into any business contracts in its own name without RBI's prior permission. There is no commission/fees being charged or any other remuneration being received/income being earned by the office in India for the liaison activities/services rendered by it.
2. The HO, Netherlands reimburses the expenses incurred by the applicant

for their operations in India which are in the nature of salary, rent, security, electricity, travelling etc. The applicant does not have any other source of income and it is solely dependent on the HO for all the expenses incurred by the applicant, which are subsequently reimbursed by the HO. Therefore, the HO and Liaison Office cannot be treated as separate persons. Since, HO and Liaison Office cannot be treated as separate persons, there cannot be any flow of services between them as one cannot provide service to self and therefore, the reimbursement of expenses made by the HO cannot be treated as a consideration towards any service.

3. The amount received from HO are the funds for payment of salary, reimbursement of expenses like rent, security, electricity, travelling, etc. No consideration is being charged by the applicant from the HO for such services.
4. Further the liaison office is strictly prohibited to undertake any activity of trading, commercial or industrial nature or entering into any business contracts in its own name. Also, the reimbursement claimed by them from their HO is also falling out of the purview of supply of service. As there are no taxable supplies made by the Liaison office, they are not required to get registered.
5. In view of the submissions made by the applicant and as discussed in above paras, when the applicant/ liaison office is working as per the terms and conditions as mentioned under Para 1.1 to 1.5 above, the reimbursement of expenses and salary paid by M/s. Habufa Meubelen B.V. to the liaison office, is not liable to GST, as no consideration for any services is being charged by the liaison office. Further, the kind of reimbursement claimed by them from their HO is also falling out of the purview of supply of service and as there are no such taxable supplies made by the Liaison office, they are not required to get themselves registered under GST.

(D) RULING–

If the liaison office in India does not render any consultancy or other services directly/in directly, with or without any consideration and the liaison office does not have significant commitment powers, except those ch are required for normal functioning of the office, on behalf of Head Office, then the reimbursement of expenses and salary paid by M/s. Habufa Meubelen B.V. (HO) to the Liaison Office, established in India, is not liable to GST and the applicant i.e. M/s. Habufa Meubelen B.V. Jaipur, is not required to get itself registered under GST.

Cancellation of GST Registration for failure to file a return.

The Tax Officers have been given the authority to revoke registration in specified circumstances. Note the following :

1. A composite taxpayer failed to file return for a fiscal year - 3 months after the deadline had passed.
2. Regular Taxpayer failed to file returns for all applicable consecutive tax periods as permitted.

11.6 LET US SUM UP

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST Law implies obtaining a unique number from the oncerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

Statutory provisions under the Act relating to Registration: Chapter VI of the Central Goods and Services Tax Act, 2017 (No. 12 of 2017) (In Short CGST Act) comprising of section 22 to 30 deals with the provisions relating to the registration. Further the Rules relating to the registration are contained in Chapter III of the Central Goods and

Services Tax (CGST) Rules, 2017 (In Short CGST Rules) comprising of Rules 8 to 26.

11.7 GLOSSARY

- **Registration:** In terms of Section 22 of the CGST/SGST Act 2017, every supplier (including his agent) who makes a taxable supply of goods and / or services which are leviable to tax under GST law, and his aggregate turnover in a financial year exceeds the threshold limit of twenty lakh rupees shall be liable to register himself in the State or the Union territory, as the case may be, from where he makes the taxable supply.
- **Inter-State Supply:** An inter-state supply refers to the supply of goods or services between two different states or Union Territories (UTs) in India. Businesses making inter-state supplies are compulsorily required to register under GST, irrespective of their turnover.
- **GST Registration Certificate:** A GST Registration Certificate is a legal document issued by the GST authorities once a business completes the registration process. It is required for businesses to collect GST from customers and remit it to the government.

11.8 SELF-ASSESSMENT QUESTIONS

1. Who are the persons liable to take a Registration under the GST Law?

2. What is aggregate turnover?

3. Which are the cases in which registration is compulsory?

11.9 LESSON END EXERCISE

1. Explain the concept of compulsory registration under GST. Discuss the different categories of persons who are required to register under GST, regardless of their turnover.

2. Who is a person liable for registration under GST? Discuss the various categories of persons who are required to register under GST, even if their turnover is below the prescribed threshold.

11.10 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms - Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST - Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

**PROCEDURE, CASUAL TAXABLE PERSON, NON-RESIDENT
TAXABLE PERSON**

12.0 Learning Objectives and Outcomes

12.1 Introduction

12.2 Procedure

12.3 Casual Taxable Person

12.4 Non-Resident Taxable Person

12.5 Let Us Sum Up

12.6 Glossary

12.7 Self-Assessment Questions

12.8 Lesson End Exercise

12.9 Suggested Readings

12.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the procedure of registration under GST;
- To explain the Casual taxable person under GST; and
- To apprehend the Non-resident taxable person under GST.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- Acquire knowledge about the procedure of registration under GST;
- understand the casual taxable person; and
- apprehend the non-resident taxable person

12.1 LEARNING OBJECTIVES AND OUTCOMES

The Goods and Services Tax (GST) law in India distinguishes between two types taxable persons: casual taxable persons and non-resident taxable persons. A casual taxable person is a person who occasionally undertakes transactions involving the supply of goods or services in a state or union territory where he does not have

a fixed place of business. A non-resident taxable person is a person who does not have a fixed place of business in India but who occasionally undertakes transaction involving the supply of goods or services in India.

Both casual taxable persons and non-resident taxable person are required to register under GST if their aggregate turnover exceeds the threshold limit.

However, there are some difference in the registration and compliance requirements for these two types of taxable persons.

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

12.2 PROCEDURE

Section 25 of the CGST states that:

- (1) Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such state or union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business. Provided further that a person having a unit, as defined in the special economic zones Act (SEZ), 2005 (28 of 2005), in a Special Economic Zone or being a Special economic zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the special economic zone in the same state or union territory

Explanation: Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

- (2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory: Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.
- (3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

Judicial Pronouncement: In the matter of Modern Pipe Industries v. State of

U.P. WRIT TA X NO. 583 OF 2017, September 6, 2017, the High Court of Allahabad opined that where assessee, a firm, inspite of GST ID/password provided by department was not able to access registration certificate of firm, revenue was asked to inform if any arrangement had been made to resolve such kind of problems.

- (4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.
- (6) Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 in order to be eligible for grant of registration:

Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration. (6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification. (6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession 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 class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

Explanation. - For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”.

- (7) Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed.
- (8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.
- (9) Notwithstanding anything contained in sub-section (1), –
 - a. any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and
 - b. any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

Judicial Pronouncement:

In the case of Rajeevan V.N. v. Central Tax Officer. - 1 Circle, Cochin, the Petitioner’s application for registration under Act was rejected by competent authority for reason that petitioner did not submit explanation sought regarding discrepancies in documents submitted by him with said application. The

Respondent Central Tax Officer submitted that if petitioner submits a fresh application with requisite documents, competent authority would certainly consider same. The High Court of Kerala, vide its order dated 1st February, 2018, opined that petitioner was free to prefer fresh application for registration with requisite documents and if petitioner prefers a fresh application, same would be considered, and, appropriate decision would be taken thereon.

- (10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.
- (11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.
- (12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.

A. CHECK YOUR PROGRESS

Application-Based Questions

1. Case Study 1:

A foreign company based in the USA plans to sell its software products online to customers in India. The estimated turnover from Indian sales is ₹25 lakhs.

- Is the foreign company required to register under GST?
 - What are the steps they must take to comply with GST laws in India?
-

2. Scenario 1:

John, a consultant from the UK, is providing advisory services to a client in India. His total income from India is expected to be ₹15 lakhs annually.

- Is John considered a non-resident taxable person under GST?
 - Does he need to register under GST before providing services? If yes, what type of registration is applicable?
-

3. Case Study 2:

A non-resident taxable person plans to supply goods worth ₹50 lakhs to customers in India for a period of six months. The person does not have any permanent establishment in India.

- What are the GST registration requirements for this non-resident taxable person?
 - How does the GST registration process differ for non-resident taxable persons compared to residents?
-

4. Scenario 2:

A non-resident online seller, based in Singapore, starts selling electronics on an Indian e-commerce platform. The expected turnover from the sales in India is ₹30 lakhs.

- Is the non-resident seller required to register under GST?
 - What are the specific provisions under GST that apply to this non-resident taxable person?
-

5. Case Study 3:

A non-resident company providing software as a service (SaaS) to customers in India earns ₹20 lakhs annually.

- Is the company required to obtain GST registration?
 - What are the filing and compliance requirements for a non-resident taxable person under GST?
-

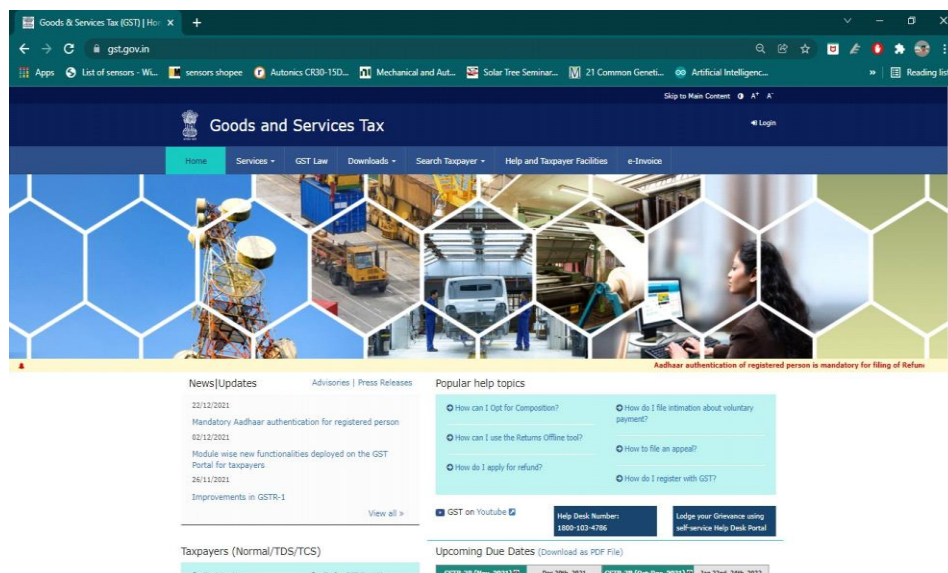
6. Scenario 3:

A non-resident taxable person from Australia plans to organize an event in India with an expected turnover of ₹10 lakhs. The event is a one-time supply of services.

- Is the non-resident taxable person required to register under GST for this event?
- What are the key challenges a non-resident faces when registering for GST in India?

Registration Process of GST

1. To get registration under GST online, firstly we have to visit GST portal i.e., GST.gov.in We have to click on register now under Taxpayers (Normal/TDS/TCS).



2. After that all the details in Part A – has to be completed like Name of Business, PAN of business, Email address, mobile number and many more which can easily be done by Selecting New Registration and in the drop-down under I am a – select Taxpayer.

Home Services GST Law Downloads Search Taxpayer Help and Taxpayer Facilities e-Invoice English

Home Registration

New Registration

Indicates mandatory fields

☒ New Registration ☐ Temporary Reference Number (TRN)

I am a *

Select

State / UT *

Select

District

Select

Legal Name of the Business (As mentioned in PAN) *

Enter Legal Name of Business

Permanent Account Number (PAN) *

Enter Permanent Account Number (PAN)

Email Address *

3. On the next level OTP (One –Time Password) verification is done and we receive the Temporary Reference Number on our mobile and email.
4. Once again we go to GST portal and click the icon Register Now. After that we select Temporary Reference Number (TRN). We enter the TRN and the captcha code and click on Proceed.
5. We again receive an OTP on mobile after which we see the status of application.
6. After clicking edit Icon we go on Part B which has 10 sections. We fill all the details and submit appropriate documents.
7. Once all the details are filled, we go to the Verification Page and tick on the declaration and submit the application using any of the following ways: -
 - Companies must submit application using DSC (Digital Signature Certificate).
 - Using e-sign: - OTP will be sent to Aadhaar registered number.

- Using EVC (Electronic Verification Code): - OTP will be sent to the registered mobile.
8. A success message is displayed and Application Reference Number (ARN) is sent to registered email and mobile.

We can check the ARN status of our registration by entering the ARN in GST portal.

Furnishing of Bank Account Details (RULE 10A OF THE CGST RULES):

After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision.

Deemed Registration

Section 26 of the CGST Act provides that:

1. The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25.
2. Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

Special provisions relating to casual taxable person and non-resident taxable person

Section 27 of the CGST Act provides that:

1. The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration: Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.
2. A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought: Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.
3. The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

Grant of registration to non-resident taxable person: Rule 13 of CGST Rules provides that:

1. A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code, in FORM GST

REG-09, at least five days prior to the commencement of business at the common portal either directly or through a Facilitation Centre notified by the Commissioner: Provided that in the case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

2. A person applying for registration as a non-resident taxable person shall be given a temporary reference number by the common portal for making an advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) of rule 8 shall be issued electronically only after the said deposit in his electronic cash ledger.
3. The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule.
4. The application for registration made by a non-resident taxable person shall be [duly signed or verified through electronic verification code] by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.

12.3 CASUAL TAXABLE PERSON

“Casual taxable person” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

A casual taxable person making taxable supply in India has to compulsorily take registration. There is no threshold limit for registration.

A casual taxable person cannot exercise the option to pay tax under composition levy. He has to apply for registration at least five days prior to commencing his business

in India. A casual taxable person has to make an advance deposit of tax in an amount equivalent to his estimated tax liability for the period for which the registration is sought.

Registration:

There is no special form to register as a casual taxable person. The normal form GST REG-01 which is used by other taxable persons can be used for registration by casual taxable person. A casual taxable person, before applying for registration, declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in Part A of Form GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address. On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.

Using this reference number generated, the applicant shall electronically submit an application in Part B of Form GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The applicant will be given a temporary reference number by the Common Portal for making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger. The amount deposited shall be credited to the electronic

cash ledger of casual taxable person. On depositing the amount, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

The casual taxable person can make taxable supplies only after the issuance of the certificate of registration. The certificate of registration shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier.

In case the casual taxable person intends to extend the period of registration indicated in his application of registration, an application in Form GST REG-11 shall be submitted electronically through the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, before the end of the validity of registration granted to him. The validity period of ninety days can be extended by a further period not exceeding ninety days. The extension will be allowed only on payment of the amount of an additional amount of tax equivalent to the estimated tax liability for the period for which the extension is sought has to be deposited.

Returns:

The casual taxable person is required to furnish the following returns electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

- a) FORM GSTR-1 giving the details of outward supplies of goods or services to be filed on or before the tenth day of the following month.
- b) FORM GSTR-2, giving the details of inward supplies to be filed after tenth but before before the fifteenth day of the following month.
- c) FORM GSTR-3 to be filed after fifteenth day but before the twentieth day of the following month.

However, a casual tax person shall not be required to file any annual return as required by a normal registered taxpayer.

Refund by Casual taxable person:

The casual taxable person is eligible for the refund of any balance of the advance tax deposited by him after adjusting his tax liability. The balance advance tax deposit can be refunded only after all the returns have been furnished, in respect of the entire period for which the certificate of registration was granted to him had remained in force. The refund relating to balance in the electronic cash ledger has to be made in serial no. 14 of the last Form GSTR-3 return required to be furnished by him (instead of Form GST RFD 01).

12.4 NON-RESIDENT TAXABLE PERSON

“Non-resident taxable person” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. A non-resident taxable person making taxable supply in India has to compulsorily take registration. There is no threshold limit for registration.

A non-resident taxable person cannot exercise the option to pay tax under composition levy. He has to apply for registration at least five days prior to commencing his business in India using a valid passport (and need not have a PAN number in India). A business entity incorporated or established outside India, has to submit the application for registration along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

A non-resident taxable person has to make an advance deposit of tax in an amount equivalent to his estimated tax liability for the period for which the registration is sought.

B. CHECK YOUR PROGRESS

Application-Based Questions:

1. Case Study 1:

A clothing brand based in Delhi is planning to open a temporary stall at a trade fair in Mumbai for 15 days. The estimated turnover from this stall is ₹10 lakhs.

- Is the clothing brand considered a casual taxable person under GST?
 - What are the steps they must take to register as a casual taxable person and comply with GST laws during the event?
-

2. Scenario 1:

An event organizer based in Bangalore plans to host a one-week exhibition in Chennai, selling merchandise worth ₹8 lakhs.

- Does the event organizer need to register as a casual taxable person?
 - What are the specific registration requirements and the duration for which the registration will be valid?
-

3. Case Study 2:

A non-resident artist is organizing an art exhibition in India for a period of one month. The expected turnover from the exhibition is ₹15 lakhs.

- Is the artist required to register as a casual taxable person under GST?
 - How will the registration process for a casual taxable person differ from that of a regular taxable person?
-

4. Scenario 2:

A company based in Kolkata is conducting a promotional event in Pune for a limited period of two weeks. They expect the turnover from the event to be ₹12 lakhs.

- Is the company considered a casual taxable person under GST?
- What are the GST compliance requirements for the company during this event?

Registration:

A non-resident taxable person is not required to apply in normal application for registration being filed by other taxpayers. A simplified form GST REG09 is required to be filled. A non-resident taxable person has to electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through EVC, in Form GST REG-09, at least five days prior to the commencement of business at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

In case the non-resident taxable person is 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.

The application for registration made by a non-resident taxable person has to be signed by his authorized signatory who shall be a person resident in India having a valid PAN. On successful verification of PAN, mobile number and e-mail address the person applying for registration as a non-resident taxable person will be given a temporary reference number by the Common Portal for making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger. The amount deposited shall be credited to the electronic cash ledger of the Nonresident person.

The non-resident taxable person can make taxable supplies only after the issuance of the certificate of registration. The certificate of registration shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier.

In case the non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GST REG- 11 shall be submitted electronically through the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, before the end of the validity of registration granted to him. The validity period of ninety days can be

extended by a further period not exceeding ninety days. The extension will be allowed only on payment of the amount of an additional amount of tax equivalent to the estimated tax liability for the period for which the extension is sought has to be deposited.

Input Tax Credit:

Input tax credit shall not be available in respect of goods or services or both received by a non-resident taxable person except on goods imported by him. The taxes paid by a nonresident taxable person shall be available as credit to the respective recipients.

Returns:

The non-resident taxable person shall furnish a return in Form GSTR-5 electronically through the common Portal, either directly or through a facilitation centre notified by the commissioner, including therein the details of outward supplies and inward supplies and shall pay the tax, interest, penalty, fees or any other amount payable under the act or these rules within twenty days after the end of a calendar month or within seven days after the last day of the validity period of registration, whichever is earlier.

Refund:

The amount of advance tax deposited by a non-resident taxable person under, will be refunded only after the person has furnished all the returns required in respect of the entire period for which the certificate of registration granted to him had remained in force. Refund can be applied in the serial no. 13 of the Form GSTR -5

12.5 LET US SUM UP

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

Statutory provisions under the Act relating to Registration: Chapter VI of the Central Goods and Services Tax Act, 2017 (No. 12 of 2017) (In Short CGST Act) comprising of section 22 to 30 deals with the provisions relating to the registration. Further the Rules relating to the registration are contained in Chapter III of the Central Goods and Services Tax (CGST) Rules, 2017 (In Short CGST Rules) comprising of Rules 8 to 26.

12.6 GLOSSARY

- **Registration:** In terms of Section 22 of the CGST/SGST Act 2017, every supplier (including his agent) who makes a taxable supply of goods and / or services which are leviable to tax under GST law, and his aggregate turn over in a financial year exceeds the threshold limit of twenty lakh rupees shall be liable to register himself in the State or the Union territory, as the case may be, from where he makes the taxable supply.
- **Casual Taxable Person:** A casual taxable person is an individual or business entity that occasionally supplies goods or services in India, but does not have a fixed place of business. Such persons are required to obtain GST registration before commencing any taxable supply in India. This registration is temporary and valid only for a specific period during which the supply is made.

12.7 SELF-ASSESSMENT QUESTIONS

1. Who are the persons liable to take a Registration under the GST Law?

2. Write short notes on (a) Casual Taxable Person? (b) Non-resident Taxable Person?

3. Which are the cases in which registration is compulsory?

12.8 LESSON END EXERCISE

1. What are the key characteristics that differentiate a casual taxable person from a regular taxable person under GST??

2. What are the penalties for non-compliance with GST registration and tax payment for a Non-Resident Taxable Person?

12.9 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

**AMENDMENT OF REGISTRATION, CANCELLATION OF
REGISTRATION, REVOCATION OF CANCELLATION**

13.0 Learning Objectives and Outcomes

13.1 Introduction

13.2 Amendment of Registration

13.3 Cancellation of Registration

13.4 Revocation of Cancellation

13.5 Let Us Sum Up

13.6 Glossary

13.7 Self-Assessment Questions

13.8 Lesson End Exercise

13.9 Suggested Readings

13.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the concept of amendment of registration under GST;
- To be familiar with the process of cancellation of registration; and
- To explain the process of Revocation of cancellation

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept and provisions of amendment of registration;
- understand the process of cancellation of registration; and
- comprehend the revocation of cancellation.

13.1 LEARNING OBJECTIVES AND OUTCOMES

The registration granted under GST can be cancelled for specified reasons. The cancellation can either be initiated by the department on their own motion or the registered person can apply for cancellation of their registration. In case of death of registered person, the legal heirs can apply for cancellation. In case the registration has been cancelled by the department there is a provision for revocation of the cancellation. On cancellation of the registration the person has to file a return which is called the final return.

13.2 AMENDMENT OF REGISTRATION

Once the applicant is registered under GST, the need for amendments in registration may arise due to several factors such as a change in address, change in contact number, change in business details and so on. In order to amend any information post registration, the taxpayer needs to file an application for amendment of Registration.

