

INDIRECT TAX PART 1 FOR JUNE AND DEC 2021

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CHAPTER - 1

BASIC CONCEPTS OF GST

DEFICIENCY OF EXISTING INDIRECT TAX SYSTEM

1. The CENVAT (Excise Duty) is levied on manufacturer. But there are various definitions related to manufacture and various ruling given by the courts. There are also various disputes regarding valuation of products. The issue related to the applicability of CENVAT (Excise Duty) only at manufacturing level, which is an impediment to efficient and neutral flow of tax credit.
2. The Constitution of India has bifurcated the power of taxation between Central Government and the State Government. The State Government has power to levied taxes on all matters or items falling under State List. Now in case of Service Tax the Central Government has power to levy tax on Services but in case of Work Contracts the State Government also has power to levy tax. This type of system creates difficulties and disputes in revenue generation and distribution.
3. The distinctions between goods and services are getting closer due to improvement in technology and innovation. The copyrights, patents, software etc., are not considered as goods and falling under domain of State Government. So the goods are getting colours of services and their classification becomes more complicated by the tax authorities. Let us consider an example in case of Leasing of Equipments, without transfer of machinery and control to the lessee, would this be taxable as Service or Sale. There are various cases, where disputes raised in present taxation scenario.
4. The Service Sector is growing rapidly and Central has exclusive power to levy tax on services. The State Government is losing its revenue by not levying tax of services under the State.
5. There is some shortcoming in CENVAT system of Government of India is because of non inclusion of several central taxes in the overall framework of CENVAT. Many taxes such as Additional Customs Duty, Surcharge etc., are not included in CENVAT System. There are various services such as Oil, Gas Production, Mining, Agriculture, Wholesale and Retail Trade, Real Estate Construction has been kept out of range of CENVAT Credit. These taxes are included in the output services and products are producing cascading effects. In VAT system also various taxes such as Entry tax, Octroi, Luxury Tax, Entertainment tax are kept outside of VAT Scheme.
6. In case of CST on Inter State Sales, no set off is allowed, which also increase cascading effect.
8. There are various tax forms and returns are required to be filed related to various duties under various taxation laws and rules. These returns are complex and lengthy, and these should be simplified.
9. There is lack of cross verification of returns filed under various State as well as Central Taxation Rules and there are different in detailed filed by the assessed by paying Central and State taxes simultaneously.
10. At present there are more than fifteen taxes under Indirect Tax System. All these taxes are of different rates and required to be filed through different forms and returns.
11. The State Government are levying Entry Tax and Octroi and compliance to it are time consuming. The transporters are required to wait for hours on border of a state, while entering in other state.

WHAT IS GST

GST is a value added tax levied on manufacture, sale and consumption of goods and services.

GST offers comprehensive and continuous chain of tax credits from the producer's point/service provider's point upto the retailer's level/consumer's level thereby taxing only the value added at each stage of supply chain.

The supplier at each stage is permitted to avail credit of GST paid on the purchase of goods and/or services and can set off this credit against the GST payable on the supply of goods and services to be made by him. Thus, only the final consumer bears the GST charged by the last supplier in the supply chain, with set-off benefits at all the previous stages.

Since, only the value added at each stage is taxed under GST, there is no tax on tax or cascading of taxes under GST system. GST does not differentiate between goods and services and thus, the two are taxed at a single rate

GST INTERNATIONAL PERSPECTIVE

VAT and GST are used inter-changeably as the latter denotes comprehensiveness of VAT by coverage of goods and services. France was the first country to implement VAT, in 1954. Presently, more than 160 countries have implemented GST / VAT in some form or the other. The most popular form of VAT is where taxes paid on inputs are allowed to be adjusted in the liability at the output. The VAT or GST regime in practice varies from one country to another in terms of its technical aspects like definition of supply, extent of goods and services, treatment of exemptions and zero rating etc. However, at a broader level, it has one common principle, it is a destination based consumption tax. From economic point of view, VAT is considered to be a superior system over sales tax of taxing consumption because the former is neutral in allocation of resources as it taxes value addition. Besides, there are certain distinct advantages of VAT. It is less cascading making the taxation system transparent and anti-inflationary. From revenue point of view, VAT leads to greater compliance because of creation of transaction trails.