Application for Amendment of Registration, can be categorized in two types:

- Application for amendment of core fields in registration
- Application for amendment of non-core fields in registration

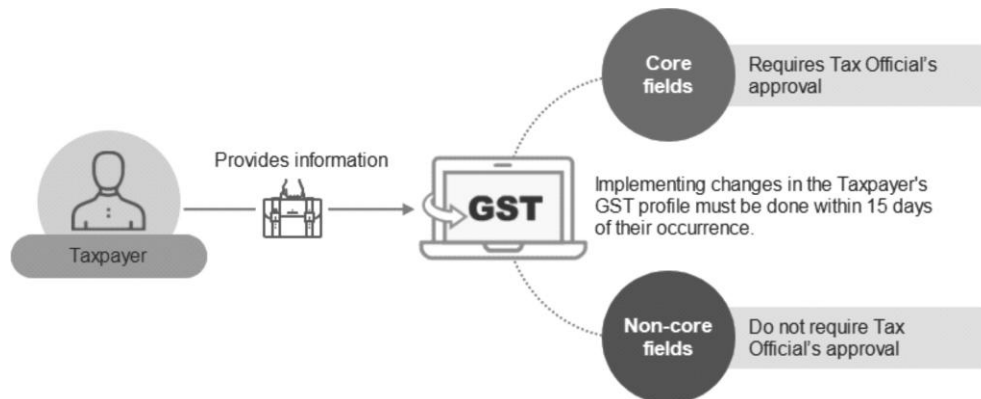


Figure. 13.1

Who can file the Application for Amendment of Registration?

Any taxpayer of following category, registered under GST, can file Application for Amendment of Registration:

- a) New Registrants & Normal Taxpayers
- b) TDS/ TCS Registrants UN Bodies, Embassies & Other Notified person having UIN
- d) Non Resident Taxable Person
- e) GST Practitioner
- f) Online Information and Database Access or Retrieval service Provider

A. CHECK YOUR PROGRESS

Application-Based Questions

Question 1:

XYZ Pvt. Ltd. is a registered GST dealer in Maharashtra. The company recently decided to change its registered office from Mumbai to Pune. The GST officer has asked them to update their registration details to reflect the new address.

- Explain the process XYZ Pvt. Ltd. must follow to amend its GST registration.
 - What documents are required to support the amendment application?
-

Question 2:

Mr. Ramesh, a sole proprietor, registered under GST, decides to expand his business by adding a new branch in another state. He wants to include this new branch under his existing GST registration.

- Is it possible for Mr. Ramesh to amend his current GST registration to include the new branch? If not, what steps should he take?
- Highlight the difference between amendments and new registration requirements in such a case.

Process for Amendment of Registration

Section 28 of the CGST Act provides that:

1. Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.
2. The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed, provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed: Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
3. Any rejection or approval of amendments under the state Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

13.3 CANCELLATION OF REGISTRATION

The registration granted under GST can be cancelled for specified reasons. The cancellation can either be initiated by the department on their own motion or the registered person can apply for cancellation of their registration. In case of death of registered person, the legal heirs can apply for cancellation. In case the registration has been cancelled by the department there is a provision for revocation of the cancellation. On cancellation of the registration the person has to file a return which is called the final return.

Section 29 of the CGST provides that:

- (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances were, –
 - a. the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or
 - b. there is any change in the constitution of the business; or
 - c. the taxable person is no longer liable to be registered under section 22 or section 24 or intends to output of the registration voluntarily made under sub-section (3) of section 25. Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed. Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.
- (2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, were, –
 - a. a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
 - b. a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or
 - c. any registered person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or
 - d. any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date

of registration; or

- e. registration has been obtained by means of fraud, wilful misstatement or suppression of facts:
- (3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.
 - (4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.
 - (5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed: Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.
 - (6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

Final Returns:

When the registration of a registered person other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the composition scheme or TDS/TCS; has been cancelled, the person has to file a final return within three months of the date of cancellation or date of order of cancellation, whichever

is later, electronically in FORM GSTR-10 through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

B. CHECK YOUR PROGRESS

Application-Based Questions

Question 1:

M/s ABC Traders, a registered GST dealer, decides to shut down its business operations permanently. The proprietor approaches you for advice on the cancellation of GST registration.

- What steps must M/s ABC Traders follow to apply for the cancellation of GST registration?
- Discuss the conditions under which the GST officer can reject the application for cancellation.

Question 2:

Mr. Sanjay, a GST-registered individual, has not filed GST returns for over six months. The GST department issues a notice for cancellation of registration due to non-compliance.

- What actions should Mr. Sanjay take to respond to the notice?
- If the registration is canceled by the department, can it be revoked? If yes, explain the process for revocation of cancellation.

Reason for cancellation:

The registration can be cancelled for the following reasons:

- a) a person registered under any of the existing laws, but who is not liable to be registered under the GST Act;
- b) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of;

- c) there is any change in the constitution of the business;
- d) the taxable person (other than the person who has voluntarily taken registration under sub-section (3) of section 25 of the CGST Act, 2017) is no longer liable to be registered;
- e) a registered person has contravened such provisions of the Act or the rules made thereunder;
- f) a person paying tax under Composition levy has not furnished returns for three consecutive tax periods;
- g) any registered person, other than a person paying tax under Composition levy has not furnished returns for a continuous period of six months;
- h) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration;
- i) registration has been obtained by means of fraud, willful misstatement or suppression of facts.

13.4 REVOCATION OF CANCELLATION

Section 30 of the CGST provides that:

- (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order. Provided that such period 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 thirty days;
 - (b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).

C. CHECK YOUR PROGRESS

Question 1:

M/s PQR Enterprises' GST registration was canceled by the tax department due to non-filing of returns for nine months. However, the business has now cleared all pending dues and filed the required returns.

- Can M/s PQR Enterprises apply for revocation of cancellation of its GST registration?
 - Explain the procedure and timeline for filing the application for revocation. What will happen if the application is not filed within the stipulated time?
-

Question 2:

Ms. Priya's GST registration was canceled due to discrepancies in her tax payments. After resolving the issues, she applies for revocation of cancellation. However, her application is rejected by the GST officer.

- What steps can Ms. Priya take after her application for revocation is rejected?
- Discuss the role of the appellate authority in this scenario and the timeline for filing an appeal.

- (2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application: Provided that the application for revocation of cancellation

of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

- (3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

13.5 LET US SUM UP

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

Statutory provisions under the Act relating to Registration: Chapter VI of the Central Goods and Services Tax Act, 2017 (No. 12 of 2017) (In short CGST Act) comprising of section 22 to 30 deals with the provisions relating to the registration. Further the Rules relating to the registration are contained in Chapter III of the Central Goods and Services Tax (CGST) Rules, 2017 (In Short CGST Rules) comprising of Rules 8 to 26.

13.6 GLOSSARY

- **Registration:** In terms of Section 22 of the CGST/SGST Act 2017, every supplier (including his agent) who makes a taxable supply of goods and / or services which are leviable to tax under GST law, and his aggregate turnover in a financial year exceeds the threshold limit of twenty lakh rupees shall be liable to register himself in the State or the Union territory, as the case may be, from where he makes the taxable supply.

- **Amendment of Registration:** Refers to changes or updates made to the details provided during GST registration, such as business name, address, or contact information. These changes must be updated in the GST portal.

13.7 SELF-ASSESSMENT QUESTIONS

1. Who are the persons liable to take a Registration under the GST Law?

2. Which are the cases in which registration is compulsory?

13.8 LESSON END EXERCISE

1. What is the process of cancellation of GST registration? Explain the circumstances under which a taxpayer's registration can be canceled.

2. Explain the concept of amendment of registration under GST. Discuss the difference between core and non-core fields with examples.

13.9 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. *GST Act with Rules and Forms*- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra

**FURNISHING DETAILS OF SUPPLIES, RETURNS,
ACCOUNTS AND RECORDS**

14.0 Learning Objectives and Outcomes

14.1 Introduction

14.2 Furnishing Details of Supplies

14.3 Returns

14.4 Accounts and Records

14.5 Let Us Sum Up

14.6 Glossary

14.7 Self-Assessment Questions

14.8 Lesson End Exercise

14.9 Suggested Readings

14.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the furnishing details of supplies under GST;
- To explain the Returns under GST; and
- To elucidate the students about the accounts and records under GST.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the Furnishing details of supplies;
- understand the returns under GST; and
- analyse the concept of accounts and records.

14.1 LEARNING OBJECTIVES AND OUTCOMES

The basic features of the returns mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to Input Tax Credit (ITC) from returns of supplier to that of recipient, invoice-level information matching and auto reversal of Input Tax Credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC.

Under GST, a regular taxpayer needs to furnish monthly returns and one annual return. There are separate returns for a taxpayer registered under the composition scheme, nonresident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/ TCS) and a person granted Unique Identification Number. It is important to note that a taxpayer is not required to file all types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake.

14.2 FURNISHING DETAILS OF SUPPLIES

Every registered person required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in Form GSTR-1 electronically through the Common Portal either directly or through a Facilitation Centre notified by Commissioner.

- (1) Every registered taxable person, other than an input service distributor, a non-resident taxable person and a person paying tax under the provisions of section 10, section 51 or section 52, shall furnish, electronically, in such form and

manner as may be prescribed, the details of outward supplies of goods or services or both effected, during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within the time and in the manner as may be prescribed:

- a) Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:
 - b) Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:
 - c) Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner
- (2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.
- (3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:
- a) Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial

year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier

A. CHECK YOUR PROGRESS

Question 1:

M/s XYZ Enterprises, a GST-registered business, is required to furnish details of its outward supplies for the month of November. The business owner is unsure about which form to use and the information to be provided.

- Identify the form that M/s XYZ Enterprises must use to furnish details of outward supplies.
- Explain the steps involved in filing this form and the consequences of not furnishing the details within the prescribed time.

Question 2:

Mr. Ravi, a small-scale trader registered under GST, deals in both taxable and exempt supplies. While filing his return, he mistakenly omitted some details of exempt supplies.

- What actions can Mr. Ravi take to correct the mistake in furnishing the details of supplies?
- Discuss the importance of accurate reporting of taxable and exempt supplies under GST and the impact of discrepancies on compliance.

- b) Provided further that the rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after furnishing of the return under section 39 for the month of September, 2018 till the due date for furnishing the details under sub-section (1) for the month of March, 2019 or for the quarter January, 2019 to March, 2019.

Explanation. —For the purposes of this Chapter, the expression “details of outward supplies” shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

B. CHECK YOUR PROGRESS

Case Study:

M/s ABC Traders is a wholesale business dealing in electrical appliances and registered under GST. The business operates from three different locations across India. During a routine GST audit, the tax officer observed the following:

1. M/s ABC Traders maintained electronic records but did not have a proper backup system.
2. Certain invoices were missing, and no explanations were provided for the discrepancies.
3. Stock records were incomplete, and the business could not account for differences between the declared stock and physical stock during the audit.
4. Records of advances received for future supplies were not maintained as required under GST law.

The officer issued a notice to M/s ABC Traders asking for an explanation and rectification of the discrepancies within a stipulated time.

Questions:

1. **Compliance with Accounts and Records Provisions:**
 - What are the mandatory records that M/s ABC Traders must maintain under GST law?
 - Explain the legal provisions related to maintaining electronic records and backups under GST.
2. **Discrepancies in Invoices and Stock Records:**
 - How should M/s ABC Traders address the issue of missing invoices and discrepancies in stock records?
 - What are the potential penalties for non-compliance with record-keeping requirements under GST?

Related provisions of the Statute

Section or Rule	<i>Description</i>
Section 2(82)	Definition of Output Tax
Section 2(83)	Definition of Outward Supply
Section 2(94)	Definition of Registered Person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid Return
Section 16	Eligibility and Conditions for Taking Input Tax Credit
Section 17	Apportionment of Credits and Blocked Credits
Section 22	Persons liable for registration
Section 24	Compulsory registration in certain cases
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of Returns
Section 47	Levy of late fee
Section 14 (IGST)	Special provision for payment of tax by a supplier of online information and database access or retrieval services.

This provision relates to furnishing of details of outward supplies by the supplier.

ANALYSIS

- (a) A return of outward supplies in terms of this section should be furnished by every registered taxable person except for the following persons namely,
- Input service distributor
 - A non-resident taxable person
 - A person paying tax under the provisions of section 10 (composition levy)
 - A person paying tax under the provisions of section 51 (TDS)
 - A person remitting tax collected under the provisions of section 52 (TCS)
 - A person referred to in Section 14 of IGST Act
 - Person providing Online Information and Data Access & Retrieval Services to a non-taxable online recipient.
- (b) Explanation to section 37 relating to furnishing of the “details of outward supplies” shall include details of Invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period. This e-return shall be filed within 11 days from the end of the tax period in Form GSTR-1 (to be substituted with ANX-1) in case of taxpayer having turnover more than Rs 1.5 Crore. (Refer Annexure ‘A’ for extension of due date for filing GSTR-1).
- (c) Such returns shall be for supply of goods or services or both as effected during a tax period and shall be filed electronically.
- (d) The commissioner is empowered to notify any extension of due date of filing, for any class of persons, beyond the tenth of the succeeding month, with reasons to be recorded in writing. Refer to Annexure ‘A’ at the end of the chapter, for extensions notified, from time to time, for various returns.
- (e) The details provided by the supplier in GSTR-1 shall be auto-populated and

made available electronically to the recipient, for matching purposes, in accordance with the provision of Rule 60 in a Form GSTR-2A (to be substituted with ANX-2), which can be used for reconciliation and filing of GSTR-9 i.e. Annual return.

- (f) The present process of return filing, envisages that the recipient of the supply shall be provided an opportunity to accept, reject, amend or delete the details in a two-way communication process. This opportunity is not available at present as filing of GSTR-2 has been deferred.
- (g) If any error or omission is discovered in the course of matching as specified in the Act and discussed under Section 42 and 43, rectifications of the same shall be effected; and tax and interest, if any, as applicable shall be paid on such corrections by the person responsible for filing the return of outward supplies. Section 42 and section 43 are currently not applicable as the due dates for filing of details in GSTR-2 is yet to be notified.
- (h) Such rectification of error or omission, however, is not permitted after filing of annual return or the return for the month of September of the following financial year to which the details pertain to, whichever is earlier. However, GST council has decided to provide relaxation to the tax payer for the financial year 2017-18 vide the Central Goods and Services Tax (Second Removal of Difficulties) Order, 2018, after considering the fact that financial year 2017-18 was the first year of the implementation of the Goods and Services Tax in India and the taxpayers were still in the process of familiarising themselves with the new taxation system and due to lack of said familiarity-
 - (i) the registered persons eligible to avail input tax credit could not claim the same in terms of provisions of section 16 because of missing invoices or debit notes referred to sub-section (4) within the stipulated time;
 - (ii) the registered persons could not rectify the error or omission in terms of provisions of sub-section (3) of section 37 within the stipulated time

Therefore, any error or omission pertaining to the financial year 2017-18 can be rectified till the due date for furnishing the details under sub-section (1) for the month of March,

2019 or for the quarter January, 2019 to March, 2019.

For example: Assume an entity has furnished the annual returns for the year 2018-19 on August 15, 2019. If an error is discovered in respect of a transaction pertaining to the tax period July 2018, where the entity has filed its returns for the month of September 2019 on October 18, 2019. In this case, the rectification of the error pertaining to a transaction in July 2018 cannot be made beyond August 15, 2019. This is because the said entity has already filed its annual return on 15th August, 2019.

- ***Linking E-Way Bill with GSTR-1***

Every registered person who causes movement of goods of consignment value exceeding Rs. 50,000/- or Rs. 1, 00,000/- as the case may be, in relation to supply, or for reason other than supply such as sale of goods on approval basis, job work etc., or due to inward supply from an unregistered person excluding exempted goods needs to furnish information relating to the said goods and thereby, furnish details of invoices while generating e-way bills. Further, the invoice details for business to business supplies have to be given in Form GSTR-1 by the tax payer. To avoid duplicate data entry, GSTN has provided a facility to taxpayers, where e-way bill data of a tax period can be imported by the taxpayer in their Form GSTR-1. If the number of e-way bills generated in a month are:

- a) up to 50 only, the invoice details can be directly imported into the respective Tab of Form GSTR 1, without using the offline tool.
- b) more than 50 but less than 500, invoices can be downloaded in three separate CSV files with data pertaining to B2B transactions, B2CL transactions and HSN summary. These files can then be imported into FORM GSTR-1 offline tool. More than 500, the invoice details in respect of B2B transactions, B2CL transactions and HSN summary can be imported from E-Way Bill portal in a single excel file. This file can then be imported into Form GSTR-1 offline tool.

However, the data so imported can be edited while filing Form GSTR-1.

It is pertinent to mention here that 'import EWB data' option in the GSTN portal and selection of requisite data of invoices to be uploaded in the GSTR-1 is an option, made available to ease the return filing procedure and the same is not mandatory. Where the user decides not to use the option, details of such invoices are to be filed manually.

Matching details given in Form GSTR-1 with those given in the e-way bill will curb tax evasion as evident from certain facts revealed like some transporters are doing multiple trips by generating only a single e-way bill or not reflecting invoices for which e-way bill is generated while filing Form GSTR-1 or e-way bill is not being generated even as supplies are being made etc.

However, certain points to be considered while reconciling e-way bills generated with the data declared in GST returns so that frivolous demands are not raised are :

- Movement of goods over and above a threshold limit require generation of e-way bill while data declared in Form GSTR-1 includes all the supplies regardless of any threshold,
- In case of supply of services, no e-way bill is required to be issued while the same needs to be duly reported in Form GSTR-1,
- Varied state-specific requirements, such as different threshold limits and notified products for which e-way bills are required,
- Reconciliation of the value of supplies considering the credit notes (tax or financial) issued later by the supplier to factor the discounts, deficiency, etc. for the customer,
- In case where goods are transported by job worker, the e-way bill will be generated on the basis of delivery challan and not on the basis of tax invoice issued by job worker for job work charges. The value of goods moved on the basis of delivery challan is not to be reported in Form GSTR-1 and neither there is mention of tax invoice issued by job worker for job work charges in e-way bill; therefore, no data would be auto-populated in Form GSTR-1 of the job worker.

Components of valid GST Return for outward supplies made by the Taxpayer (Form GSTR-1)

This Statement of outward supplies would capture the following information:

1. GSTIN
2. Name
3. Period to which the return pertains
4. Aggregate turnover of the taxpayer in the previous financial year. This information would be submitted by the taxpayers only in the first year, first tax period and will be auto-populated in subsequent tax periods and years.
5. The transactions of outward supplies are required to be furnished in the said statement i.e., Form GSTR 1 at an invoice / consolidated level, as per the requirements laid down in law / rules.

Illustration:

1. HSN requirement: HSN summary to be provided in Table 12 of Form GSTR 1 is divided into three parts i.e., (a) every registered person with annual turnover above ₹ 1.5 Crore but below ₹ 5 Crore in the preceding FY, is required to furnish details of supply HSN wise at least at 2 digit level; (b) person with annual turnover above ₹ 5 Crore is required to provide details of outward supplies at 4 digit level; and (c) supplier not falling under (a) or (b) above, is required to provide details of goods supplied at the level of description of goods supplied.

Further, Unit Quantity Code (UQC) for which no specific unit of measurement is available, shall be selected as 'OTHERS' for example in case of supply of services, UQC can be on the basis of number of invoices issued under particular HSN for a particular tax period.

It is also important to note that, HSN Summary or summary of supplies at

description of goods / services level, shall also contain details of supplies which are exempt from payment of tax or is not liable to goods and service Tax i.e., non-taxable supply (example supply of alcoholic liquor meant for human consumption).

- Furnishing of details of Physical Exports as against supplies made to SEZ unit or SEZ developer / Deemed Exports: details of physical export of goods or services or both are to be separately furnished in Table 6A of Form GSTR 1.

Comparative Review

Under all the earlier laws, which is been subsumed into GST, there was no concept of furnishing a statement of outward supplies for the purpose of matching outward supplies with the input tax credit availed by the recipient of such supply. However, VAT laws of few states such as Karnataka had the facility of e-UPaSS which was introduced with the intent of matching output tax paid by the seller with that of input tax credit availed. However, the said activity was never carried out even as part of assessment under respective state VAT Laws.

Issues and Concerns

- It is important for every registered person to note that the details of all outward supplies made by him is to be furnished in Form GSTR 1 i.e., statement of outward supplies, irrespective of the fact, whether such supply is outside the umbrella of GST or exempted from payment of tax i.e., GST, by way of exemption notification or is it a supply of notified goods or services which is liable to tax in the hands of recipient. The reason for disclosure is (1) the law requires one to provide details of such supplies though not liable to tax; and (2) as a registered person, by disclosing the values of all supplies, the registered person is effecting a reconciliation of financial statements with that of statements /returns furnished.

- Person effecting zero-rated supplies (physical export of goods), who wishes to claim refund of taxes paid has to ensure that details relating to such supplies as provided in GSTR 1, like invoice no., shipping bill details, value of goods exported and amount of IGST paid match with the details as available in the ICEGATE system. Only on matching of such details, refund of tax paid will be granted. Therefore, it is important that every registered person making physical export of goods verifies whether details of all export invoices as provided in GSTR 1 matches with details available in customs in ICEGATE.

The same can be verified by logging in to www.gst.gov.in with valid credentials and following the below mentioned steps:

Refunds >> Track Status of Invoice data to be shared with ICEGATE

Note: If the difference in the value of IGST paid is more than ₹ 100, between values disclosed in Form GSTR 3B and that of Form GSTR 1, the information will not be shared by GSTN for verification by ICEGATE, in such cases one has to first ensure that there is parity in the value disclosed in Form GSTR 3B and Form GSTR 1 by amending the details as required.

14.3 RETURNS

The basic features of the returns mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to Input Tax Credit (ITC) from returns of supplier to that of recipient, invoice-level information matching and autoreversal of Input Tax Credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC. Under GST, a regular taxpayer needs to furnish monthly returns and one annual return.

There are separate returns for a taxpayer registered under the composition scheme, non-resident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/ TCS) and a person granted Unique Identification Number. It is important to note that a taxpayer is not required to file all

types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake.

Every registered person paying GST is required to furnish an electronic return every calendar month. A “Tax Return” is a document that showcases the income of a registered taxpayer. Such a document needs to be filed with the tax authorities in order to pay tax to the government. The tax to be paid by a registered dealer depends upon the income declared by such a person in the tax return filed with the tax authorities.

Under the initial GST Return filing procedure, the different types of GST returns demanded the taxpayer to disclose the following details:

- Outward Supplies (Sales)
- Inward Supplies (Purchases)
- GST On Output
- GST on Input (Input Tax Credit)
- Other Particulars (As May be Prescribed in the Document)

As mentioned above, from April 1, 2019, the incumbent government is planning to implement the new GST Return design. This simplified version of return would require the taxpayers having an annual turnover of over Rs 5 Crores to file one monthly return only. Thus, small business owners, having an annual turnover of upto Rs 5 Crores would have the option to file quarterly return.

Types of GST Returns

1. GSTR – 1: Return for Outward Supplies

GSTR-1 is a monthly return of outward supplies undertaken by a normal registered taxpayer under GST. In other words, this monthly return showcases the sales transactions of a business in a particular month.

Who Needs to File GSTR-1?

Every normal registered taxpayer under GST is required to file GSTR-1 each month. This return showcases details of

- 1) invoices,
- 2) debit notes,
- 3) credit notes and
- 4) revised invoices issued pertaining to your outward supplies.

Due Date for Filing GSTR-1

The standard date for filing GSTR-1 is 10 days from the end of the month for which such a return is to be filed. However, the due date to file GSTR 1 can be extended for any class of persons beyond the tenth of the succeeding month by the Commissioner. The reasons for such an extension would be notified.

2. GSTR – 2: Return for Inward Supplies

GSTR-2 is a monthly return of inward supply of goods and services as agreed by the recipient of the goods and services. In other words, GSTR-2 contains details with regards to the purchases made by the recipient in a particular month. The information contained in GSTR-2 is auto-populated with the details contained in GSTR-2A.

Who Needs to File GSTR-2

Every normal registered taxpayer under GST is required to provide details regarding inward supplies or purchases made for each month in GSTR-2. This return showcases details with regards to purchases made from registered and unregistered taxable persons, debit notes and credit notes issued with respect to the inward purchases etc.

Hence, the recipient makes use of the details auto-populated in Form GSTR-2A with details uploaded by supplier in GSTR-1. The recipient makes necessary changes if required in GSTR-2 after verifying the information auto-populated in GSTR-2A.

Due Date for Filing GSTR-2

The process of making changes and filing GSTR-2 is required to be undertaken between 11th and 15th day of the succeeding month for which return is to be filed.

3. *GSTR – 2A: Read Only Document*

GSTR-2A is a read only document. This document gets auto-populated once the supplier uploads the details in GSTR-1. In other words, GSTR- 2A enables the recipient to verify the details uploaded by the supplier in GSTR 1. Also the recipient could accept, reject, modify or keep the invoices pending using the said details. However, such changes are made by the recipient in GSTR 2.

Who Needs to File GSTR-2A

GSTR-2A is made available to every normal registered taxpayer filing return under GST. This is because it is a read only document that gets auto-populated with details uploaded by supplier in GSTR-1.

Due Date for Filing GSTR-2A

GSTR-2A is a read-only document used by the recipient to match the details uploaded by the supplier in GSTR-1. Thus, the recipient can accept, reject, modify or keep the invoices pending in case there is any mismatch. However, the recipient can make actual changes, if any, only in Form GSTR 2. This process of making changes and filing GSTR-2 is to be undertaken between 11th and 15th day of the month succeeding the month for which such a return is to be filed.

4. *GSTR – 3B: Summary of Inward and Outward Supplies*

GSTR 3B is a simplified monthly summary return of inward and outward supplies. It is a self-declaration showcasing the summary of GST liabilities of the taxpayer for the tax period in question. Moreover, it helps the taxpayer to discharge the tax liabilities in a timely manner.

GSTR-3B is a form that cannot be revised. Furthermore, this form does not require the compliance of comparing invoices between supplier and purchaser. That means both the suppliers and the recipients file the GSTR-3B form separately. Therefore, such a facility does not cause delays in filing of returns which would consequently attract late fees and interest.

Who Needs to File GSTR-3B

Every normal registered taxpayer filing GST returns is required to file GSTR-3B. GSTR-3B is also filed during the tax periods for which the tax liability is zero. That is, a taxpayer needs to file a Nil Return in case there are no outward or inward transactions during a particular month.

Due Date for Filing GSTR-3B

The GSTR-3B must be submitted by the 20th of the month succeeding the tax period for which GST is filed. In case no transactions have been undertaken in a particular month, the registered person needs to file a NIL return for that period.

5. *GSTR – 4: Return for Composition Dealers*

GSTR-4 is a quarterly return that needs to be filed by a registered taxpayer who has signed up for the Composition Scheme. Under this scheme, small taxpayers having a turnover of upto Rs 1.5 Crores need to pay tax at a fixed rate and file quarterly return. This is unlike the normal registered dealer who files three returns every month including GSTR-1, GSTR-2 and GSTR-3B.

Who Needs to File GSTR-4

The Composition Scheme was introduced under GST in order to reduce the compliance burden on small taxpayers. Every registered taxpayer opting for Composition Scheme is required to file quarterly return in GSTR-4.

Due Date for Filing GSTR-4

The due date for filing GSTR-4 is 18th of every month following the quarter for which such a return needs to be filed. Say for instance, Kapoor Pvt Ltd is a composition dealer who needs to file his GST return for the quarter January – March 2019. The due date for filing GSTR-4 therefore would be April 18, 2019.

6. *GSTR – 5: Return for Non-Resident Taxable Persons*

GSTR-5 is a monthly return filed by every non-resident taxable person. This return includes details pertaining to:

- inward supplies
- outward supplies
- any interest, penalty, fees
- tax payable or tax paid or
- any other amount payable under the act

Furthermore, this is the only return to be filed by a non-resident taxable person. This means, a non-resident taxable person is not required to file any annual return.

Who Needs to File GSTR-5

Unlike a normal registered taxpayer, a non-resident taxable person is required to file monthly return in for GSTR-5. A non-resident taxable person means a

person who supplies goods or services occasionally. This person does not have a fixed place of business or residence in India. Moreover, he can supply goods or services either as a principal or an agent or in any other capacity.

Due Date for Filing GSTR-5

The details in GSTR 5 need to be filed within a time period that is earlier of:

- within 20 days after the end of the calendar month or within
- 7 days after the last date of validity of the registration

7. GSTR – 6: Return for Input Service Distributors

GSTR 6 is a monthly return that an Input Service Distributor files every calendar month. This return provides information of all the invoices on which credit has been received and are issued by an ISD. This means that it gives a summary of the total input tax credit available for distribution during a particular month. Thus, the details of the invoices that an ISD furnishes in form GSTR 6 are made available to every recipient of the credit. These details are visible to the recipient in part B of form GSTR 2A.

What is GSTR-6A

GSTR 6A is an auto drafted, read only form. This form is generated automatically based on the details furnished by the suppliers of an ISD in form GSTR 1. This form contains details pertaining to the supplies against which credit is received for distribution. It also includes the details pertaining to the debit notes and credit notes received during the current tax period.

Due Date for Filing GSTR-6

GSTR-6 needs to be filed on the thirteenth day of the month succeeding the month for which tax is to be paid. Say for instance, Kapoor Pvt Ltd is registered as an ISD in Mumbai having branches in Mumbai, Hyderabad, Bangalore and

Gurgaon. Kapoor Pvt Ltd needs to file ISD return for the month November 2018. Hence, the last date to file GSTR 6 for Kapoor Pvt Ltd is December 13, 2018.

8. *GSTR – 7: Return for Taxpayers Deducting TDS*

GSTR 7 is a monthly return that is required to be filed by the deductors who are required to deduct TDS under GST. Such a return consists of the details regarding:

- tax deducted at source,
- the liability towards TDS,
- TDS Refund claimed if any
- Interest, late fees etc. paid or payable

What is GSTR-7A?

GSTR-7A is an auto-generated form. The form gets generated once the deductor furnishes details in Form GSTR-7 on the common portal. If the details furnished by the deductor are accepted by the deductee, then a TDS certificate is made available to the deductee electronically.

Due Date for Filing GSTR-7

GSTR-7 is required to be filed by the deductor within 10 days after the end of the month in which the deduction was made. For example, the due date for filing GSTR-7 for the month of June 2018 would be 10th July, 2018.

9. *GSTR – 8: Return for E-Commerce Operators Collecting TCS*

GSTR 8 is a monthly return furnished by every electronic commerce operator who is required to deduct Tax Collected at Source under GST. This return

reflects details of the supplies made through e-commerce portal and the amount of tax collected from suppliers of goods and services. Furthermore, the operator can also make changes to the details of supplies furnished in any of the earlier period statements.

Due Date for Filing GSTR-8

The last date to file GSTR 8 is the 10th day of the month succeeding the month for which TCS is to be collected. Thus, the amount of tax that the operator collects also needs to be deposited by the 10th day of the following month during which such a collection is made. Furthermore, the operator is also required to file an annual statement in the prescribed format in GSTR 9B. This return needs to be filed by 31st December following the end of each financial year.

10. GSTR – 9: Annual Return for Normal Registered Taxpayer Under GST

Section 44(1) requires that:

Every registered person shall furnish electronically an annual return for every financial year in the prescribed form, except the following:

- Input Service Distributor
- Person paying tax under section 51 or section 52,
- Casual taxable person
- Non-resident taxable person

Furthermore, persons registered under GST but having no transactions during the year are still required to file a Nil annual return.

Due Date for Filing GSTR-9

Such a return needs to be furnished on or before the 31st day of December following the end of such financial year. To further add to this, Rule 80(1) of the CGST Rules, 2017 states that such registered person shall furnish an annual return electronically in Form GSTR-9. This return needs to be filed through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

11. GSTR – 9A: Annual Return For Composition Dealers

GSTR 9A is the annual return that every registered person opting for composition levy needs to file every financial year. This return is in addition to the quarterly returns filed by a composition dealer during a financial year. Thus, GSTR 9A is an annual return filed by a composition dealer containing details that relate to the quarterly returns filed by him during the year. This return contains details with regards to supplies made by the taxpayer during the year under composition scheme. These details include:

- inward and outward supplies,
- tax paid,
- input credit availed or reversed,
- tax refunds,
- late fee etc

Due Date for Filing GSTR-9A

The due date to file GSTR 9A is on or before December 31 succeeding the close of a particular financial year for which the return needs to be filed. For instance, Mr. Kapoor is a composition taxpayer who needs to file his

annual return for the financial year 2017 – 2018. Thus, Mr. Kapoor needs to file his annual return in form GSTR 9A on or before December 31, 2019. However, this date can be extended by a proper officer through a notification.

12. *GSTR – 9B: Annual Return for E-Commerce Operators Collecting TCS*

Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement in FORM GSTR -9B. This return includes all the information furnished by the e-commerce operators in the monthly returns filed during the financial year.

Due Date for Filing GSTR-9B

All the e-commerce taxpayers are required to file GSTR-9B on or before 31st December following the close of the financial year.

13. *GSTR – 9C: Return for Registered Persons Getting Accounts Audited From CA*

Every registered person having an aggregate turnover of more than Rs. 2 crores during a financial year must get his accounts audited by a CA or cost account. Furthermore, he needs to submit the annual return, a copy of the audited accounts and a reconciliation statement. This reconciliation statement is in form GSTR 9C. So basically, GSTR 9C is a reconciliation statement reconciling value of supplies declared in annual return with the audited annual accounts.

Due Date for Filing GSTR-9C

The due date for filing GSTR-9C is the same as that for filing annual returns in GSTR-9. Hence, GSTR-9C shall be submitted on or before 31st December of the year subsequent to the relevant FY under audit. For instance, the due date for filing GSTR-9C for the FY 2017-2018 shall be 31st December 2018.

14. GSTR – 10: Return for Registered Person Whose GST Registration Gets Cancelled

GSTR-10 is a final return required to be filed by a registered person whose GST Registration gets cancelled. Such a registered person does not include:

- Input Service Distributor
- Person paying tax under composition scheme
- Non-resident taxable person
- Person collecting TDS or TCS

Further, Form GSTR-10 is filed electronically through the common portal either directly or via a facilitation centre as prescribed by the commissioner. The intent of filing this final return is to make sure that the taxpayer pays of any liability outstanding. This liability may include an amount equivalent to the amount that is higher of:

- input tax related to stock of finished and semi-finished goods, capital goods or plant and machinery or
- output tax payable on such goods

Due Date for Filing GSTR-10

The registered person whose GST Registration has been cancelled is required to file final return in Form GSTR-10 within a period which is later of:

- 3 months from the date of cancellation or
- Date of order of cancellation

15. GSTR – 11: Return for UIN (Unique Identification Number) Holders

GSTR-11 is a return to be furnished by a person who has been allotted a Unique Identification Number (UIN). UIN is issued so that the registered person

obtaining the same can claim refunds for GST paid on goods and services purchased by them in India.

Who Can Apply For UIN?

UIN is allotted to foreign embassies and diplomatic missions who are not required to pay taxes in India. This number is issued so that these organizations can claim a refund for the amount of tax paid to the Indian tax authorities. In order to claim the refund on GST paid, these organizations need to file GSTR-11.

The organizations that can apply for UIN include:

- Specialized agency of the United Nations Organization
- A consulate or embassy of foreign countries
- Multilateral financial institution and organization notified under the United Nations (Privileges and Immunities) Act, 1947
- Any other person or class of persons as may be specified by the Commissioner

Due Date for Filing GSTR-11

The due date for filing GSTR-11 is 28th of the month succeeding the month in which inward supplies are received by the UIN holders. This means, GSTR-11 is not filed on a monthly basis. Rather, this form is filed on case-to-case basis as and when the supplies are made.

14.4 ACCOUNTS AND RECORDS

Assessment in GST is mainly focused on self-assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for specified tax periods i.e. the period for which return is required to be filed. The compliance verification is done by the department through scrutiny of returns, audit

and/or investigation. Thus, the compliance verification is to be done through documentary checks rather than physical controls. This requires certain obligations to be cast on the taxpayer for keeping and maintaining accounts and records.

- a. Section 35 of the CGST Act, 2017 and Chapter VIII of the CGST Rules, 2017 (hereinafter referred to as rules) provide that every registered person shall keep and maintain all records at his principal place of business. It also cast, responsibility on owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter, irrespective of whether he is a registered person or not, to maintain specified records. The section also empowers the Commissioner to notify a class of taxable persons to maintain additional accounts or documents for specified purpose or to maintain accounts in other prescribed manner. It also provides that every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant.
- b. Section 35 of the CGST Act, 2017 provides that every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—
 - a) production or manufacture of goods;
 - b) inward and outward supply of goods or services or both;
 - c) stock of goods;
 - d) input tax credit availed;
 - e) output tax payable and paid; and
 - f) such other particulars as may be prescribed.

In addition, the rules also provide that the registered person shall keep and maintain records of

- a) goods or services imported or exported; or
- b) 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, refund vouchers and e-way bills.
- c. In case, 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. A registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

C. CHECK YOUR PROGRESS

Multiple Choice Questions

1. Which of the following forms is used to file details of outward supplies under GST?

- a) GSTR-1
- b) GSTR-2
- c) GSTR-3
- d) GSTR-4

Answer: a) GSTR-1

2. What is the due date for filing GSTR-3B for regular taxpayers?

- a) 10th of the next month
- b) 15th of the next month
- c) 20th of the next month
- d) Last day of the next month

Answer: c) 20th of the next month

3. Which return is filed annually under GST?

- a) GSTR-4
- b) GSTR-7
- c) GSTR-9
- d) GSTR-10

Answer: c) GSTR-9

4. Composition taxpayers are required to file which of the following returns?

- a) GSTR-3B
- b) GSTR-4
- c) GSTR-5
- d) GSTR-9A

Answer: b) GSTR-4

5. What is the penalty for late filing of GST returns?

- a) ₹10 per day for each return
- b) ₹50 per day for each return
- c) ₹100 per day for each return
- d) ₹200 per day for each return

Answer: b) ₹50 per day for each return

6. Which of the following returns is filed for the final settlement of liabilities after the cancellation of GST registration?

- a) GSTR-1
- b) GSTR-9
- c) GSTR-10
- d) GSTR-11

Answer: c) GSTR-10

7. Input Tax Credit (ITC) reconciliation is done in which return?

- a) GSTR-1
- b) GSTR-2B
- c) GSTR-3B
- d) GSTR-9

Answer: b) GSTR-2B

d. Following accounts and records will have to be maintained by every registered person:

- a) Accounts of stock in respect of goods received and supplied; and such account shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples and balance of stock including raw materials, finished goods, scrap and wastage thereof;
- b) A separate account of advances received, paid and adjustments made thereto;
- c) An account, containing the details of tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit note, debit note, delivery challan issued or received during any tax period [not required for person paying tax under section 10];
- d) Names and complete addresses of suppliers from whom goods or services, chargeable to tax under the Act, have been received;
- e) Names and complete addresses of the persons to whom supplies have been made;
- f) The complete addresses of the premises where the goods are stored including goods stored during transit along with the particulars of the stock stored therein;
- g) Monthly production accounts, showing the quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof;
- h) Accounts showing the quantitative details of goods used in the provision of services, details of input services utilised and the services supplied;
- i) 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 or services received for the execution of works contract;
 - description, value and quantity (wherever applicable) of goods or 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 has received goods or services.
- e. The books of account shall be kept at the principal place of business and at every related place(s) of business mentioned in the certificate of registration and such books of account shall include any Accounts and Records in electronic form of data stored on any electronic devices. The data so stored shall be authenticated by way of digital signature. 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. If any taxable goods are found to be stored at any place(s) other than those 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.
- f. Attention is invited to Circular No. 23/23/2017- GST dated 21.12.2017 which provides relaxation from maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber etc. subject to prescribed conditions.
- g. Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter correct entry shall be recorded, and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained. Further each volume of books of account maintained manually by the

registered person shall be serially numbered.

h. Period for preservation of accounts:

- All accounts maintained together with all invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for seventytwo months (six years) from the due date of furnishing of annual return for the year pertaining to such accounts and records and shall be kept at every related place of business mentioned in the certificate of registration.
- A registered person, who is a party to an appeal or revision or any other proceedings whether filed by him or by the Commissioner, or is under investigation for an offence, has to retain the records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above (seventy- two months), whichever is later.

i. Electronic Records: The following requirements have been prescribed for maintenance of records in electronic form.

- Proper electronic back-up of records 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.
- produce, on demand, the relevant records or documents, duly authenticated, 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.

j. Records to be maintained by owner or operator of godown or warehouse and

transporters: The transporters, owners or operators of godowns, if not already registered under the GST Act(s), shall submit the details regarding their business electronically on the Common Portal in Form GST ENR-01. A unique enrolment number shall be generated and communicated to them. A person enrolled in any other state or union territory shall be deemed to be enrolled in the State or Union Territory.

- k. Every person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him and for each of his branches. 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 goods shall be stored in such manner that they can be identified item wise and owner wise and shall facilitate any physical verification or inspection, if required at any time.

14.5 LET US SUM UP

The basic features of the returns mechanism in GST include electronic filing of returns, uploading of invoice level information and auto-population of information relating to Input Tax Credit (ITC) from returns of supplier to that of recipient, invoice-level information matching and auto reversal of Input Tax Credit in case of mismatch. The returns mechanism is designed to assist the taxpayer to file returns and avail ITC. Under GST, a regular taxpayer needs to furnish monthly returns and one annual return.

There are separate returns for a taxpayer registered under the composition scheme, non-resident taxpayer, taxpayer registered as an Input Service Distributor, a person liable to deduct or collect the tax (TDS/ TCS) and a person granted Unique Identification Number. It is important to note that a taxpayer is not required to file all types of returns. In fact, taxpayers are required to file returns depending on the activities they undertake.

Every person registered under GST will have to file returns in some form or other.

A registered person will have to file returns either monthly (normal supplier) or quarterly basis (Supplier opting for composition scheme). An ISD will have to file monthly returns showing details of credit distributed during the particular month. A person required to deduct tax (TDS) and persons required to collect tax (TCS) will also have to file monthly returns showing the amount deducted/collected and other specified details. A non-resident taxable person will also have to file returns for the period of activity undertaken.

14.6 GLOSSARY

- **Supplies:** This refers to the sale of goods or services. Under GST, all supplies of goods and services are taxable, except for those specifically exempted.
- **Return:** These are the documents that are filed with the government to declare the taxes that have been collected. There are different types of returns that need to be filed under GST, depending on the type of business and the nature of the supplies.
- **Accounts:** These are the records that are kept of the financial transactions of a business. Under GST, businesses are required to maintain certain records, such as invoices, bills, and purchase orders.
- **Record:** These are the documents that are kept to support the accounts. Under GST, businesses are required to keep certain records, such as stock registers and depreciation schedules.
- **Goods and Services Tax Return 1:** It is a document that each registered tax payer needs to file every month/quarter. It must contain the details of all sales and supply of goods and services made by the tax payer during the tax period.
- **Audited:** To conduct an official financial inspection of a company on its accounts.

14.7 SELF-ASSESSMENT QUESTIONS

1. Explain the process of Filing of Return under GST.
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2. Explain the different types of GST returns.

14.8 SELF-ASSESSMENT QUESTIONS

1. Explain the process of filing returns under GST. Discuss the types of GST returns that need to be filed by different categories of taxpayers, such as regular taxpayers, composition dealers, and e-commerce operators.

2. What is the difference between Annual Return and Final Return in GST regime?

14.9 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, *GST Ready Reckoner*, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra

ASSESSMENT: OVERVIEW OF VARIOUS TYPES OF ASSESSMENT.

15.0 Learning Objectives and Outcomes

15.1 Introduction

15.2 Assessment under GST

15.3 Types of Assessment under GST

15.4 Let Us Sum Up

15.5 Glossary

15.6 Self-Assessment Questions

15.7 Lesson End Exercise

15.8 Suggested Readings

15.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the concept and significance of assessment under GST;
- To identify and differentiate between various types of assessments under GST;
- To be familiar with the procedure of assessment; and
- To explain the various audits in GST

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept of assessments;
- understand the procedure of assessments; and
- analyse the various audits in GST.

15.1 INTRODUCTION

Under GST, the term “assessment” means a determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment, and best judgment assessment. Normally, persons having GST registration file GST returns and pay GST every month based on self-assessment of GST liability. However, the Government at all times has the right to re-assess or perform an assessment by itself and determine if there is a short payment of GST. In this article, we look at the various types of assessment under GST in detail.

15.2 ASSESSMENT UNDER GST

Under GST, the term “assessment” means a determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment, and best judgment assessment. Normally, persons having GST registration file GST returns and pay GST every month based on self-assessment of GST liability. However, the Government at all times has the right to re-assess or perform an assessment by itself and determine if there is a short payment of GST. In this article, we look at the various types of assessment under GST in detail.