When compared globally, VAT structures are either overly centralized where tax is levied and administered by the Central government (Germany, Switzerland, Australia), or dual GST structure wherein both Centre and States administer tax independently (Canada) or with some co-ordination between the national and sub-national entities (Brazil, Russia). While a centralized structure reduces fiscal autonomy for the States, a decentralized structure enhances compliance burden for the taxpayers. Canada is a federal country with unique model of taxation in which certain provinces have joined federal GST and others have not. Provinces which administer their taxes separately are called non-participating provinces, whereas provinces which have teamed up with the Federal Government for tax administration are called participating provinces. (There are 3 types of GST models under Canadian System of GST)

The rate of GST varies across countries. While Malaysia has a lower rate of 6% (Malaysia though scrapped GST in 2018 due to popular uproar against it), Hungary has one of the highest rate of 27%. Australia levies GST at the rate of 10% whereas Canada has multiple rate slabs. The average rate of VAT across the EU is around 19.5%.

HISTORY OF GST IN INDIA

- **17th July, 2000** : Prime Minister Atal Bihari Vajpayee introduces the concept, sets up a empowered committee headed by the then West Bengal Finance Minister Asim Dasgupta to design a GST model.
- **2003**: The Vajpayee government forms a task force under Vijay Kelkar to recommend tax reforms.
- The Kelkar Task Force on Fiscal Responsibility and Budget Management (FRBM) recommended in **July 2004** 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. Kelkar Shah model is based on Canadian model of GST
- The Union Finance Minister, Shri P.Chidambaram, while presenting Budget (07-08), announced that GST would be introduced from 1/4/2010. Since then, GST missed several deadlines
- The Government tabled the Constitution(122nd Amendment) Bill, 2014 on GST in the Parliament on **19th December, 2014**. The Lok Sabha passed the Bill on **6th May, 2015**.
- **May 2015** ,Bill was referred to a 21-member Select Committee of Rajya Sabha.
- Select Committee submitted its report to Rajya Sabha on **July 22, 2015**.
- The MOF released draft model law on GST in public domain for views and suggestion on **14th June 2016**
- **On 3rd Aug 2016**, Bill 201 was PASSED in Rajya Sabha with certain amendments
- **On 8th Aug 2016**,The changes made by Rajya Sabha were unanimously passed by Lok Sabha.
- Subsequent to ratification of Bill by more than 50% of States, **Constitution(122nd Amendment) Bill, 2014** received the assent of the President on 8th September, 2016 and became **Constitution (101st Amendment) Act, 2016**, which paved the way for introduction of GST in India.
- In the following year, on **27th March, 2017**, the Central GST legislations – CGST Bill, 2017, IGST Bill, 2017, UTGST Bill, 2017 and GST (Compensation to States) Bill, 2017 were introduced in Lok Sabha.
- Lok Sabha passed these bills on **29th March, 2017** and with the receipt of President's assent on **12th April, 2017**, the Bills were enacted.

- The enactment of the Central Acts was followed by the enactment of the State GST laws by various State Legislatures. Telangana, Rajasthan, Chhattisgarh, Punjab, Goa and Bihar were among the first ones to pass their respective State GST laws.
- **1st July, 2017** : GST was introduced in India

CONSTITUTIONAL PROVISIONS OF GST

India has a three-tier federal structure, comprising the Union Government, the State Governments and the Local Government & the power to levy taxes and duties is distributed amongst them

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

1. **Article 265** : “No tax shall be levied or collected except by authority of law”
2. **Article 246** : It gives the respective authority to 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.
3. **Seventh Schedule to Article 246**: It contains three lists which enumerate the matters under which the Union and the State Governments have the authority to make laws.
 - Entries 82 to 91 of List I mentions the subjects where the Central Government has power to levy taxes.
 - Entries 45 to 63 of List II mentions the subjects where the State Governments have the power to levy taxes.
 - Parliament has a further power to make any law for any part of India not comprised in a State even if such matter is included in the State List.
 - Income tax is levied by virtue of Entry 82 - Taxes on income other than agricultural income
 - Customs duty vide Entry 83 - Duties of customs including export duties.
 - Power to levy GST has been conferred by Article 246A of the Constitution which was introduced by the Constitution (101st Amendment) Act, 2016. Before discussing the significant provisions of the Constitution (101st Amendment) Act, 2016, let us first understand why there arose a need for such constitutional amendment.

Need for constitutional amendment

Introduction of the GST required amendment in the Constitution so as to enable integration of the central excise duty including additional duties of customs, State VAT and certain State specific taxes and service tax levied by the Centre into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.

Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to as Constitution Amendment Act) was passed.

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

Significant amendments made by Constitution Amendment Act are discussed below:

1. Article 366 : Definitions of Goods and Services Tax , Services and State

Goods and services Tax means

- any tax on supply of goods, or services or both
- except taxes on the supply of the alcoholic liquor for human consumption.

Services means anything other than goods

State with reference to articles 246A, 268, 269, 269A and article 279A, includes a Union territory with Legislature

Goods : includes all materials, commodities, and articles

2. Article 246A : Power to make laws with respect to Goods and Services Tax

- **Parliament and Legislature of every State**, have power to make laws with respect to GST imposed by Union or by such State.
- **Parliament has exclusive power** to make laws with respect to GST where the supply of goods, or of services, or both takes place in course of inter-State trade or commerce.

3. Article 269A : Levy and collection of GST on inter-State supply

- GST on supplies in the course of inter-State trade or commerce
- shall be levied and collected by the Government of India and
- such tax shall be apportioned between the Union and the States
- in the manner as may be provided by Parliament by law
- on the recommendations of GST Council

In addition to above, import of goods or services or both into India will also be deemed to be supply of goods and/ or services in the course of Inter-State trade or Commerce

4. Article 279A : GST Council

- Article 279A empowers the President to constitute a joint forum of Centre and States namely, Goods & Services Tax Council (**GST Council**)
- The provisions relating to GST Council came into force on **12th September, 2016**.
- President constituted the GST Council on **15th September, 2016**
- The Union Finance Minister is Chairman and Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members. Besides, the Union Minister of State in charge of Revenue or Finance is also its member
- The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc

- It shall also recommend the date on which GST be levied on petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel
- Every decision of the GST Council is taken by a majority of not less than 3/4th of the weighted votes of the members present and voting.
- Vote of the Centre has a weightage of 1/3rd of total votes cast and votes of all the State Governments taken together has a weightage of 2/3rd of the total votes cast, in that meeting.
- In respect to the following goods, the GST provisions shall apply from the date recommended by the GST Council
 - Petroleum
 - Crude
 - High speed Diesel
 - Motor spirit(petrol)
 - Natural gas
 - Aviation turbine fuel

Features of GST

1. Dual GST

- India has adopted a dual GST which is levied by both Centre and States.
- Centre has the power to tax Intra-State supplies & States are empowered to tax services.
- GST extends to whole of India including the State of Jammu and Kashmir.

2. CGST/SGST/UTGST/IGST

GST in India comprises of

- **Central Goods and Service Tax (CGST)** - levied and collected by **Central Government** under the **CGST Act, 2017** on **Intra state supplies**
- **State Goods and Service Tax (SGST)** - levied and collected by State Governments & Union Territories with State Legislatures [*i.e Delhi, Puducherry & J&K*] under **SGST Act** on **Intra state/Union territory supplies**
- **Union Territory Goods and Service Tax (UTGST)** - levied and collected by **Union Territories without State Legislatures** under the **UTGST Act, 2017**, on **Intra-Union Territory supplies**

As per Sec 2(114) of CGST Act, “Union Territory” means

- (a) The Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu;
- (d) Chandigarh;
- (e) Ladakh; and
- (f) Other territory.

- The Government of India vide J&K Reorganisation Act, 2019 has reorganised the state of Jammu and Kashmir into the Union Territories of Jammu & Kashmir and Ladakh.
 - **Section 4 of J&K Reorganisation Act, 2019**, provides, the Union territory of Jammu & Kashmir shall be Union territory with its own Legislature.
 - Section 2(103) of the **CGST Act, 2017** provides that, “State includes a Union territory with Legislature.
 - Hence, the Union territory of Jammu & Kashmir shall have status equivalent to that of a state. Union Territory of J&K shall charge SGST and CGST for intra-state supplies.
 - **Section 3 of the J&K Reorganisation Act, 2019** states that Union Territory of Ladakh shall be formed without legislature. Hence, it shall have status to that of a Union Territory.
 - Union Territory of Ladakh shall charge UTGST for intra-state supplies.
 - **Wef 26 January 2020**, the two Union Territories were merged to form the Union Territory of Dadra and Nagar Haveli and Daman and Diu.
- **Integrated Goods and Service Tax (IGST)** –Levied and collected by **Central government** under the **IGST Act,2017** on **Inter-State supplies/Inter union territory supplies**

3. **