A. CHECK YOUR PROGRESS

Scenario:

M/s DEF Textiles is a registered taxpayer under GST. During a routine assessment, the GST officer finds that the business has not maintained proper records of input tax credit (ITC) for the past six months. Additionally, there is a mismatch between the sales declared in GSTR-1 and GSTR-3B for two consecutive months.

The officer issues a notice under Section 61 of the GST Act, asking M/s DEF Textiles to explain the discrepancies. Despite multiple reminders, the business fails to respond within the stipulated time. As a result, the officer proceeds with a provisional assessment and estimates the tax liability based on available information.

Questions:

1. Understanding Assessment Types:

- Identify the type of assessment initiated by the GST officer in this case.
- Explain the circumstances under which a provisional assessment is converted into a final assessment under GST law.

2. Response to Notices:

- What steps should M/s DEF Textiles have taken to address the notice under Section 61?
- How can the business avoid such issues in future assessments?
- 3. **Consequences of Non-Compliance:**
 - Discuss the implications of failing to respond to GST assessment notices.
 - What penalties or additional liabilities could M/s DEF Textiles face due to non-compliance?

15.3 TYPES OF ASSESSMENT

The different types of assessment under GST are as under:

- Section 59 – Self-assessment of taxes payable
 - Section 60 – Provisional assessment
 - Section 61 – Scrutiny of tax returns filed by registered taxable persons
 - Section 62 – Assessment of registered taxable person who has failed to file the tax returns
 - Section 63 – Assessment of unregistered persons
 - Section 64 – Summary assessment in certain special cases
1. ***Section 59 – Self Assessment***

The taxable person is required to pay tax on the basis of self-assessment done by himself. Hence, all GST return filings are based on self-assessment by the taxpayer.

In this regard, provisions of Section 59 of the GST Act is reproduced hereunder:

“Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.”

2. *Section 60 – Provisional Assessment*

Provisional assessment can be conducted for a taxable person when the taxpayer is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto.

Procedure for Provisional Assessment

Step 1: The taxable person has to give, the concerned GST officer, a request for provisional assessment in writing.

Step 2: The GST officer on reviewing the application will pass an order within a period not later than ninety days from the date of receipt of the request, allowing payment of tax on a provisional basis or at a GST rate or on such value as specified by him.

Step 3: The taxable person, who is making payment on a provisional basis, has to issue a bond with security promising to pay the difference between a provisionally assessed tax and final assessed tax.

Step 4: The GST officer will pass a final assessment, with a period not exceeding six months from the date of communication of the order of provisional payment.

B. CHECK YOUR PROGRESS

Scenario:

M/s GHI Electronics is a registered dealer under GST, dealing in electronic goods. During a departmental review, it is observed that the business has underreported its turnover for the previous financial year. The tax officer issues a notice for scrutiny of returns under **Section 61** of the GST Act.

The following issues arise during the assessment:

1. M/s GHI Electronics failed to provide supporting documents for certain high-value sales invoices.
2. There were discrepancies between the ITC claimed in GSTR-3B and the ITC reflected in GSTR-2B.
3. The business has not responded to multiple reminders for clarification.

The officer decides to initiate a **best judgment assessment** under **Section 62** of the GST Act based on available records and third-party information.

Questions:

1. **Understanding the Procedure:**
 - Explain the steps involved in the scrutiny of returns under **Section 61** of the GST Act.
 - What is the process for initiating a **best judgment assessment**, and under what circumstances can it be conducted?
2. **Compliance and Documentation:**
 - What documents should M/s GHI Electronics have provided to avoid discrepancies during the assessment process?
 - Discuss the importance of reconciling GSTR-3B with GSTR-2B in ensuring compliance.
3. **Consequences of Best Judgment Assessment:**

- 4.
- What are the potential outcomes of a best judgment assessment for M/s GHI Electronics?
 - Highlight the penalties and interest that could be imposed due to underreporting of turnover.

Interest Payable for Provisional Assessment⁴

In case, after the final assessment, if the taxable person liable to pay more tax than the tax paid at the time of provisional assessment, then the taxable person should pay the interest on such tax payment. Interest would be calculated from the actual due date of tax (please note original due date should be considered and not provisional tax payment date) till the date of actual payment of tax. The interest calculation position will remain the same, even if the payment of tax is made before or after the final assessment.

Refund under Provisional Assessment

In case of refund, interest will be paid on such refund as provided under section 56.

3. Section 61 – Scrutiny Assessment

GST Officers can scrutinize a GST return and related particulars furnished by the registered person to verify the correctness of the return. This is called a scrutiny assessment. In case of any discrepancies noticed by the officer, he/she would inform the same to the registered person and seek his explanation on the same. On the basis of the explanation received from the registered person, the officer can take the following action:

- If the explanation provided by the individual seems satisfactory, the officer shall inform about the same to the registered person, and no the officer shall take no further action in this regard.
- However, upon unsatisfactory explanation or the registered person failed to take corrective measures after accepting the discrepancies, the proper officer shall initiate appropriate action like conducting an audit of the registered person, conducting a special audit, inspect and search the place of business of the registered person, or initiate demand and recovery provisions.

4. Section 62 – Failure to File GST Return – Best Judgement Assessment

When a registered person fails to furnish the required returns, even after service

of notice under Section 46, an assessment would be conducted by the GST Officer. In such cases, the GST officer would proceed to assess the tax liability of the taxpayer to the best of his judgment taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date for furnishing of the annual return for the financial year to which the tax not paid relates.

On receipt of the said assessment order, if the registered person furnishes a valid return within a period of 30 days from the date of issuance of the assessment order, then in such case, the assessment order would be deemed to have withdrawn. However, the registered person will be liable to pay interest under Section 50 (1) and/or liable to pay a late fee under Section 47.

5. *Section 63 – Assessment of Unregistered Person – Best Judgement*

When a taxable person fails to obtain GST registration even though liable to do so or whose registration has been canceled under section 29 (2) but who was liable to pay tax, the GST officer can proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

6. *Section 64 – Summary Assessment*

A GST Officer can on any evidence showing a tax liability of a person coming to his notice, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue.

In order to undertake assessment under section 64, the proper officer should obtain previous permission of additional commissioner or joint commissioner. Such an assessment is called a summary assessment.

15.4 LET US SUM UP

Section 59 of the CGST Act, 2017 states that every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39. Thus, the GST has continued with the legacy tax philosophy of self- assessment where trust is placed on the assessee to determine its tax liability on its own volition and file its returns.

As such, the registered person is entitled to determine its tax liability on its own, GST officer is however empowered to scrutinize the return to verify its correctness. The

officer will ask for explanations on any discrepancies noticed in the returns.

The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue: Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

15.5 GLOSSARY

- **Assessment:** Under GST, the term “assessment” means a determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment, and best judgment assessment.
- **Self- Assessment:** The taxable person is required to pay tax on the basis of self-assessment done by himself. Hence, all GST return filings are based on self-assessment by the taxpayer.

15.6 SELF-ASSESSMENT QUESTIONS

1. Describe the circumstances under which summary assessment can be carried out.

2. Explain the different types of assessment.

3. Discuss the procedure for provisional assessment.

15.7 LESSON END EXERCISE

1. What is the importance of self-assessment under GST, and how does it differ from other types of assessments?

2. Discuss the procedure and provisions related to provisional assessment under GST.

15.8 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

IMPACT OF GST ON INDUSTRY AND COMPENSATION TO STATES

16.0 Introduction

16.1 Learning Objectives and Outcomes

16.2 GST Impact on Health Care Services

16.3 GST Impact on Hotels and Restaurants

16.4 Let Us Sum Up

16.5 Glossary

16.6 Self-Assessment Questions

16.7 Lesson End Exercise

16.8 Suggested Readings

16.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the implications of GST on healthcare services;
- To analyse the effects of GST on hotels and restaurants;
- To evaluate how sector-specific GST provisions influence pricing and service delivery; and
- To identify the exemptions and tax slabs applicable to these sectors.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the applicability of GST in Health Care Services;
- understand the GST impact in Health Care Services and Hotels & Restaurants; and
- analyse the taxability of Hotels and Restaurants.

16.1 INTRODUCTION

While the fundamentals of indirect taxes remain uniform across all sectors of the economy, there are always specific variations in certain sectors which may be in relation to scope, chargeability, tax rates, exemptions, classification, reporting mechanism and so on. We have lived with such variations in the erstwhile central excise and service tax regimes and the position is no different under Goods and Services Tax (GST) with special regimes introduced particularly in the sectors such as Health, education, Hospitality, etc.

Health is the primary thing and everything else follows thereafter, there is a saying that 'Health is Wealth', which means when a person maintains good health, everything else falls into place. The Central government understanding the importance of health and services supplied by health service sector has exempted the health care service from the levy of GST, thus made the health care services more affordable to the public at large.

Health care sector involves several activities, such as person running a medical shop to a person running a super specialty hospital, RMP doctor to highly qualified medical professionals and consisting many systems to treat different ailments, blood banks to ambulance, ancient Ayurveda to Allopathic medicine the modern science in treating patients, undertaking sale of tablets to Complicated Surgeries.

16.2 GST IMPACT ON HEALTH CARE SERVICES

Healthcare services may refer to 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.

Health Care sector continues to be largely exempt in the GST regime like in the pre- GST

era. Generally, the services provided in the health care sector (hospitals, nursing homes etc.) comprises of the following:

- a) Out-patient department (OPD)
- b) in-patient department (IPD)
- c) diagnostic services
- d) Pharmacy sales
- e) ancillary supplies

In the following paragraphs, we will find out the taxability of each such component of health services.

General Exemption

Entry 77 of Notification No. 09/2017-Integrated Tax (Rate) dated 28.06.2017 exempts the services by way of-

- (a) health care services by a clinical establishment, an authorized medical practitioner or para-medics;
- (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

Let us understand the scope of exemption to health services as afforded in the above-mentioned notification.

Clause (a) mainly covers the following:

- **Out-patient Department (OPD's)** - Services of medical consultancy and health care including regular checks- up and treatments with and without admitting a patient in a hospital.
- **In-patient Department (IPD's)** - in-patient involves indoor treatment and admission of patient, includes the various surgeries conducted on the patient, charges for room rent, consultancy charges, food & beverages, bed charges, operation theater charges, equipment charges, doctor fees, pharmacy consumed etc. (all the charges are recovered from IPD patients for purpose of curing of disease or disorder)
- **Diagnostic Labs / Centre Tests** – Various tests conducted either in a hospital or at the specialized centres.

Clause (b) covers the following:

Services provided by way of transportation of a patient in an ambulance.

What the exemption notification does not include:

Sale of medicines through pharmacy – Sale of medicine while doing treatment or consultancy directly in shop or through doctor is not exempted from the payment of GST.

Not Covered under Exemption and hence liable to GST:

It is noteworthy that medical services not for the purpose of curing disease but for the purpose of enhancement of beauty or physical appearance of the person are not covered under above mentioned exemption notification.

Tax rates for Medicines

GST impact on the pharma industry has been neutral. With GST, India has now become a level playing field for the drug makers. It has simplified the tax structure and is also improving medical tourism.

Applicable tax rate varies for goods/ services depending on its classification. Generally taxable at the rate of 5% or 12%.

TAXATION OF HEALTH CARE SERVICES AT A GLANCE

<i>Services</i>	<i>Taxability</i>
General Health Care	Exempt
Fees charged from patients	Exempt
retention money (part of package)	Exempt
Cord Blood Bank (stem cells)	Exempt
room charges for indoor patients	Exempt
Services of doctor's / technicians (employed or otherwise)	Exempt
ambulance services	Exempt
Medical education (leading to recognized degree)	Exempt

Consultancy by authorized medical practitioners	Exempt
diagnostic lab / Centre tests	Exempt
Bio -medical waste treatment	Exempt
Supply of food to patient as part of health care	Exempt

Supply of food to non-patient / attendants	Taxable
Supply of medicines and consumables (e.g. bandage, thermometer etc.)	taxable (@ prescribed rates)
Implants	Taxable
Hospitals giving properties on rent (like atM's, parking facility)	Taxable
Medical services not for the purpose of curing disease but for the purpose of enhancement of beauty or physical appearance	Taxable

Illustration: Jeevan Jyoti Nursing Home has received the following amounts in the month of February, 2020 in lieu of various services rendered by it in the same month. you are required to determine its GST liability for February, 2020 from the details furnished below:

-

S. No.	Particulars	Amount (Rs.in lakh)
I	Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious disease)	37
Ii	Services provided by cord blood bank unit of the nursing Home	27
Iii	Hair transplant services	100
Iv	ambulance services to transport critically ill patients from various locations to nursing home	12
V	Naturopathy treatments	80
Vi	Plastic surgery to restore anatomy of a child affected due to an accident. (Anatomy means study of the structure of human or animal bodies)	30
Vii	reiki healing treatments (Such treatment is not a recognized system of medicine)	120
Viii	Mortuary services	10

Note: all the amounts given above are exclusive of tax and rate of tax is CGST @ 9% and SGST @ 9%. Point of supply for the services rendered by Jeevan Jyoti Nursing Home in the month of February, 2020 fall in the month of February itself.

Answer:

Computation of GST liability of Jeevan Jyoti Nursing Home for month of February, 2020

<i>S. No.</i>	<i>Particulars</i>	<i>Amount (Rs. in lakh)</i>
i	Palliative care for terminally ill patients at patient's home (Palliative care is given to improve the quality of life of patients who have a serious disease)	Nil
ii	Services provided by cord blood bank unit of the Nursing Home	Nil
iii	Hair transplant services	100
iv	ambulance services to transport critically ill patients from various locations to nursing home	Nil

V	Naturopathy treatments	Nil
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Vi	Plastic surgery to restore anatomy of a child affected due to an accident. (anatomy means study of the structure of human or animal bodies)	Nil
Vii	reiki healing treatments (Such treatment is not a recognized system of medicine)	120
Viii	Mortuary services	Nil
	Value of taxable Service	220
	CGST @ 9% [rs. 220 lakh \times 9%]	19.80
	SGST @ 9% [rs. 220 lakh \times 9%]	19.80

Note: all healthcare services by a clinical establishment or authorized medical practitioner by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy are currently exempt from GST. However, hair transplant or cosmetic or plastic surgery does not get exemption and is taxed.

Is Input Tax Credit admissible in Health Care Services?

it is a fundamental rule that input tax credit is admissible only where the underlying inputs, input services and capital goods are used for providing the taxable supplies. thus, where the input taxes relate to exempted health care services, credit thereof shall not be admissible.

Judicial Pronouncements related to Health Care Services

1. IN RE: M/s Kindorama Healthcare Pvt. Ltd, (2019) – AAR Kerala

Supply of medicines, consumables, surgical items, items such as needles, reagents etc are eligible for exemption the supply of medicines, consumables, surgical items, items such as needles, reagents etc. used in laboratory, room rent used in the course of providing health care services to inpatients for diagnosis or treatment is eligible for GST exemption under health care services.

2. IN RE: M/s. Medivision Scan and Diagnostic Research Centre Private Ltd., (2019) – AAR Kerala

the Kerala authority for advance ruling (AAR) recently held that the services provided by diagnostic centre is a clinical establishment and providing Health Care Service therefore exempted from GST.

the diagnostic centres are organized facilities to provide diagnostic procedures such as radiological investigation supervised by a radiologist and clinical laboratory services by laboratory specialists usually performed through referrals from physicians and other health care facilities.

Clinical/Medical diagnostic laboratory means a laboratory with one or more of the following; where microbiological, serological chemical, hematological, immune-hematological, immunological, toxicological, cytogenetic, exfoliative cytogenetic, histological,

pathological or other examinations are performed of materials & fluids derived from the human body for the purpose of providing information on diagnosis, prognosis, prevention, or treatment of disease. These types of diagnosis or investigations rightly come under the category of health care services and are, therefore, eligible for exemption from GST.

As per Section 24, persons who are required to pay tax under reverse charge shall obtain registration. Therefore, as per Section 24 of the State Goods and Services tax act, compulsory registration would be for persons exclusively engaged in provision of exempt supplies if they receive supplies liable to reverse charge as per notifications issued under Section 9(3) of the State Goods and Services Tax Act.

A. CHECK YOUR PROGRESS

Scenario:

Dr. Arvind owns and operates a 100-bed multispecialty hospital, "CureWell Healthcare," which provides a mix of exempt and taxable services. The hospital offers services such as room rent, diagnostic tests, and medical consultations, which are GST-exempt. However, it also operates a pharmacy and a cafeteria within the premises, where goods and services are subject to GST.

Recently, the hospital faced the following challenges:

1. The pharmacy's sales were subject to GST, leading to confusion about the Input Tax Credit (ITC) applicability.
2. There was ambiguity regarding the GST applicability on premium room rentals exceeding ₹5,000 per day.
3. Suppliers of medical equipment and consumables charged GST, increasing operational costs for the hospital.

Dr. Arvind seeks advice on how GST impacts his healthcare business and how he can optimize compliance while minimizing costs.

Questions:

1. **GST Applicability in Healthcare Services:**
 - Which healthcare services provided by "CureWell Healthcare" are exempt from GST, and which are taxable?
 - Discuss the GST implications for room rent exceeding ₹5,000 per day.
2. **Input Tax Credit (ITC):**
 - Can the hospital claim ITC on GST paid for medical equipment, consumables, and pharmacy supplies?
 - Explain the conditions under which ITC can be claimed in a business providing both exempt and taxable services.
3. **Operational Impact:**
 - How does GST on suppliers' invoices for medical equipment and consumables affect the hospital's overall costs?
 - Suggest ways for Dr. Arvind to manage these costs effectively while staying compliant with GST laws.

4. Policy and Compliance Recommendations:

- How should Dr. Arvind manage the segregation of exempt and taxable supplies for accurate GST reporting?
- Propose best practices to ensure compliance with GST regulations in the healthcare sector.

16.3 GST IMPACT ON HOTELS AND RESTAURANTS

Hotels are an important component of the tourism product. they contribute to the overall tourism experience through the standards of facilities and services offered by them. Hotels and Restaurants are both business establishments that cater to different needs of customers. The basic aim of a hotel is to provide accommodation whereas the basic aim of a restaurant is to provide food and drink. The term ‘Restaurant ‘has not been defined under GST law. a restaurant, or an eatery, is a business that prepares and serves food and drinks to customers Meals are generally served and eaten on the premises, but many restaurants also offer take-out and food delivery services.

On 30th September 2019, the Ministry of Finance (MoF) has notified the revised GST for hotel accommodation, restaurant services, food and beverages served by Indian railways or India railways Catering and tourism Corporation Ltd and for many others through Notification No.20/2019. The revision was carried out on the original notification No.11/2017 (Central Tax Rate) released on 28th June 2017.

B. CHECK YOUR PROGRESS

Scenario:

Mr. Raj operates a mid-sized hotel, "Comfort Stay," with 30 rooms and an in-house restaurant. The hotel charges different room tariffs ranging from ₹2,500 to ₹8,000 per night. The restaurant serves both dine-in and takeaway orders.

The following issues arise under GST compliance:

1. GST rates vary for room tariffs depending on the price per night. Mr. Raj is unsure about the correct GST rates applicable to his rooms.
2. The restaurant faces challenges in determining the GST rate for food served in the premises versus takeaway orders.
3. Advance payments are often received for room bookings, but there is confusion about when GST should be charged.
4. Input Tax Credit (ITC) is claimed on goods used for room services and restaurant operations, but there are doubts about its eligibility.

Mr. Raj seeks guidance on managing GST compliance for his hotel and restaurant operations.

Questions:

1. **GST Rates and Applicability:**
 - Explain the GST rates applicable for hotel room tariffs and how they vary based on the price per night.
 - What GST rate is applicable to food served in restaurants and on takeaway orders?
2. **Tax Treatment of Advances:**

- How should Mr. Raj account for GST on advance payments received for room bookings?
 - What steps can he take to ensure compliance with GST rules on advances?
- 3. Input Tax Credit (ITC):**
- Can Mr. Raj claim ITC on expenses related to room services and restaurant operations?
 - Discuss the restrictions on ITC eligibility for hotels and restaurants under GST.
- 4. Compliance and Cost Management:**
- Suggest ways for Mr. Raj to segregate taxable and exempt supplies for accurate GST reporting.
 - Provide recommendations to minimize GST-related costs while ensuring compliance for "Comfort Stay."

Restaurants availing Composition Scheme for 5%

Restaurants whose aggregate turnover is less than Rs 1.5 crore (Rs 1 Crore in case of special category States), can avail the benefits of “composition scheme” under section 10 of CGST Act, 2017. With this scheme, only 5% GST will be levied on the supply breaking-up into 2.5% CGST and 2.5% SGST.

this is the only service which has been brought under composition scheme. Otherwise composition scheme is available to traders and small manufacturers only.

this has to be paid out of the pocket by the restaurants as they are neither entitled to avail input tax credit of taxes paid on inputs such as raw materials or the service, nor they can recover the tax from their customers. thus, the restaurants opting for composition scheme cannot charge any GST from their customers. However, they have an option to pay tax at full rate and avail ITC. Quarterly return [GSTR-4] to be filed by the restaurants opting for composition scheme.

GST on food served in Restaurants or by food suppliers

Restaurants, with or without dining places with proper sitting, are required to charge GST at the rate as specified by the CBEC through Notification No. 11/2017-Central

Tax (Rate) further amended *vide* N.No. 46/2017- Central tax (rate) dated 14.11.2017 on the products supplied by them. though the restaurants are entitled to full input tax credit on the inputs, input services, capital goods availed for providing the output service i.e. restaurant service.

The GST rates applicable to restaurants and food suppliers are tabulated below:

restaurants having the license to serve liquor.	5%	Not available
restaurants having facility of full or part air-conditioning or central heating at any time during the year.	5%	Not available
air-conditioned restaurants in 5-star or above rated Hotel.	18%	available
Outdoor catering	18%	Not available
edibles in a premises (including hotels, convention centers, clubs, pandal, shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	18%	Available
All other services not specified elsewhere	18%	Available

GST on Accommodations in Hotels

the GST rates applicable for accommodation in hotels, inns, guest houses, clubs, campsites, or other commercial places meant for residential or lodging purposes depends upon the ‘value of supply’ per unit per day.

Value of supply (per unit per day)	GST rates applicable
-------------------------------------------	-----------------------------

(with effect from 01.10.2019)	
less than Rs. 1000/-	Nil
Rs. 1001/- and above but less than Rs. 7500/-	12%
More than Rs. 7500/-	18%

Additionally, they will be able to claim input tax credit in respect of the services rendered which reduces the overall impact of tax on the consumer.

GST on Rent-a-cab services provided by hotels

Some hotels also provide cab services to its customers as an additional service. the rate of GST and input credit available thereof can be summarized as under:

Description	GST rates applicable
rent a cab (if fuel cost included in the consideration charged)	5% (With No ITC, however, in case the provider is availing such services from another rent a cab provider, Credit of tax charged by such other provider shall be available)

in all other cases including where fuel cost is not included in the consideration charged.	12% (With ITC available to provider)
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GST on foreign currency exchange services

Due to large number of foreign customers, most of the major players in the hospitality industry also provide foreign currency exchange services to its customers. GST on such service is levied at the rate 18% and the value of supply may be determined as per the clause 32(b) of the CGST rules, 2017 at the option of the hotel, but the option will not be withdrawn for the remaining part of the financial year. Such valuation is summarized as under:

Gross Amount of Currency Exchanged (Rs.)	GST payable (@ or Rs.)
0 to 1,00,000/-	1% or Rs. 250, whichever is higher.
1,00,001/- to 10,00,000/-	Rs. 1,000 + 0.5%
10,00,00/- and above	Rs. 5,500 +0.10% or Rs. 60,000, whichever is lower.

Input Tax Credit (ITC)

Section 16 of CGST act, 2017 provides that every registered person shall be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. This reduces the overall cost and thus reduces the burden of tax on the ultimate consumer.

Section 17(5) of CGST Act, 2017 inter alia, deals with supplies, input credit on which is not available for hotels and restaurants and provides for as follows: -

as per section 17(5), Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of -

(b)(i) food and beverages, outdoor catering, beauty treatment, health service, cosmetic and plastic surgery except where an inward supply of goods or service or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of taxable composite or mixed supply.

By virtue of section 17(5), no input tax credit shall be permissible on “food and beverages” and/or “outdoor catering” unless the same is used for making outward supply of the same category of goods or services or both or as an element of composite/ mixed supply.

16.4 LET US SUM UP

While the fundamentals of indirect taxes remain uniform across all sectors of the economy, there are always specific variations in certain sectors which may be in relation to scope, chargeability, tax rates, exemptions, classification, reporting mechanism and so on. We have lived with such variations in the erstwhile central excise and service tax regimes and the position is no different under Goods and Services Tax (GST) with special regimes introduced particularly in the sectors such as Health, Education, Hospitality, etc.

Healthcare services may refer to 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.

16.5 GLOSSARY

- **Input Tax Credit (ITC):** Credit that hotels can claim on GST paid for goods and services used in their operations.
- **E-Commerce Operator (ECO):** Platforms like OYO or Make My Trip that facilitate bookings and attract GST.
- **Tax Invoice:** A document issued by hotels detailing the GST amount for services provided.
- **Reverse Charge Mechanism (RCM):** Applies if hotels purchase goods or services from unregistered vendors.

16.6 SELF-ASSESSMENT QUESTIONS

1. What are the services that are likely to face increased taxation due to GST?

2. Explain the GST impact on Health care services.

3. Explain the GST impact on Hotels and restaurants.

16.7 LESSON END EXERCISE

1. Discuss the GST implications on medicines and consumables in health care.

2. What is the GST threshold exemption for hotel accommodation services?

16.8 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

UNIT-IV

Lesson No. 17

MCOMC151

SEM: First

**GST IMPACT ON EDUCATION AND COMMERCIAL COACHING/
TRAINING & GST IMPACT ON SERVICES AND SERVICE PROVIDERS**

17.0 Learning Objectives and Outcomes

17.1 Introduction

17.2 GST Impact on Education and Commercial Coaching/Training

17.3 GST Impact on Services and Service Providers

17.4 Let Us Sum Up

17.5 Glossary

17.6 Self-Assessment Questions

17.7 Lesson End Exercise

17.8 Suggested Readings

17.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the provisions of GST applicable to the education sector, including distinctions between core educational services and commercial coaching or training;
- To identify the exemptions available to educational institutions under the GST framework;
- To examine the treatment of GST for various service providers, including legal, consulting and professional services; and
- To evaluate the taxability, input tax credit (ITC) eligibility, and compliance responsibilities of service providers under GST.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the impact of GST on Education and Commercial Coaching/ Training; and
- understand the GST implication on service and service providers.

17.1 INTRODUCTION

The Goods and Services Tax (GST) has had a significant impact on the education sector in India. The GST has simplified the tax structure for educational institutions, making it easier for them to comply with the law. It has also eliminated the cascading effect of taxes, which has led to lower prices for students.

However, the GST has also introduced some new challenges for educational institutions. For example, institutions are now required to collect GST from their students and file monthly returns. This has increased the compliance burden for institutions, particularly small and medium-sized schools. Overall, the GST has had a mixed impact on the education sector in India. The simplification of the tax structure has been a positive development, but the increased compliance burden has been a challenge. The GST has also had an impact on service providers. Under GST, all services are taxable

except for those specifically exempted. This has led to an increased in the cost of services for consumers. However, the GST has also made it easier for service providers to claim input tax credit. This has helped to reduce the overall tax burden on service providers.

The GST Act tries to maintain a fine balance whereby core education services provided and received by educational institutions are exempt and their services are sought to be taxed at the standard rate of 18%.

17.2 GST IMPACT ON EDUCATION AND COMMERCIAL COACHING/ TRAINING

Education and Coaching

The Supreme Court in *Sole Trustee, Loka Shikshana Trust v. CIT [1975] 101 ITR 234 (SC)* interpreted the word 'education' in section 2(15) and held that the word has been used to denote systematic instruction, schooling or training given to the young in preparation for the work of life and it also connotes the whole course of scholastic instruction which a person has received. the word also connotes the process of training and developing of knowledge, skill, mind and character of students by normal schooling.

So far as difference between education and coaching or training is concerned, former is of macro or wider horizon whereas later has a narrow and limited purpose. Courts have tried to interpret it in few cases. Supreme court in *Sole Trustee, Loka Shikshana Trust v. CIT [2008 -TMI - 6453 – Supreme Court]* observed that education connotes the process of training and developing knowledge, skill and character of students by normal schooling. the word 'education' is derived from the latin word '*educa*' which

means bringing out a latent faculties. 'education' means the act or process of imparting or acquiring general knowledge, developing the powers of reasoning and judgment, and generally of preparing oneself or others intellectually or mature life; the act or process of imparting or acquiring particular knowledge or skills. It is the result produced by instruction, training or study. Thus, the word has very wide import. [*Padmanav Dhury v. State of Orissa, AIR 1999 Ori 97, 99*].the expression 'education' occurring in various articles of the Constitution of India means and includes education at all levels, from the primary school level up to the postgraduate level and professional education. [*TMA Pai Foundation v. State of Karnataka (2002) 8 SCC 481, para 450*].

Coaching or training is a very narrow activity imparting skill in a particular discipline but education is a broader term which is a process of development of personality of body, mind and intellect. The scope of education is broad but training or coaching is in a particular field. In ICAFI case [*2009 -TMI - 32004 - Cestat, Bangalore*], tribunal observed that coaching normally refers to a special teaching or a personalized teaching in certain subjects. Training is generally used to refer to practical instruction or learning process. Education is the process of overall development of a person. It included moral, intellectual and physical development of a child or a person. It is not restricted to a particular subject and it covers various subjects and arrears. Moreover, as distinguished from coaching, education is not meant for succeeding in an examination or test but for overall development of the student. Education is a term of wide import and encompasses within its ambit the specialized function of training and coaching but this does not make all the three terms synonymous in nature.

Taxation under GST regime

In terms of Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017, all education services including commercial coaching and training would be subject to levy of GST at the rate of 18 percent.

Clause (y) to Para 2 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017

defines the expression “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;
- (iii) education as a part of an approved vocational education course;

Clause (h) to Para 2 of Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 defines “approved vocational education course” means, –

- (i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
- (ii) a Modular employable Skill Course, approved by the National Council of Vocational training, run by a person registered with the directorate General of training, Ministry of Skill development and entrepreneurship;

Industrial Training Institutes (ITI) — Taxability under GST — Clarification

C.B.I. & C. Circular No. 55/29/2018-GST, dated 10-8-2018

F.No. 354/159/2018-tru

Government of India

Ministry of Finance (department of revenue)

Central Board of indirect taxes & Customs, New Delhi

A. CHECK YOUR PROGRESS

Scenario:

M/s Bright Future Academy is a coaching center that offers various training programs, including courses for competitive exams, skill development, and professional certifications. The academy charges different fees for each course, with some being classified as vocational training and others as preparatory coaching for government exams. The following issues arise:

1. M/s Bright Future Academy provides some services that are exempt from GST, while others are taxable. The management is unsure about the GST applicability on various courses.
2. The academy offers both offline and online classes, and there is confusion about whether the GST treatment differs for these formats.
3. The academy receives payment for the courses in advance, and there is uncertainty regarding the timing of GST liability for these advance payments.
4. The academy incurs costs for educational materials, technology services, and administrative support, and is considering claiming Input Tax Credit (ITC) on these expenses.

The management seeks advice on how GST affects their coaching/training business and how to ensure compliance.

Questions:

1. **GST Applicability on Education Services:**
 - Which education services provided by M/s Bright Future Academy are exempt from GST, and which are taxable?
 - Discuss the GST treatment of preparatory coaching for government exams versus skill development courses.
2. **Online vs. Offline Education Services:**
 - Does GST apply differently to online and offline coaching/training services?
 - What are the GST implications for both formats of education under the current provisions?
3. **Tax Treatment of Advance Payments:**
 - How should M/s Bright Future Academy handle GST on advance payments received for courses?

- Explain the point in time when GST liability arises for these advance payments.
- 4. **Input Tax Credit (ITC) on Educational Expenses:**
 - Can M/s Bright Future Academy claim ITC on expenses like educational materials, technology services, and administrative support?
 - What conditions must be met for claiming ITC in an educational institution?
- 5. **Compliance and Reporting:**
 - How can M/s Bright Future Academy ensure accurate GST reporting and compliance for both taxable and exempt supplies?
 - Suggest best practices for managing GST on educational services to minimize the risk of non-compliance.

Subject: Taxability of services provided by industrial Training Institutes (ITI) - Regarding.

Representations have been received requesting to clarify the following:

- (a) Whether GST is payable on vocational training provided by private itis in designated trades and in other than designated trades.
 - (b) Whether GST is payable on the service, provided by a private industrial training institute for conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination.
2. With regard to the first issue, [Para 1(a) above], it is clarified that Private ITIs qualify as an educational institution as defined under para 2(y) of notification No. 12/2017-C.T. (Rate) if the education provided by these itis is approved as vocational educational course. the approved vocational educational course has been defined in para 2(h) of notification ibid to mean a course run by an ITI or an Industrial Training Centre affiliated to NCVT (National Council for Vocational Training) or SCVT (State Council for Vocational Training) offering courses in designated trade notified under the Apprenticeship Act, 1961; or a Modular employable skill course, approved by NCVt, run by a person registered with dG training in Ministry of Skill

Development. Therefore, services provided by a private ITI in respect of designated trades notified under Apprenticeship Act, 1961 are exempt from GST under Sr. No. 66 of notification No. 12/2017-C.T. (rate). as corollary, services provided by a private iti in respect of other than designated trades would be liable to pay GST and are not exempt.

3. With regard to the second issue, [Para 1(b) above], it is clarified that in case of designated trades, services provided by a private ITI by way of conduct of entrance examination against consideration in the form of entrance fee will also be exempt from GST [Entry (aa) under Sr. No. 66 of notification No. 12/2017-C.t. (rate) refers]. Further, in respect of such designated trades, services provided to an educational institution, by way of, services relating to admission to or conduct of examination by a private ITI will also be exempt [Entry {b(iv)} under Sr. No. 66 of notification No. 12/2017-C.T. (Rate) refers]. It is further clarified that in case of other than designated trades in private ITIs, GST shall be payable on the service of conduct of examination against consideration in the form of entrance fee and also on the services relating to admission to or conduct of examination by such institutions, as these services are not covered by the exemption.
4. As far as Government ITI's are concerned, services provided by a Government ITI's to individual trainees/ students, is exempt under Sl. No. 6 of 12/2017-C.t. (r) dated 28-6-2017 as these are in the nature of services provided by the Central or State Government to individuals. Such exemption in relation to services provided by Government ITI would cover both - vocational training and examinations conducted by these Government ITI's.
5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Commentary

Pre-school education – includes play schools, pre-nursery and nursery schools, crèche, day care centre, pre-kindergarten or any such purpose school or centre by whatever name called.

Education up to higher secondary school or equivalent – includes school education which is up to higher secondary (12th standard) or equivalent level (say, intermediate). any education beyond higher secondary is not covered here. ‘equivalent’ provides wider scope to school education implying that all education up to school leaving are in exemption list.

Education as a part of curriculum leading to recognized qualification – unlike school education where any school education is covered, in this case, education qualifies for negative list only if certain conditions are met, viz,

- (i) education must be imparted as part curriculum
- (ii) such education should be for obtaining a qualification (say a degree, diploma, certificate etc.)
- (iii) such qualification should be recognized by any law (Indian law only) for the time being in force.

If any of the aforementioned conditions is not satisfied, the education shall not be qualified to be under the exempted services. in such cases, education is imparted under a prescribed syllabus or curriculum and the education must be imparted as a part of such curriculum, i.e. it must be a part of syllabus for such course or qualification.

However, coaching services are taxable under GST at the rate of 18 percent.

It is to be noted that only those institutions whose operations conform to the specifics given in the definition of the term “educational institution”, would be entitled to avail exemptions provided by the law. this would mean that 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. Thus, educational institutions up to Higher Secondary School level do not suffer GST on output services and also on most of the important input services. Some of the input services like canteen, repairs and maintenance etc. provided by private players to educational institutions were subject to service tax in pre-GST era and the same tax treatment has been continued in GST regime.

IN RE: M/s Master Minds, (2020) – AAR Andhra Pradesh

Ca, CMA Coaching institutes are not exempted from GST the Andhra Pradesh authority

of advance ruling (AAR) ruled that Supply of services of education to students for obtaining qualifications of CA and ICWAexams are not exempted services under Entry no.66 of Notification No.12/2017-Central Tax (Rate) dated June 28, 2017, as amended by Notification No.2/2018-Central Tax (Rate) dated January 25, 2018.

Exemption to Education Services

Following services in relation to education are generally exemption terms of Notification No. 12/2017-Central tax (rate), dated 28-6-2017.

1	Heading 9992	<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>by an educational institution by way of conduct of entrance examination against eration in the form of entrance fee</p>
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		<p>(b) to an educational institution, by way of, –</p> <p>(i) transportation of students, faculty and staff;</p> <p>(i) catering, including any mid-day meals scheme sponsored by the Central Government,</p> <p>(ii) State Government or union territory;</p> <p>security or cleaning or housekeeping services performed in such educational institution;</p> <p>services relating to admission to, or conduct of examination by, such institution;</p> <p>“(v) supply of online educational journals or periodicals</p> <p>Provided that nothing contained in sub-items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p> <p>“Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of, –</p> <p>pre-school education and education up to higher secondary school or equivalent or</p> <p>(ii) education as a part of an approved vocational education course.”;</p>
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67	Heading 9992	<p>entry no 67 withdrawn earlier, services provided by Indian institutes of Managements (IIMs) as covered under entry No. 67 of said notification were exempt. However, under the amended position, with effect from 01.01.2019 entry No. 67 has been omitted as IIMs are now covered under the definition of 'educational institution' whose services are exempt under entry No. 66 of the said notification.</p> <p>In this regard, Circular No. 82/01/2019 GST dated 01.01.2019 has clarified as under:</p> <p>With effect from 31.01.2018, all the IIMs are "educational institutions" as defined under Notification No. 12/ 2017 CT (R) dated 28.06.2017 as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force. IIMs also provide various short duration/ short term programs for which they award participation certificate to the executives/ professionals as they are considered as "participants" of the said programmes. these participation certificates are not any qualification recognized by law. Such participants are also not considered as students of IIM. Services provided by IIMs as an educational institution to such participants is not exempt from GST. Such short duration executive programs attract standard rate of GST @18% (CGST 9% + SGST 9%)</p>
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Place of Supply of Educational Services where the location of supplier of services and the location of the recipient of services is in India

As per section 12(6) of the IGST Act, 2017, the place of supply of services provided by way of admission to an educational or any other place and services ancillary thereto, shall be the place where the event is actually held or such other place is located.

as per section 12(7) of the IGST act, 2017, the place of supply of services provided by way of, –

- (a) organization 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 assigning of sponsorship to such events: –
 - (i) to a registered person, shall be the location of such person;
 - (ii) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

What will be the Place of Supply of Educational Services where the location of the supplier of services or the location of the recipient of services is outside India

as per section 13(5) of the IGST act, 2017, the place of supply of services supplied by way of admission to, or organization of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organization, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Educational Institutions run by charitable organizations

Charitable Trusts running institutions conforming to the definition of Educational Institution as specified in the notification would be entitled to the exemptions discussed above. Apart from the general exemption available to all educational institutions, charitable activities of entities registered under Section 12aa of the income Tax Act is also exempt. The term charitable activities are also defined in the notification. Thus, if trusts are running schools, colleges or any other educational institutions or

performing activities related to advancement of educational programmes specifically for abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or persons over age of 65 years residing in a rural area, activities will be considered as charitable and income from such services will be wholly exempt from GST vide Notification No. 12/2017 -Central tax (rate) dated 28th June, 2017.

Composite and Mixed Supplies in Education services

Boarding schools provide service of education coupled with other services like providing dwelling units for residence and food. This may be a case of bundled services if the charges for education and lodging and boarding are inseparable. Their taxability will be determined in terms of the principles laid down in section 2(30) read with section 8 of the CGST act, 2017. Such services in the case of boarding schools are naturally bundled and supplied in the ordinary course of business. Therefore, the bundle of services will be treated as consisting entirely of the principal supply, which means the service which forms the predominant element of such a bundle. In this case since the predominant nature is determined by the service of education, the other service of providing residential dwelling will not be considered for the purpose of determining the tax liability and in this case the entire consideration for the supply will be exempt.

Let's take another example where a course in a college leads to dual qualification only one of which is recognized by law. Would service provided by the college by way of such education be covered by the exemption notification? 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. Service in respect of each qualification would, therefore, be assessed separately.

If an artificial bundle of service is created by clubbing two courses together, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply as per provisions contained in section 2(74) read with section 8 of the CGST act, 2017. The taxability will be

determined by the supply which attracts highest rate of GST. However incidental auxiliary courses provided by way of hobby classes or extra-curricular activities in furtherance of overall well-being will be an example of naturally bundled course, and therefore treated as composite supply. One relevant consideration in such cases will be the amount of extra billing being done for the unrecognized component viz-a-viz the recognized course. If extra billing is being done, it may be a case of artificial bundling of two different supplies, not supplied together in the ordinary course of business, and therefore will be treated as a mixed supply, attracting the rate of the higher taxed component for the entire consideration.

17.3 GST IMPACT ON SERVICES AND SERVICE PROVIDERS

The services sector is not only the dominant sector in India's GDP, but also attracts significant foreign investment flows, contributed significantly to exports as well as provided large-scale employment. India's services sector covers a wide variety of activities such as trade, hotel and restaurants, transport, storage and communication, banking & financing, insurance, real estate, business services, community, social and personal services, education, health care, construction, infrastructure, telecom and other host of services associated with industrial development.

Services contribute over 57 percent to Indian economy (GDP) which is the highest, followed by industry and agriculture. Services have been growing at the rate of 9-11 percent since last few years which is higher than the GDP growth itself.

Services under GST Regime

Let us discuss what GST holds for pure service providers/service sector.

What is Service?

The scope of 'service' in GST regime is very wide as it has been defined as 'anything other than goods is service'. Thus, if it is not a 'good', it is a service. Goods is defined in section 2(52) of the CGST Act, 2017 as every kind of movable property other than

money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. Thus, it would not include money and securities but transactions therein shall be covered. Actionable claims are treated as goods and not services.

GST rate

In erstwhile service tax regime, the services were taxed at the rate of 14% along with 0.50 % each for Swatch Bharat Cess (SBC) and Krishi Kalyan Cess (KKC), making it a total of 15%. The GST rate for services has been generally fixed at 18 % with few services being charged at 5%, 12% and 28%. It means that the services have become costlier in the GST regime by 3 percentage points.

Relief from Double Taxation- Sale vs Service

In pre-GST regime, service providers found it difficult to identify what is service and what is a good especially in case of works contract and information technology, facing tax disputes with both the tax Departments i.e., Service Tax and VAT /CST Departments.

With the introduction of one single tax i.e., GST on supply of goods and or services including supplies as per Schedule-II of CGST Act, GST has put an end to the double taxation of services like software, supply of food, hire purchase, works contracts etc. which were treated as goods and services, both.

In GST regime, it has been specified in Schedule-II itself as to what transactions shall be considered as supply of goods and what as supply of services. This would remove confusion as to nature of transactions, make out a clear cut case for specific transactions and avoid double taxation and cascading effect. It leads to better tax compliance.

B. CHECK YOUR PROGRESS

Scenario:

M/s TechSolutions is a registered service provider offering IT consulting, software development, and cloud-based solutions to clients across the country. The company also provides maintenance services for software and hardware products. The following issues have emerged regarding GST compliance:

1. M/s TechSolutions is unsure about the GST rates applicable to different types of services, such as IT consulting versus software development.
2. The company provides both taxable services (IT consulting) and exempt services (education and training services). There is confusion regarding the classification and GST treatment of each service.
3. The company incurs expenses for IT infrastructure, software licenses, and employee training, and wants to know whether it can claim Input Tax Credit (ITC) on these expenses.
4. The company has also started offering services in multiple states and is concerned about the applicability of GST on inter-state supplies.

M/s TechSolutions seeks guidance on how GST affects its operations, including tax rates, ITC, and inter-state supply rules.

Questions:

1. **GST Rates on Services:**
 - Explain the GST rates applicable to IT consulting services and software development services.
 - Are there any special provisions for service providers in the IT sector under GST?
2. **Taxable and Exempt Services:**

- How should M/s TechSolutions handle the GST treatment of its taxable services (IT consulting) and exempt services (education and training)?
- Discuss the implications of providing both taxable and exempt services for GST compliance.
- 3. Input Tax Credit (ITC):**
 - Can M/s TechSolutions claim ITC on expenses such as IT infrastructure, software licenses, and employee training?
 - What are the conditions for claiming ITC on these inputs, and what restrictions might apply?
- 4. Inter-State Supply of Services:**
 - How should M/s TechSolutions handle the GST on inter-state supplies of services to clients in different states?
 - What is the process for ensuring proper GST compliance on inter-state service transactions?
- 5. Compliance and Reporting for Service Providers:**
 - What steps should M/s TechSolutions take to ensure accurate GST reporting and filing, especially when dealing with multiple types of services?
 - Suggest best practices for service providers to ensure compliance with GST and minimize risks of non-compliance.

Place of Registration

In erstwhile service tax regime, there was a concept of centralized registration subject to fulfilment of certain conditions. Under GST regime, registration is required in each State from where supplies are being made. Hence, service provider needs to obtain registration in each State where there is a premises (including site office) from where services are being provided. Centralized registration is no longer available which has increased the cost of compliance for assesses.

Supply of goods / services

‘Supply’ means:

- all forms of supply of goods and/or services made or agreed to be made for a consideration by a person in the course or furtherance of business,
- Importation of service for a consideration, and
- Services has been specified in Schedule-I, which shall be considered as a supply even if made without consideration.

The taxable event under erstwhile service tax was rendition of services which is no longer relevant and only one event i.e., ‘supply’ of service is the taxing event. Supply is defined in an inclusive manner. Tax is on supply of service. Therefore, even the supply, as prescribed in Schedule-I, made without consideration is taxable.

Inter-state / intra-state supply

Any supply of services where the location of the supplier and the place of supply are in different States then, such supply shall be considered as inter-state supply and as such, accordingly, provisions of IGST law shall be applicable. On other hand, any supply where the location of the supplier and the place of supply are in same State, then such supply shall be considered as intra-state supply and only CGST/IGST shall be levied.

Earlier, all services were subject to central tax, i.e., service tax which applies to whole of India except the State of Jammu & Kashmir. There were no State boundaries and it applies uniformly to all services and service providers. In GST regime, tax treatment is different for inter-State and intra-State activities. Services between two or more States will attract IGST whereas intra-State services shall be subject to CGST and SGST which are to be equally split.

Export of services

Exports are being zero rated and, therefore, input taxes paid shall be allowed as a refund. However, to determine whether the services qualify as export of service, it would be important to analyse the provisions and conditions prescribed for ‘export of service’.

The definition of ‘export of service’ is similar to the earlier law, and no new conditions

are prescribed. However, place of supply rules would need to be evaluated on a case-to-case basis to determine the tax applicability on such services.

The default rule for place of supply for export of service shall be the location of the service recipient, where the address on record of the recipient exists with the exporter. Hence, it will be critical for exporters to ensure that the address of service recipient on record can be established before the authorities on request.

17.4 LET US SUM UP

The services sector is not only the dominant sector in India's GDP, but also attracts significant foreign investment flows, contributed significantly to exports as well as provided large-scale employment. India's services sector covers a wide variety of activities such as trade, hotel and restaurants, transport, storage and communication, banking & financing, insurance, real estate, business services, community, social and personal services, education, health care, construction, infrastructure, telecom and other host of services associated with industrial development. Services contribute over 57 percent to Indian economy (GDP) which is the highest, followed by industry and agriculture. Services have been growing at the rate of 9-11 percent since last few years which is higher than the GDP growth itself.

17.5 GLOSSARY

'Education services' which are generally exempt have been defined as services by way of:

- Pre-school education and education up to higher secondary school or equivalent;
- Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force; or
- Education as a part of an approved vocational education course.

17.6 SELF-ASSESSMENT QUESTIONS

1. What are the services that are likely to face increased taxation due to GST?

2. Explain the GST impact on education and commercial coaching/training.

3. Explain the GST impact on services and service providers.

17.7 LESSON END EXERCISE

1. What are the exemptions available for educational services under GST?

2. Explain the concept of place of supply for service providers under GST.

17.8 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi. (9th edition 2024, Amended up to 25th March 2024)
3. GST Act with Rules and Forms- Taxmann, New Delhi. (11th Edition 2024, 14 March 2024)
4. Gupta, V and Gupta, N.K, GST- Law, Practice and Procedures, Bharat Publications, New Delhi. (Fourth edition, 1 August 2019)
5. Mehrotra, H.C and Agarwal, V.P, Goods and Service Tax, Sahitya Bhawan Publications, Agra (4th Edition, 1 January 2020)

GST IMPACT ON EXPORTS AND SPECIAL ECONOMIC ZONE

18.0 Learning Objectives and Outcomes

18.1 Introduction

18.2 GST Impact on Exports and Special Economic Zones

18.3 Let Us Sum Up

18.4 Glossary

18.5 Self-Assessment Questions

18.6 Lesson End Exercise

18.7 Suggested Readings

18.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

The objective of this lesson is to enable to students to understand Concept and Taxability of:

- To understand the concept and taxability of the GST on exports;
- To comprehend the concept and taxability of GST on special economic zones; and
- To explain the concept, taxability and impact of GST exports and special economic zones

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the concept of GST in exports;
- understand the GST on special economic zones; and
- comprehend the GST impact on exports and special economic zones.

18.1 LEARNING OBJECTIVES AND OUTCOMES

The Goods and Services Tax (GST) has had a significant impact on exports and special economics zones (SEZs) in India. The GST has simplified the tax structure for exporters, making it easier for them to comply with the law. It has also eliminated the cascading effect of taxes, which has led to lower prices for exporters. However, the GST has also introduced some new challenges for exporters. For example, exporters are now required to collect GST from their buyers and file monthly return. This has increased the compliance burden for exporters, particularly small and medium-sized businesses.

Overall, the GST has had a mixed impact on exports and SEZs in India. The simplification of the tax structure has been a positive development, but the increased compliance burden has been a challenge.

While the fundamentals of indirect taxes remain uniform across all sectors of the economy, there are always specific variations in certain sectors which may be in relation to scope, chargeability, tax rates, exemptions, classification, reporting mechanism and so on. We have lived with such variations in the erstwhile central excise and service tax regimes and the position is no different under Goods and Services Tax (GST) with special regimes introduced particularly in the sectors such as Health, education, Hospitality, etc.

Special Economic Zones are specially delineated areas that are treated as foreign territories in the context of trade and tariff laws. It is a specified duty-free zone deemed to be a foreign territory within the country for the purpose of tariff and trade. The objectives of SEZ include promotion of goods and services leading to enhanced economic activities, investment promotion, development of infrastructure, creation of employment opportunities etc. SEZ's could be multiple product SEZ's, sector specific, IT sector, free trade and warehousing, gem and jewellery sector, biotechnology etc. SEZ's enjoy a host of fiscal and tax benefits. Indirect tax exemptions include customs duty, central excise duty, service tax, central sales tax, stamp duty and other miscellaneous taxes and duties. Direct tax exemptions include income tax, dividend distribution tax, securities transaction tax, minimum alternate

tax etc.

18.2 GST IMPACT ON EXPORTS AND SPECIAL ECONOMIC ZONES

Exports

For maintaining and improving the global ranking of a country and for the real development of an economy, healthy promotion of exports is required. An export is a function of international trade whereby goods produced in one country are shipped to another country for future sale or trade. The sales of such goods add to the producing nation's gross output. If used for trade, exports are exchanged for other products or services.

Export can be of goods and/or services. Export of goods means taking goods out of India to a place outside India. 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.

India's taxation is fragmented by way of different tax dispensations for Special Economic Zones (SEZ), Export Oriented Units (EOU) and the Domestic Tariff Area (DTA). SEZs are deemed to be foreign territories for the purpose of application of certain tax laws. EOUs till recently were bonded warehouses but now operate under special tax exemptions. Different businesses in the DTA get different types of exemptions, under the excise, customs, service tax and sales tax laws.

The export Oriented units (EOUs) scheme was introduced in 1980, when domestic economic policies were very restrictive. The scheme succeeded in that environment

and even after liberalization of economic policies. EOUs are dedicated exports units, all the facilities regarding duty free procurement and duty-free export are available to these units.

A. CHECK YOUR PROGRESS

Scenario:

M/s Global Traders, a GST-registered exporter, is engaged in the business of exporting electronic goods to various countries. The company recently faced issues related to GST on exports, including the following:

1. The company has been charging GST on its export transactions, but they are unsure if exports are exempt from GST or if they are eligible for a refund of the taxes paid.
2. M/s Global Traders also receives a significant portion of their supplies from domestic vendors who charge GST, and they are unsure whether they can claim a refund for the input tax credit (ITC) on these supplies.
3. The company has encountered delays in receiving the refund of the ITC claimed on export-related expenses, which has increased its working capital requirements.
4. M/s Global Traders wants to understand the procedural requirements for claiming a refund of GST paid on export transactions and whether they need to comply with any specific documentation or timelines.

M/s Global Traders seeks advice on the GST implications for their export transactions, including eligibility for tax exemptions and refunds.

Questions:

1. **GST on Exports:**
 - Explain whether exports of goods and services are subject to GST and how the tax treatment of exports differs from domestic transactions.
 - Are exports considered "zero-rated" under GST? What does this mean for M/s Global Traders?
2. **Refund of Input Tax Credit (ITC):**
 - Can M/s Global Traders claim a refund of the ITC on inputs and input services used for export transactions?
 - Discuss the process for claiming a refund of ITC and the documents required for this claim.
3. **Timelines and Documentation for Refund Claims:**
 - What are the timelines within which M/s Global Traders must file a refund claim for exports under GST?

- List the key documents that must be submitted to the GST authorities for claiming a refund of taxes paid on exports.
- 4. **Challenges in Export Refunds:**
 - What challenges could M/s Global Traders face in receiving a refund of GST paid on export transactions?
 - How can the company streamline the refund process and minimize delays in receiving the ITC refund?
- 5. **GST Compliance for Exporters:**
 - What compliance measures should M/s Global Traders follow to ensure smooth export transactions under GST?
 - Suggest best practices for exporters to manage their GST-related obligations efficiently and avoid delays or disputes.

Special Economic Zones (SEZ)

Special economic Zones are specially delineated areas that are treated as foreign territories in the context of trade and tariff laws.

A Special Economic Zone (SEZ) is a specified duty-free zone deemed to be a foreign territory within the country for the purpose of tariff and trade. The objectives of SEZ include promotion of goods and services leading to enhanced economic activities, investment promotion, development of infrastructure, creation of employment opportunities etc. SEZ's could be multiple product SEZ's, sector specific, IT sector, free trade and warehousing, gem and jewellery sector, biotechnology etc. SEZ's enjoy a host of fiscal and tax benefits. Indirect tax exemptions include customs duty, central excise duty, service tax, central sales tax, stamp duty and other miscellaneous taxes and duties. Direct tax exemptions include income tax, dividend distribution tax, securities transaction tax, minimum alternate tax etc.

Taxation under GST law

Territory (Section 1 of the GST Act, 2017)

GST law shall extend to the whole of India including the State of Jammu & Kashmir

(India includes territorial waters of India) and SGST law would apply to respective States. Earlier, Service tax law extended to whole of India except the State of Jammu & Kashmir and Central excise law extended to the whole of India. Further, Custom act, 1962 is applicable in case of import/exports of goods from or in India.

Supply and Zero Rated Supply

As per section 7 of the CGST act, 2017, ‘Supply’ means:

- All forms of supply of goods and/or services made or agreed to be made for a consideration by a person in the course or furtherance of business,
- Importation of service for a consideration, and
- Services have been specified in schedule I, which shall be considered as a supply even if made without consideration.

As per section 16 of the IGST act, 2017, ‘Zero rated supply’ means any of the following taxable supply of goods and/or services, namely –

- (a) export of goods and/or services, or
- (b) supply of goods and/or services to a SEZ developer or an SEZ unit.

accordingly,

- (a) export of goods and/or services shall be considered as zero-rated supply under GST. What shall be considered as export of goods/services, is defined under section 2(5)-Export of goods and under section 2(6) export of services of IGST act, 2017

As per section 2(5) of IGST law, ‘export of goods’ means taking goods out of India to a place outside India. Therefore, to be called as export of goods, goods should cross the territory of India.

As per section 2(6) IGST law ‘export of services’ is defined to means the supply of any service when

- (i) the supplier of service is located in India,
- (ii) the recipient of service is located outside India,

- (iii) the place of supply of service is outside India,
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange, and
- (v) the supplier of service and recipient of service are not merely establishments of a distinct person in accordance with section 25(4) of the CGST act, 2017.

As per section 25(4) of the CGST act, 2017, a person who has obtained or is required to obtain more than one registration, whether in one State or union territory or more than one State or union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this act.

Therefore, to be called as export of service, above mentioned conditions needs to be satisfied.

- (b) Supply of goods and/or services to a SEZ unit or a SEZ developer from a supplier located outside SEZ area i.e., Domestic Tariff Area (DTA) shall be considered as a zero rated supply.

Therefore, supply of goods and/or services to the SEZ units or developers would be considered as zero rated supply but on other hand, supply of goods and/or services by the SEZ units or developers from SEZ to DTA would be covered under the normal course of supply. Accordingly, such unit or developer will have to pay GST at the prescribed rates.

This can be understood from the following table:

Situation	Unit in SEZ	DTA	Nature of Supply	GST Payable
a	By	To	Normal supply	Yes
B	to	By	Zero rated supply	No

Supplies to Nepal & Bhutan

Export of goods to Nepal or Bhutan fulfils the condition of GST Law regarding taking goods out of India. Hence, export of goods to Nepal and Bhutan will be treated as zero

rated and consequently will also qualify for all the benefits available to zero rated supplies under the GST regime.

Deemed Export

Deemed export has been defined under Section 2(39) of CGST Act, 2017 as supplies of goods as may be notified under section 147 of the said Act. Under section 147, the Government may, on the recommendations of the Council, notify certain supplies of goods manufactured in India as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange. Government has notified certain supplies as deemed export vide Notification No. 48/2017-Central tax, dated 18-10-2017

Supplies by Export Oriented Unit (EOU)

EOU is like any other supplier under GST and all the provisions of the GST law will apply therefore, EOU is required to take registration under the GST Law. However, the benefit of Basic Customs Duty exemption on imports will continue. The supplies from EOU will not be exempted from GST, except in the case of zero rated supplies defined under section 16 of the IGST Act, i.e. supplies made by EOU in the form of physical export or supplies to a SEZ unit or SEZ developer for authorized operations. The duty free imports under GST regime will be restricted to Basic Customs duty. Exemption from the additional duties of Customs, if any, under section 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 and exemption from Central Excise duty will be available for goods specified under the fourth Schedule to the Central Excise Act. IGST or CGST plus SGST will be payable by the suppliers who make supplies to the EOU. The EOU will be eligible, like any other registered person, to take input tax Credit of the said GST paid by its suppliers.

Supply of Goods and/or Services between Distinct Persons

(a) Agent

Schedule i of CGST act, 2017 provides that supply of goods by principal to his agent or by agent to his principal shall be treated as supply even if made without consideration. Further, in case of exports, foreign agents playing a

crucial role in getting export orders from foreign clients. Their services are utilized by the many exporters in India and in return they get commission on the sales value effected by them as they work under a loop between supplier and ultimate consumer of the goods and/or services.

GST law makes it clear that what supply shall include accordingly supply shall include all form of supply for a consideration and such transaction should be in the course or furtherance of business. Hence, services provided by the agents are covered under the scope of supply and such transactions would be subject to levy of GST. Determination of taxability and who is liable to pay GST shall be determined based on place of supply of goods and/or services.

(b) Job worker

Many exports are labour intensive and lot of work is done on a job work basis involving manual labour (e.g., handicrafts jewellery, textiles, etc). The principal manufacturer has the option to send taxable goods without payment of GST to a job worker and bring it back, after processing, to any of his own place of business, for supplying such goods on payment of GST or export it. The principal also has the option to directly supply final products to end customers on payment of GST or export from the premises of job worker itself, subject to fulfilment of applicable conditions. GST credit is allowed in case of direct receipt of inputs or capital goods by the job worker, subject to receipt of goods back by the principal within specified period i.e., one year/ three years.

Time of Supply of Goods and/or Services (Section 12 and 13 of the CGST Act, 2017)

Earlier, export duty was payable only when export is complete and export is complete only when goods cross the territorial waters of India. This was also held in *Union of India v. Rajindra Dyeing and Printing Mills (2005) 10 SCC 187; 180 ELT 433 (SC)*. It may be noted that even if export duty is collected before a ship leaves the port it does not mean that taxable event has occurred, since duty can be collected in advance also.

However, under CGST, there is no specified time of supply of goods and/or services specifically in case of exports. GST law provides time of supply provisions for supply of goods and/or services as the earliest of the following dates, namely:

- (i) The date of issue of invoice by the supplier or the last date on which he is required to issue the invoice with respect to the supply, or
- (ii) The date on which the supplier receives the payment with respect to the supply.

Comparison between erstwhile indirect tax laws and the GST law:

Taxes	Export /SEZ	
	Pre-GST regime	GST regime
Customs duty	Exempt	Payable but subsequently refundable
excise duty		Basic Custom duty to be paid
Service tax		exemption may not continue
CST/Vat	upfront exemption/ refund	

CBIC has clarified on continuity of exemptions to 100 percent EOUs and SEZs as under:

Special Economic Zones (SEZs)

No change in the operation of the SEZ scheme.

SEZs can continue to import raw materials without payment of any duty.

Supplies to SEZs would also be treated as Zero rated supplies.

EOUs

(i) Imports by EOUs

The EOUs will continue to get exemption from payment of the basic Customs duty, However they will have to pay IGST on imports.

- On the IGST paid on import of inputs, ITC would be available which can be utilized for payment of GST payable on the goods cleared in the DTA. Refund of the unutilized ITC can also be claimed under Section 54(3) of CGST act.
- The facility of duty free import of capital goods under the Procurement Certificate procedure will not be available. To import capital goods at zero duty, EOUs will have to follow procedure under of the Customs (import of Goods at Concessional rate of duty) rules, 2017.

(ii) Supplies to EOUs

Suppliers to EOU will pay normal GST as they would pay while supplying to a domestic unit. An EOU can take input tax Credit (ITC) of the GST paid while taking domestic supplies and same can be used for payment of GST on finished goods cleared in DTA.

(iii) Domestic Tariff Area (DTA) sale

DTA sale shall be subject to fulfilment of the following conditions:

- Fulfilment of positive NFE
- Payment of applicable GST on product under DTA sale
- Reversal of the BCD exemption availed on the inputs used in the manufacture of products under DTA sale. The reversal of BCD would be as per Standard input Output norms published by the DGFT or norms fixed by Norms Committee of DGFT (where no SION is fixed).
- Refund of any benefits taken on procurement of inputs from DTA under Chapter 7 of FTP and used in the manufacture of products under DTA sale.

(iv) Inter Unit Transfers

Supply of goods from one EOU to another EOU (inter-unit transfer) will require payment of applicable GST. the BCD exemption availed on inputs by the supplier EOU, utilized in such transferred goods would have to be reversed by the recipient EOU at the time clearance of such goods in DTA. Same provisions apply on sending of Goods for Job work.

Registration (Section 22 and 24 of the CGST Act, 2017)

Rule 8 of the CGST rules, 2017 require each unit in a Special economic Zone (SEZ) to seek a separate registration under the new tax regime, for each of the States where a business operation is carried on and where GST liability arises. Accordingly, a SEZ unit or SEZ developer shall make a separate application for registration as a business vertical, distinct from its other units located outside the SEZ zone.

Inter-State or Intra-State Trade

Export of goods and/or services shall be considered as inter-state supply of goods and/or services. Section 7(5) of the IGST act, 2017 provides that supply of goods and/or services, when the supplier is located in India and the place of supply is outside India and to or by a SEZ developer or a SEZ unit shall be deemed to be a supply of goods and/or services in the course of inter-State trade or commerce. Accordingly, supply of goods and/or services to or by a SEZ units shall attract IGST at the prescribed rate. Procurement by SEZ units from DTA is treated as exports from DTA to SEZ.

The supplies made to SEZ units are treated as zero rated. The SEZ units and developers of SEZ would not be required to pay GST on procurement up front and claim refund at a later stage. This would help such units in management of working capital.

Input Tax Credit

Exporters and SEZ units or developer receiving zero rated supply shall be eligible to claim refund of IGST paid by the registered taxable person on such supply subject the prescribed conditions, safeguards and procedure.

As per section 16 of IGST law provides that credit of input tax shall be allowed even

when no tax is paid at the time of clearance for export of goods or services and supply of goods or services to SEZ. Therefore, even if goods are exported under a bond, the input tax credit on input/input services shall be allowed. It may be noted that section 16 further provides that the credit of input tax shall also be allowed even if such supply is exempt supply. 'Exempt supply' is defined in section 2(47) of GST law. Exempt supply shall include following –

- (a) Value of non-taxable supply
- (b) Supply attracting nil rate of tax
- (c) Supply exempt from tax (as provided in section 11 of GST law or under section 6 of IGST law)
- (d) Non-taxable supply

While certain conditions are prescribed for availment of credit, conditions are that the person should have taxpaying documents and should receive goods and/or services and tax charged by the supplier, on which the recipient is entitled to credit should be paid to the appropriate government, which shall bring onerous compliance requirements upon the recipient to verify whether the supplier has discharged its tax liability.

While the GSTN system could enable fulfilment of this requirement based on the matching principle, inserting this as a condition may require discharge of responsibility on the recipient.

Accordingly, a taxable person may claim refund of any unutilized input tax credit at the end of any tax period. In other words, exporters and SEZ units or developer shall be eligible to get refund on eligible inputs including capital goods and input services.

As per section 2(19) of the CGST Act, 2017, definition of 'capital goods' has been defined liberally time which is relief in terms of eligibility of claiming input tax credit in respect of capital goods. accordingly, 'capital goods' means goods, the value of which is capitalized in the books of accounts of the person claiming the credit and which are used or intended to be used in the course or furtherance of business. Accordingly, input tax credit will be eligible for capital goods only on those goods, the value of which is capitalized in the books of accounts.

Refund

Under IGST law, a person engaged in export of goods which is an exempt supply is eligible to avail input tax credit for zero rates supplies. Once goods are exported, refund of unutilized credit can be availed under section 16(3) (a) of IGST act, 2017 and section 54 of the CGST act, 2017 and the rules made thereunder.

A registered taxable person exporting goods or services shall be eligible to claim refund under one of the following two options, namely -

- (a) as per Section 16(3)(a) of IGST law, a registered taxable person may export the goods or services under bond without payment of IGST and claim refund of unutilized input tax credit in accordance with provisions of section 54 (refund of tax) of the CGST act, 2017 read with rules made thereunder;
- (b) As per Section 16(3) (b) of IGST act registered taxable person exporting goods or services can export the goods on payment of IGST. The refund of IGST paid on goods and services shall be available to the taxable person in accordance with the provisions of Section 54 (refund of tax) of CGST act, 2017 and rules made thereunder.

Refund will be subject to such conditions, safeguards and procedure as may be prescribed. Thus, person claiming refund will have to follow the procedure laid down in section 54 of GST law and also comply with the conditions, safeguards and procedure as may be prescribed under Section 16 of IGST.

B. CHECK YOUR PROGRESS

Scenario:

M/s GreenTech Solutions, a GST-registered company, operates from a Special Economic Zone (SEZ) and specializes in the manufacture of solar panels. The company has faced several GST-related issues due to its operations in the SEZ, including:

1. M/s GreenTech Solutions has received supplies of raw materials from domestic suppliers who have charged GST on the supplies. The company is unsure whether it can claim a refund of this tax under SEZ provisions.
2. The company exports a significant portion of its products to international markets and is seeking clarification on whether it needs to charge GST on these exports when they are supplied from an SEZ unit.
3. The company also has doubts regarding the documentation required for claiming exemptions or refunds for its supplies to SEZ developers and units.
4. M/s GreenTech Solutions has been informed that it needs to comply with certain specific procedural requirements when operating within the SEZ.

M/s GreenTech Solutions seeks advice on the GST implications for their business operating within the SEZ and how to ensure compliance with GST regulations.

Questions:

1. **GST Applicability in SEZs:**
 - Explain the GST treatment of goods and services supplied from an SEZ unit. Are these supplies subject to GST or exempt?
 - What is the significance of the "zero-rated supply" provision for businesses operating within an SEZ under GST?
2. **Input Tax Credit (ITC) and Refunds:**

- Can M/s GreenTech Solutions claim a refund of the GST paid on raw materials purchased from domestic suppliers?
- Explain the process for claiming a refund of GST under the SEZ provisions and the conditions that must be met.
- 3. Exports from SEZ:**
 - How should M/s GreenTech Solutions handle GST on exports made from their SEZ unit? Should GST be charged on export supplies, or is there any special treatment for such supplies from an SEZ?
 - What documentation is required for the company to support its export claims and ensure compliance with GST regulations?
- 4. Compliance for SEZ Units:**
 - What are the key GST compliance requirements for businesses operating within an SEZ?
 - Discuss the role of the SEZ developer in relation to GST and the documentation needed for supplies to and from SEZ units.
- 5. Challenges and Best Practices:**
 - What challenges might M/s GreenTech Solutions face in ensuring GST compliance while operating in an SEZ?
 - Suggest best practices for managing GST obligations within the SEZ and for ensuring smooth operations, particularly with regard to input tax credits, refunds, and export transactions.

Refund of Compensation Cess to Exporters

in GST, since exports of goods and services are considered as zero rated supplies in terms of section 16 of the IGST act, 2017, resulting in refund of GST, exporters will also be entitled to refund of compensation cess paid in respect of exports made by the exporter.

Vide Circular No. 1/1/2017- Compensation Cess dated 26.07.2017, CBEC has clarified that exporter is eligible for refund of GST Compensation Cess in respect of goods exported by him.

as per section 11(2) of the Goods and Services tax (Compensation to States) act, 2017, the provisions of the integrated Goods and Services tax act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-state supplies under the said act or the rules made thereunder:

In view of the above, it has been clarified that provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will apply mutatis mutandis for the purpose of Compensation Cess (wherever applicable), that is to say that:

- a) exporter will be eligible for refund of compensation cess paid on goods exported by him
- b) No compensation cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of compensation cess relating to goods exported.

Export Procedures

The procedures relating to export have been simplified in GST regime so as to do away with the paper work and intervention of the department at various stages of export. The salient features of the scheme of export under GST regime are as follows:

- The goods and services can be exported either on payment of IGST which can be claimed as refund after the goods have been exported, or under bond or letter of undertaking (LUT) without payment of IGST.
- In case of goods and services exported under bond or LUT, the exporter can claim refund of accumulated ITC on account of export.
- In case of goods the shipping bill is the only document required to be filed with the Customs for making exports. Requirement of filing the ARE 1/ARE 2 has been done away with.
- The supplies made for export are to be made under self-sealing and self-certification without any intervention of the departmental officer.
- The shipping bill filed with the customs is treated as an application for refund of IGST and shall be deemed to have been filed after submission of export general manifest and furnishing of a valid return in Form GSTR- 3B by the applicant.

Transactions between Head Office and Branch Offices located Outside/Inside India

Services provided to overseas branch would not be eligible as export of services due to specific exclusion for such transactions in the definition of term ‘export of service’. This is similar to the earlier provisions for export of service to overseas branches.

GST law provides that an establishment of a person in India and any of its other establishments outside India shall be treated as establishments of distinct persons (section 25(4) of the CGST act, 2017). Accordingly, supply of services to the branch would not be eligible as export of services, therefore, benefits available to exporter would be restricted to the supply of services to other persons. This could entail reversal of input credits as such supply would be treated as non-taxable and not as zero rated.

However, as per section 2(11) of the IGST Act, 2017, definition of import of service does not specify such exclusion. Logically, definition of import of service also excludes services imported from overseas branch but clarity is required. Supply provided to

domestic branch in other State shall be considered as distinct person. Accordingly, IGST would be leviable on such supply.

Import by Exporters

In pre GST regime, exporters can import inputs duty-free under advance-licence and duty-free import authorisation schemes. They are also eligible for excise duty exemption for domestic sourcing of inputs. Besides, the export promotion capital goods scheme allows duty-free imports of machinery against export obligations (which are up to six times the tax foregone).

Under the rules, manufacturer-exporters will be required to pay IGST on inputs and then seek its refund. Also, merchant exporters, who source domestic goods and export, will be required to pay IGST on exports and then ask for credits. While duty waiver will be available in regard to basic customs duty, IGST will have to be first paid by the exporter although he can subsequently seek its refund.

It may be noted that only basic customs duty will be exempted on imports made under E-authorization. The EPCG holder will have to pay IGST on import of capital goods and take input tax Credit. MEIS and SEIS scrip can be used only for payment of basic customs duty or additional duties of customs on items not covered under GST for imports under GST regime.

Domestic Supplies

For units located in SEZ having operations across India and providing supply of goods and/or services to customers located across India, the issue would arise as to where to pay GST, and whether this would require splitting of invoices based on various locations of the service provider or the service recipient.

For this purpose, the GST law has prescribed the requirement of determination of the location from where the services are provided and the place of supply of such services, so that GST may be paid to the appropriate Government.

In the context of determination of the location from where services are provided, the GST law provides clarity by defining the term ‘location of supplier of service’ and the place of supply of services is determined based on the ‘location of recipient of service’. With the assistance of these terms, the appropriate location for billing and the type of GST to be paid can be determined.

18.3 LET US SUM UP

A Special Economic Zone (SEZ) is a/ specified duty-free zone deemed to be a foreign territory within the country for the purpose of tariff and trade. The objectives of SEZ include promotion of goods and services leading to enhanced economic activities, investment promotion, development of infrastructure, creation of employment opportunities etc. SEZ’s could be multiple product SEZ’s, sector specific, IT sector, free trade and warehousing, gem and jewellery sector, biotechnology etc. SEZ’s enjoy a host of fiscal and tax benefits. Indirect tax exemptions include customs duty, central excise duty, service tax, central sales tax, stamp duty and other miscellaneous taxes and duties. Direct tax exemptions include income tax, dividend distribution tax, securities transaction tax, minimum alternate tax etc.

18.4 GLOSSARY

- **Zero-Rated Supply:** Exports are categorized as zero-rated, meaning GST is not applicable but Input Tax Credit (ITC) can be claimed.
- **LUT (Letter of Undertaking):** A document filed to export goods/services without paying IGST upfront.
- **IGST Refund:** Exporters can claim a refund of IGST paid on exports.

- **Bond:** Alternative to LUT for exporting goods/services without IGST payment.
- **FOB (Free on Board):** Value of exported goods excluding insurance and freight charges, used for GST valuation.

18.5 SELF-ASSESSMENT QUESTIONS

1. Write short notes on Special Economic Zones.

2. What are the services that are likely to face increased taxation due to GST?

3. Explain the different provisions of GST impact on exports and special economic zones.

18.6 LESSON END EXERCISE

1. How are supplies made to SEZ units or developers treated under GST?

2. What is meant by zero-rated supply in the context of exports?

18.9 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
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GST IMPACT ON GOODS TRANSPORT AGENCY

19.0 Learning Objectives and Outcomes

19.1 Introduction

19.2 GST Impact on Goods Transport Agency

19.3 Let Us Sum Up

19.4 Glossary

19.5 Self-Assessment Questions

19.6 Lesson End Exercise

19.7 Suggested Readings

19.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To understand the concept and role of Goods Transport Agencies (GTAs) in the supply chain;
- To explain the applicability of GST on services provided by GTAs;
- To identify the tax rates and exemptions applicable to GTAs under GST; and
- To analyze the compliance requirements and documentation needed for GTAs under the GST regime.

Learning Outcomes

After the completion of this lesson, the student will be able to:

- learn about the impact of GST On Goods transport agency; and

- analyze the compliance requirements and documentation needed for GTAs under the GST regime.

19.1 INTRODUCTION

While the fundamentals of indirect taxes remain uniform across all sectors of the economy, there are always specific variations in certain sectors which may be in relation to scope, chargeability, tax rates, exemptions, classification, reporting mechanism and so on. We have lived with such variations in the erstwhile central excise and service tax regimes and the position is no different under Goods and Services Tax (GST) with special regimes introduced particularly in the sectors such as Health, education, Hospitality, etc.

The taxation of goods transport agency business has always been a bone of contention between the transporters and the Government. The battle, to tax this sector first started long back in the year 1997. However, initiative of the Government could not materialize due to the strong opposition shown by the transporters lobby. In 2004, the Government finally succeeded in bringing this sector into the service tax net with the introduction of Notification Nos. 32 to 35/2004 – ST all dated 03-12-2004 levying tax on the Transport of Goods by Road with effect from 01-01-2005. The settlement was achieved mainly on the ground that the transporters shall not be made liable to pay tax. Instead, the recipient of their service, consigner or consignee be made liable to pay taxes under reverse charge and ensure compliances. Over the years, the scheme has undergone some changes particularly in the areas of exemptions and abatements but the fundamental aspect of such levy i.e. reverse charge mechanism remain unchanged.

Well, the service tax levy is a talk of bygone era and GST has taken firm position w.e.f 1.7.2017, this section will discuss the scheme of taxation adopted by the Government under GST in respect of Goods Transport Agency service.

19.2 GST IMPACT ON GOODS TRANSPORT AGENCY

The taxation of Goods transport agency business has always been a bone of contention between the transporters and the government. The battle, to tax this sector first started long back in the year 1997. However, initiative of the Government could not materialize due to the strong opposition shown by the transporters lobby. In 2004, the government finally succeeded in bringing this sector into the service tax

net with the introduction of Notification Nos. 32 to 35/2004 – ST all dated 03-12-2004 levying tax on the transport of goods by road with effect from 01-01-2005. The settlement was achieved mainly on the ground that the transporters shall not be made liable to pay tax. Instead, the recipient of their service, consignor or consignee be made liable to pay taxes under reverse charge and ensure compliances. Over the years, the scheme has undergone some changes particularly in the areas of exemptions and abatements but the fundamental aspect of such levy i.e. reverse charge mechanism remain unchanged.

Well, the service tax levy is a talk of bygone era and GST has taken firm position w.e.f. 1.7.2017, this section will discuss the scheme of taxation adopted by the government under GST in respect of goods transport agency service.

Meaning of Goods Transport Agency [GTA]

As per the Notification No. 11/2017 – Central Tax (Rate) dated 28/06/2017, “*Goods Transport Agency means any person who provides service in relation to transport of goods by road and issues consignment note by whatever name called*”.

Thus, the business firms which are engaged in the transportation of goods by road and issue consignment note/ LR, etc. shall be called as GTA for the purpose of above notification.

Consignment note means a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the name of the consignor and consignee, registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person liable for paying service tax whether consignor, consignee or the goods transport agency.

Any entity though engaged in the transportation of goods but does not issue consignment note/LR shall be out of the purview of GTA. it may be noted that road transportation services provided by a person other than GTA are in any manner exempt from the payment of tax by virtue of Notification No. 9/2017 – Integrated Tax (Rate).

Mechanism and the Rates of Tax

Let us recall the prime reason which delayed the levy of service tax on Goods transport by road until 2004. As said above, it was the burden of compliance which deterred the road transporters to accept such levy. In that perspective, the liability to pay service tax was shifted away from the transporter and imposed on the consignor or consignee whosoever was liable to pay freight to the transporter. The said reverse charge mechanism continued for years together, grand fathered, and we entered in GST regime on 1.7.2017 with almost the same philosophy.

A little later i.e. on 22.8.2017, the Government diluted the original scheme and provided an option to the transporters to pay GST/ tax under forward charge mechanism.

Let us now understand the scheme of taxation for GTA under the GST regime;

OPTION 1 – Payment of tax under Forward Charge [by GTA]:

- a. Notification No. 20/2017 – IT (Rate) dated 22/08/2017 provides an option to GTA to pay tax @ 12% (IGST or CGST+SGST) under forward charge.
- b. In case, the GTA opts for tax payment under forward charge, it will issue a tax invoice with charge of tax @ 12% and make payment to the Government on its own account. In short, the responsibility to make such tax payment to the Government lies with GTA.
- c. In other words, there will be no liability on the recipient of service to pay tax to the Government [under RCM].
- d. The recipient shall be eligible to avail credit of tax paid by GTA provided it is otherwise entitled thereto under Section 16 and Section 17 of the CGST act.
- e. GTA entitled to Input Tax Credit – the incentive given to GTA under this option is that it shall be eligible to avail input tax Credit on input services and goods used for providing such service. Repair and maintenance of motor vehicles, motor insurance, renting of office space, manpower, etc. are the key services whereon GTA can avail input tax Credit. Similarly, tax paid on purchase of motor vehicle and spares are also eligible for input tax credit. Since, petroleum is not yet subsumed in GST, credit of tax charged thereon shall not be available

to the Good transport agency.

- f. It may be relevant to note that since petroleum continues to be outside the GST net, tax paid on the purchase of fuel by the transporters shall not be eligible for input tax credit.
- g. Needless to mention that GTA shall also be required to obtain registration under GST and obtain GSTIN in case it chose to pay tax under forward charge.

OPTION 2 - Payment of tax under reverse charge [by the recipient]:

- a. Where GTA does not opt for payment of tax under forward charge and the service recipient is either of the following category of persons;
 - any factory registered under or governed by the Factories act, 1948
 - any society registered under the Societies registration act, 1860 or under any other law for the time being in force in any part of India; or
 - any co-operative society established by or under any law; or
 - any person registered under any GST legislation
 - anybody corporate established, by or under any law; or
 - any partnership firm
 - any casual taxable person.

Tax shall be paid under reverse charge mechanism by the consignor or consignee whoever is liable to pay freight to GTA.

- b. Tax rate under this option is 5%.
- c. GTA shall not be eligible to avail input tax Credit on input services or goods used in providing such service

- d. The recipient shall, however, be eligible to avail credit of tax paid under reverse charge provided it is otherwise entitled thereto under Section 16 and Section 17 of the CGST act.

The reverse charge notifications for services have been amended by Notification No. 29/2018 CT (R) dated 31.12.2018 & Notification No. 5/2019 CT(R) dated 29.03.2019 / Notification No. 30/2018 IT(R) dated 31.12.2018 & Notification No. 5/2019 IT (R) dated 29.03.2019 as follows:

The said provisions have been amended stipulating that reverse charge mechanism (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 Government/ union territory; or
- b) local authority;
- c) 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.

- **Place of Supply**

As we know the taxability of any transaction in GST regime depends on the place of supply. We also know that in order to tax a transaction in GST regime, the place of supply should fall in the taxable territory. The place of supply is also relevant to determine whether the transaction is inter-state or intra-state.

A. CHECK YOUR PROGRESS

Scenario:

M/s QuickMove Logistics is a Goods Transport Agency (GTA) registered under GST, providing transportation services for goods across the country. The company faces several challenges related to GST compliance:

1. M/s QuickMove Logistics is unsure about the applicability of GST on its transportation services, especially whether it needs to charge GST to its clients for different types of cargo.
2. The company has been providing services to various manufacturers and traders, and some clients have been exempted from GST, while others have been charged GST at the reverse charge mechanism (RCM).
3. The company incurs expenses on hiring trucks, fuel, and maintenance services, and wants to know if it can claim Input Tax Credit (ITC) on these expenses.
4. M/s QuickMove Logistics has been asked to comply with specific documentation and reporting requirements related to its transportation services under GST.

M/s QuickMove Logistics seeks guidance on the GST implications for its transport services, including the application of GST rates, RCM, and ITC claims.

Questions:

1. **GST Applicability on Transport Services:**
 - What is the GST rate applicable to the transportation services provided by M/s QuickMove Logistics?
 - Explain the GST treatment for GTA services provided for different types of goods and clients (e.g., B2B vs. B2C transactions).
2. **Reverse Charge Mechanism (RCM):**
 - When is the Reverse Charge Mechanism (RCM) applicable to GTA services under GST?
 - Who is liable to pay GST under RCM in the case of transportation services provided by M/s QuickMove Logistics?
3. **Input Tax Credit (ITC) for GTA Services:**
 - Can M/s QuickMove Logistics claim ITC on expenses such as hiring trucks, fuel, and maintenance services?
 - What are the conditions under which a GTA can claim ITC on its business expenses?

4. Documentation and Reporting for GTA Services:

- What specific documentation should M/s QuickMove Logistics maintain to comply with GST requirements for transport services?
- Discuss the reporting requirements for GTA services under GST, particularly in relation to RCM and ITC claims.

5. Challenges and Best Practices:

- What challenges might M/s QuickMove Logistics face in managing GST compliance, especially in dealing with RCM and ITC claims?
- Suggest best practices for a Goods Transport Agency to ensure smooth GST operations and minimize the risk of non-compliance.

The specific provisions have been inserted in IGST Act to determine the place of supply for services rendered by way of transportation of goods. the various scenarios considered are tabulated as below;

	Service provided to a registered person	Service provided to an unregistered person
Where the location of supplier of services and the location of the recipient of services is in India	location of the recipient	Location at which the goods are handed over for their transportation.

Where the location of the supplier of services or the location of the recipient of services is outside India	Place of destination of such goods	Place of destination of such goods

Refer Section 12 and 13 of the IGST Act, 2017

Illustrations:

- a. Vimal enterprises located in Bangalore issued a service order to a goods transporter namely Raj & Sons located in Delhi for the transportation of goods from Patna to its customer in Jalandhar. Raj & Sons provided the requisite services and would like to know the place of supply and tax liability in the given transaction.

The place of supply shall be the location of the recipient i.e. Karnataka. Since the location of the supplier i.e. raj & Sons is outside Karnataka, it will charge IGSt in its bill for the aforesaid services if it has opted to pay tax under forward charge. Else, Raj & Sons will pay the tax under reverse charge.

- b. Vimal enterprises located in Bangalore issued a service order to a goods transporter namely Litco Pvt. located in Myanmar for the transportation of goods from Myanmar to its customer in Bangladesh. Litco Pvt. provided the requisite services. Vimal enterprises would like to know the place of supply and tax liability in the given transaction.

Since the location of the supplier is outside India, the place of supply shall be the place of destination of goods i.e. Bangladesh. Considering that the place of supply is in the non-taxable territory, Vimal enterprises shall not pay any tax [under reverse charge] on the services availed from Litco Pvt.

- c. Vimal enterprises located in Bangalore issued a service order to a goods transporter namely raj & Sons located in Delhi for the transportation of goods from Myanmar to its customer in Bangladesh. Raj & Sons provided the requisite services. Raj & Sons and Vimal enterprises would like to know the place of supply and their tax liability in the given transaction.

Since the location of the supplier and location of the recipient are in India, the place of supply shall be the location of the recipient i.e. Karnataka. raj & Sons will charge IGST in its bill for the aforesaid services [if it has opted to pay tax under forward charge]. Else, Vimal enterprises can pay the tax under reverse charge.

- **HSN Code**

HSN in respect of services provided by way of transport of goods by the Goods transport agency is 996511

- **Support Services**

In pre-GST regime, there were issues concerning the taxability of certain ancillary services like loading, unloading, handling, transit warehousing, etc. provided by the Goods Transport Agency. The issue was clarified by the CBEC in a manner that the ancillary services provided by the GTA in the course of providing mainstream transportation services shall be taxed as a part of transportation services and be eligible for the abated rate of tax.

In GST regime, the aforesaid position has been maintained and explicitly recognized in the provisions. A separate HSN i.e. 996791 has been assigned to tax such services under the heading 'Other supporting transportation services' where the rate of tax and reverse charge applicability has been prescribed similar to the one prescribed for mainstream GTA services under 996511.

Thus, the scheme of taxation as applicable to GTA services shall be applicable to support services provided by the GTA. In other words, support services shall be eligible for concessional rate of tax @ 6% without ITC under reverse charge mechanism and

12% with ITC under forward charge mechanism.

Illustration:

An order is placed by XYZ ltd located in Vadodara on a transporter namely ABC ltd also located in Vadodara for transport of a Steam turbine weighing 100 tonnes from Vadodara to Chandigarh. in order to ensure smooth transportation, the transporter needs to repair/ widen a stretch of road. the charges for transportation were mentioned as Rs. 10,00,000 as freight and Rs 2,00,000 for necessary civil works on route.

In the give facts, the charges towards on route civil works shall be treated as support services and be charged to tax at the rates as applicable to mainstream freight charges.

• **Exemptions to GTA services**

The Government has granted the following exemptions from the payment of tax on GTA services.

a. Services provided by GTA towards transportation of following goods are exempted from the payment of tax:

- i. Agricultural produce;
- ii. Milk, salt and food grain including flour, pulses and rice;
- iii. Organic manure;
- iv. Newspaper or magazines registered with the registrar of newspapers;

- v. Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- vi. Defence or military equipment

b. The exemption from payment of tax shall further be granted in the following situations:

- i. Where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed rupees One thousand Five Hundred ;
- ii. Where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty (750/-);

Illustration:

Mr Ajay, a government employee has engaged XYZ Ltd, a GTA, for the transport of his household goods from Chennai to Delhi. The aforesaid transaction is not chargeable to tax as specially exempted by the government.

• **Exemption to GTAs on specified input services**

Apart from the exemption granted to specified output services provided by GTAs, the following input services shall also be eligible for exemption when provided to GTA's.

- a. Services by way of giving on hire to a goods transport agency, a means of transportation of goods. [it may include hiring of motor vehicle or other transportation equipment such as containers, etc.]
- b. Service by way of access to a road or a bridge on payment of toll charges.
- c. Notification No. 12/2017 CT (R) dated 28.06.2017 which grants exemption to intra - State supply of services from CGST, has been amended vide Notification

No. 28/ 2018 CT (R) dated 31.12.2018/ Notification No. 4/2019 IT (R) dated 29.3.2019 as under:

- i) New entry 21B has been inserted exempting Services provided by a goods transport agency, by way of transport of goods in a goods carriage, to,
 - (a) department or establishment of the Central/State Government/union territory; or
 - (b) local authority; or
 - (c) 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.

- **Tax Planning**

- a. GTAs need to undertake an exhaustive exercise at their end to know the taxable quantum of goods and input services received by them for use in providing the output service. this exercise will help them to decide the method of tax payment i.e. forward charge or reverse charge.
- b. The recipient of GTA service also need to be careful especially where the GTA is intending to change the method of tax payment from reverse charge to forward charge. in such cases, the recipient need to ensure that the gains of input tax credit that will accrue to GTA must be passed on to the recipient by way of reduction in the basic rate of service.
- c. The parties should also ensure that the support services, if any, to be captured as a part of mainstream transportation service so as to secure reduced rate of tax for the same.

19.3 LET US SUM UP

The taxation of Goods Transport Agency business has always been a bone of contention between the transporters and the Government. The battle, to tax this sector first started long back in the year 1997. However, initiative of the Government could not materialize due to the strong opposition shown by the transporters lobby. In 2004, the Government finally succeeded in bringing this sector into the service tax net with the introduction of Notification Nos. 32 to 35/2004 – ST all dated 03-12-2004 levying tax on the transport of goods by road with effect from 01-01-2005. The settlement was achieved mainly on the ground that the transporters shall not be made liable to pay tax. Instead, the recipient of their service, consigner or consignee be made liable to pay taxes under reverse charge and ensure compliances. Over the years, the scheme has undergone some changes particularly in the areas of exemptions and abatements but the fundamental aspect of such levy i.e. reverse charge mechanism remain unchanged.

Well, the service tax levy is a talk of bygone era and GST has taken firm position w.e.f 1.7.2017, this section will discuss the scheme of taxation adopted by the Government under GST in respect of Goods Transport Agency service.

19.4 GLOSSARY

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

19.5 SELF-ASSESSMENT QUESTIONS

1. Write short notes on the Goods Transport Agency.

2. What are the services that are likely to face increased taxation due to GST?

19.6 LESSON END EXERCISE

1. Is GST applicable on the transport of goods by road by an individual truck owner? If Yes, explain.

3. Discuss the exemptions available under GST for the transport of goods by road. How do these exemptions benefit small transport operators?

19.7 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.

**COMPENSATION TO STATES: LEVY AND COLLECTION OF CESS,
GST COMPENSATION FUND, COMPENSATION PAYABLE TO STATES**

20.0 Learning Objectives and Learning Outcomes

20.1 Introduction

20.2 Compensation to States

20.3 Levy and Collection of Cess

20.4 GST Compensation Fund

20.5 Compensation Payable to States

20.6 Summary

20.7 Glossary

20.8 Self-Assessment Questions

20.9 Lesson End Exercise

20.10 Suggested Readings

20.0 LEARNING OBJECTIVES AND OUTCOMES

Learning Objectives

- To make understanding about the concept of compensation to states;
- To give an overview about the GST compensation fund; and
- To make the learners familiar with the levy and collection of cess.

Learning Outcomes

After reading the chapter the student would be able to:

- understand the concept of Levy and collection of Cess on inter and intra state supply;
- explain the meaning of Base year;
- comprehend the projected revenue; and
- Calculate the amount of loss to be compensated to States and how it will be released.

20.1 LEARNING OBJECTIVES AND OUTCOMES

One of the biggest challenges while introducing GST in India was that states were opposing GST, because of their fear of losing revenue after introduction of GST. That is majorly because earlier independently levied Value Added Tax (VAT) on intra state sales. Moreover, they also received Central Sales Tax (CST) on inter-state movement of goods (Revenue accrued to the initiating state). Now with the implementation of GST, the power to levy and collect tax was being made in conjunction with the power of the Central Government. Moreover, GST being a destination-based tax, in case of inter-state sales the revenue would accrue to the destination state as against the initiating state earlier. The fear was more pronounced in case of manufacturing/supplier states since the GST was to accrue to the state(s) where the actual consumption of goods takes place.

In order to assure steady flow of revenues to the states by way of compensating the loss (if any), Clause 18 of The Constitution (One Hundred and First Amendment) Act, 2016 specifically provided that the Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years. The shortfall is calculated assuming a 14 per cent annual growth in GST collections by states over the base year of 2015-16.

In line with the Constitutional amendment, the Government enacted the legislation known as, The Goods and Service Tax (Compensation to States) Act, 2017. Under the said Act, GST Compensation Cess would be charged on some specific items and

proceeds from the same will be used to compensate the revenue losses arising to the States due to implementation of GST in the country.

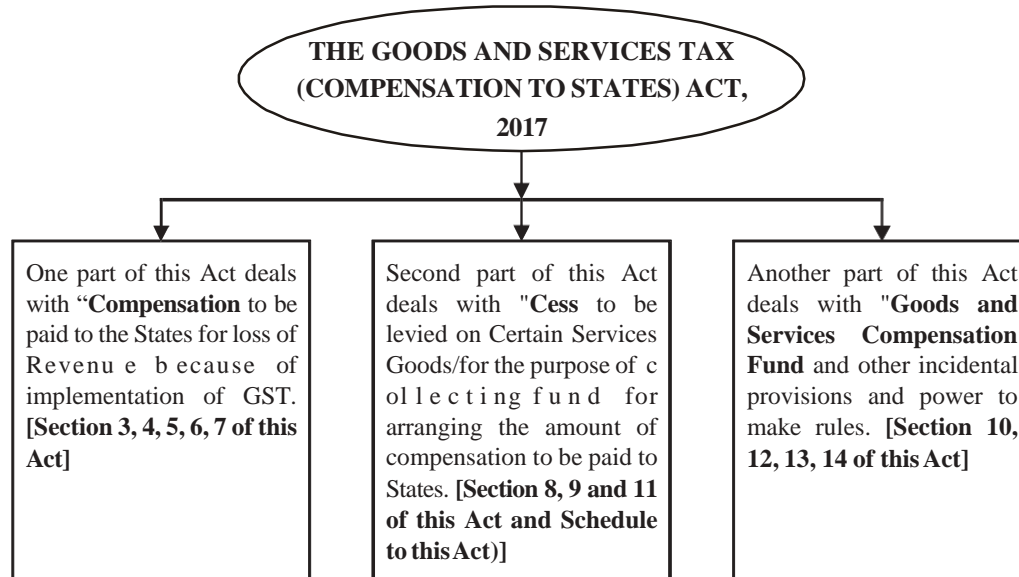
20.2 COMPENSATION TO STATES

The provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall apply in relation to the levy and collection of the cess on the intra-State supply of goods and services.

Similarly, in case of inter-State supplies the provisions of the Integrated Goods and Services Tax Act, 2017 and the rules made thereunder will apply. Structure of the Goods and Services Tax (Compensation to States) Act, 2017 The entire contents of this Act can be divided into three parts for better understanding the provisions of this Act

Structure of the Goods and Services Tax (Compensation to States) Act, 2017

The entire contents of this Act can be divided into three parts for better understanding the provisions of this Act



A. CHECK YOUR PROGRESS

Question 1: Impact of GST on State Revenues and Compensation

Scenario:

M/s AutoWorld, an automobile manufacturing company, operates in a state where the GST implementation has caused a significant reduction in the state's revenue. The state government is facing a shortfall in revenue collection, especially from sectors like manufacturing and trade. To mitigate this loss, the state has been receiving compensation from the central government under the **GST Compensation to States Act**.

M/s AutoWorld is concerned about how this compensation mechanism works and whether it will impact the overall economic environment in which they operate. They are also interested in understanding how this compensation is funded and how it may affect their business in the long run.

Questions:

1. GST Compensation Mechanism:

- Explain the compensation mechanism under the **GST Compensation to States Act**. How does the central government compensate states for revenue loss due to the introduction of GST?
- What is the formula used to calculate the revenue loss, and how is compensation paid to the states?

2. Funding of Compensation and Long-term Impact:

- How is the compensation to states funded, and what sources contribute to the compensation pool?
- Discuss the long-term implications of the GST compensation scheme on both the states' fiscal policies and the business environment, specifically for industries like M/s AutoWorld.

20.3 LEVY AND COLLECTION OF CESS (SECTION-8)

- 1) There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section 9 of the Central Goods and Services Tax Act, 2017 and such inter State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, 2017 and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the Goods and Services Tax with effect from the date from which the provisions of the Central Goods and Services Tax Act, 2017 is brought into force, for a period of five years or for such period as may be prescribed on the recommendations of the Council:

Provided that no such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section 10 of the Central Goods and Services Tax Act, 2017.

- 2) The cess shall be levied on such supplies of goods and services as are specified in column (2) of the Schedule, on the basis of value, quantity or on such basis at such rate not exceeding the rate set forth in the corresponding entry in column (4) of the Schedule, as the Central Government may, on the recommendations of the Council, by notification in the Official Gazette, specify:

Provided that where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supplies of goods or services or both :

Provided further that the cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975, at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975.

Analysis of Levy and Collection Of Cess (Section-8)

For the purpose of GST “Cess” means a compensation cess that will be levied on certain goods and services under section 8 of the GST (Compensation to States) Act, 2017. It means under GST, in addition to tax on supply (which are CGST + SGST/UTGST on intrastate supplies and IGST on interstate supplies); a GST Cess is also to be levied on supply of certain goods and Services. Following are the features of GST Compensation:

1. It is levied on inter-State as well as intra-State transactions of goods and services to compensate the revenue losses occurred to the States because of the implementation of GST in the country.
2. It is levied to compensate states who may suffer any loss of revenue due to the implementation of GST
3. It will be levied for 5 years from the date of implementation of GST or such period as may be prescribed on the recommendation of GST Council (at present time period is 5 years)
4. The Schedule to the Act has listed the following goods wherein Cess is levied:
 - Pan Masala
 - Tobacco and tobacco products
 - Cigarettes
 - Coal, briquettes and similar solid fuels manufactured from coal, lignite excluding jet and peat.
 - Aerated waters

- Motor vehicles
 - Other Products as may be notified
5. The GST cess on an eligible product (specified in Schedule to the Act) will be calculated according to the rate specified in the GST cess rate schedule and on the taxable value (i.e., value as per Section 15 of CGST Act, 2017).
 6. For cess applicable imports, the GST cess amount will be calculated on the taxable value + customs duty, i.e. the same value on which IGST is levied.

20.4 GST COMPENSATION FUND

This Act makes provision for GST Compensation Fund. Compensation to States will be paid out of this fund. All proceeds of cess collected under Section 8 of this Act will be credited to this fund. This Fund is a part of transition provisions that is after a period of 5 years or such further period as may be prescribed by GST Council, this fund will be dissolved and Fifty percent of balance unutilized amount will be paid to States and balance 50% will be transferred to consolidated fund of India. The Provisions of Section 10 are as under

- (1) The proceeds of the cess leviable under section 8 and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the public account of India and shall be utilised for purposes specified in the said section.
- (2) All amounts payable to the States under section 7 shall be paid out of the Fund.
- (3) Fifty percent of the amount remaining unutilised in the Fund at the end of the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty percent shall be distributed amongst the

States in the ratio of their total revenues from the State tax or the Union territory goods and services tax, as the case may be, in the last year of the transition period.

- (3A) notwithstanding anything contained in sub-section (3), fifty per cent. of such amount, as may be recommended by the Council, which remains unutilized in the Fund, at any point of time in any financial year during the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty per cent. Shall be distributed amongst the States in the ratio of their base year revenue determined in accordance with the provisions of section 5:

Provided that in case of shortfall in the amount collected in the Fund against the requirement of compensation to be released under section 7 for any two months' period, fifty per cent. Of the same, but not exceeding the total amount transferred to the Centre and the States as recommended by the Council, shall be recovered from the Centre and the balance fifty per cent. from the States in the ratio of their base year revenue determined in accordance with the provisions of section 5.

- (4) The accounts relating to fund shall be audited by the comptroller and Auditor General of India or any person appointed by him at such intervals as may be specified by him and any expenditure in connection with such audit shall be payable by the Central Government to the Comptroller and Auditor-General of India.
- (5) The accounts of the fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

B. CHECK YOUR PROGRESS

- **Scenario-based Question:** A company in the manufacturing sector produces a product that falls under the category of "luxury goods." The government has imposed a cess on such goods under GST. The company plans to sell the product both within the country and for export. How the company should calculate the cess liability for domestic sales, and is it required to pay cess on export sales? Explain the process and provide the legal basis for your answer.
- **Case Study:** XYZ Ltd. manufactures high-end vehicles and is registered under GST. The vehicles fall under the luxury goods category and attract a cess of 15%. XYZ Ltd. also exports a significant portion of its production. How would the company handle the cess collection and payment on domestic sales? What provisions apply to the export of goods with respect to the cess, and can the company claim any refund for the cess paid on exported goods?
- **Practical Application:** A service provider offers both taxable and exempt services. Some of the taxable services are subject to a cess under GST. The service provider has received a payment for both taxable and exempt services from a single customer. How should the provider apply the cess to the payment received? What steps should the service provider take to ensure proper compliance with the cess provisions under GST?
- **Compliance-based Question:** ABC Pvt. Ltd. has been charged a cess on the supply of tobacco products. The company has noticed discrepancies in the cess amount paid versus the actual cess liability on some transactions. What steps should ABC Pvt. Ltd.

take to correct the discrepancies? Additionally, explain how the company can claim a refund of excess cess paid, if applicable.

• **Problem-solving Question:** A dealer in agricultural equipment, registered under GST, sells tractors that attract a cess. The dealer receives a large order from a government agency. However, the agency claims exemption from cess due to its status. How should the dealer handle the cess charge in this situation? What documents should the dealer maintain, and what is the impact of the exemption on the collection and payment of cess under GST?

20.5 COMPENSATION PAYABLE TO STATES

- (1) The compensation under this Act shall be payable to any State during the transition period.
- (2) The compensation payable to a State shall be provisionally calculated and released at the end of every two months period, and shall be finally calculated for every financial year after the receipt of final revenue figures, as audited by the Comptroller and Auditor-General of India:

Provided that in case any excess amount has been released as compensation to a State in any financial year during the transition period, as per the audited figures of revenue collected, the excess amount so released shall be adjusted against the compensation amount payable to such State in the subsequent financial year.

C. CHECK YOUR PROGRESS

Multiple Choice Questions

1. What is the purpose of the GST Compensation Fund?

- A) To compensate states for loss of revenue due to GST implementation
- B) To compensate businesses for GST payment
- C) To fund the central government
- D) To fund state government infrastructure projects

Answer: A) To compensate states for loss of revenue due to GST implementation

2. Which tax is used to finance the GST Compensation Fund?

- A) Goods and Services Tax (GST)
- B) Cess on luxury goods
- C) Integrated GST (IGST)
- D) Compensation Cess on specified goods and services

Answer: D) Compensation Cess on specified goods and services

3. The GST Compensation Fund is administered by:

- A) Central Government
- B) State Governments
- C) GST Council
- D) Reserve Bank of India

Answer: A) Central Government

4. For how many years will the GST Compensation Fund be operational, according to the GST law?

- A) 5 years
- B) 10 years
- C) 7 years
- D) 15 years

Answer: C) 7 years

5. What happens if the GST Compensation Fund has a surplus?

- A) The surplus is refunded to the taxpayers
- B) It is used for infrastructure projects
- C) It is transferred to the Consolidated Fund of India
- D) The surplus is transferred to state governments

Answer: C) It is transferred to the Consolidated Fund of India

6. Which of the following goods and services are subject to the Compensation Cess?

- A) Alcoholic beverages
- B) Petroleum products
- C) Tobacco and luxury cars
- D) All of the above

Answer: C) Tobacco and luxury cars

7. Who decides the distribution of funds from the GST Compensation Fund to states?

- A) Finance Ministry
- B) GST Council
- C) State Governments
- D) Reserve Bank of India

Answer: B) GST Council

8. If a state faces a revenue shortfall, it can claim compensation from the fund for:

- A) The difference between the actual revenue and projected revenue
- B) Only the shortfall due to natural disasters
- C) The difference between state taxes and GST collection
- D) None of the above

Answer: A) The difference between the actual revenue and projected revenue

9. Which of the following is NOT covered under the GST Compensation Fund?

- A) Loss of revenue due to reduction in tax rates
- B) Loss of revenue due to GST implementation
- C) Loss of revenue due to economic downturn
- D) Loss of revenue due to GST exemptions

Answer: C) Loss of revenue due to economic downturn

10. The GST Compensation Cess is levied on:

- A) All goods and services
- B) Goods and services that are specified by the GST Council
- C) Only luxury goods
- D) Only essential goods

Answer: B) Goods and services that are specified by the GST Council

(3) The total compensation payable for any financial year during the transition period to any State shall be calculated in the following manner, namely: –

Step-1: (a) the Projected Revenue for any financial year during the transition period, which could have accrued to a State in the absence of the goods and services tax, shall be calculated as per section 6;

Step-2: (b) the actual revenue collected by a State in any financial year during the transition period. It will be sum of following –

- (i) the actual revenue from State tax collected by the State, net of refunds given by the said State under Chapters XI and XX of the State Goods and Services Tax Act;
- (ii) the integrated goods and services tax apportioned to that State; and
- (iii) any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (4) of section 5, net of refund of such taxes, as certified by the Comptroller and Auditor-General of India;

Example: Projected revenue for the Financial Year 2017-18 calculated as per Section 6 is Rs. 2 crore and Actual Revenue collected by the State during the Financial Year Rs. 1,82,00,000 (Calculated as per step-2 above), then total compensation payable in that Financial Year (i.e. loss of revenue) will be (2 crore- 1.82 crore) Rs. 18,00,000. This amount of compensation will be paid by the Central Government to the concerned State out of GST Compensation Fund.

Step-3: (c) the total compensation payable in any financial year shall be the difference between the projected revenue for any financial year (as per step-1) and the actual revenue collected by a State (as per step-2)

20.6 LET US SUM UP

One of the biggest challenges while introducing GST in India was that states were opposing GST, because of their fear of losing revenue after introduction of GST. That is majorly because earlier the states independently levied Value Added Tax (VAT) on intra state sales. Moreover, they also received Central Sales Tax ('CST') on inter-state movement of goods (Revenue accrued to the initiating state). Now with the implementation of GST, the power to levy and collect tax was being made in conjunction with the power of the Central Government. Moreover, GST being a destination based tax, in case of inter-state sales the revenue would accrue to the destination state as against the initiating state earlier. The fear was more pronounced in case of manufacturing/ supplier states since the GST was to accrue to the state(s) where the actual consumption of goods takes place.

In order to assure steady flow of revenues to the states by way of compensating the loss (if any), Clause 18 of The Constitution (One Hundred and First (101) amendment act 2016 specifically provided that the Parliament shall, by law, on the recommendation of the Goods and Services Tax Council, provide for compensation to the States for loss of revenue arising on account of implementation of the goods and services tax for a period of five years. The shortfall is calculated assuming a 14 per cent annual growth in GST collections by states over the base year of 2015-16.

In line with the Constitutional amendment, the Government enacted the legislation known as,

The Goods and Services Tax (Compensation to States) Act, 2017. Under the said Act, GST Compensation Cess would be charged on some specific items and proceeds from the same will be used to compensate the revenue losses arising to the States due to implementation of GST in the country.

20.7 GLOSSARY

- **GST Compensation Fund:** A fund known as GST Compensation Fund will be set up to which amount of cess levied and collected u/s 8 of the Act and other sums will be credited. This fund will be used to pay compensation to the States loosing Revenue on account of implementation of GST Laws.
- **GST (Compensation to States) Act, 2017:** GST (Compensation to States) Act, 2017 also makes provision for calculating loss of revenue to the States on account of implementation of GST. Base year has been assumed to be 2015-16 and projected growth rate for calculating projected revenue is 14% p.a.
- **Compensation Cess:** An additional tax levied on certain luxury goods and demerit items like tobacco, aerated drinks, and motor vehicles to generate funds for the GST Compensation Fund.

20.8 SELF-ASSESSMENT QUESTIONS

1. What is GST Compensation Cess? Why is it being levied?

2. Explain the following:

- a. Base year

b. Projected Growth Rate

c. Projected Revenue

3. What are the goods and services covered under GST Compensation?

20.9 LESSON END EXERCISE

1. Explain the concept of the GST Compensation Fund in detail. Discuss how it ensures revenue stability for states.

2. Explain the legal framework governing the GST Compensation Fund, referring to the Goods and Services Tax (Compensation to States) Act, 2017.

20.10 SUGGESTED READINGS

1. GST Bare Act, 2024
2. Datey, V.S, GST Ready Reckoner, Taxmann, New Delhi.
3. GST Act with Rules and Forms- Taxmann, New Delhi.
4. Gupta, V and Gupta, N.K, *GST- Law, Practice and Procedures*, Bharat Publications, New Delhi.
5. Mehrotra, H.C and Agarwal, V.P, *Goods and Service Tax*, Sahitya Bhawan Publications, Agra.
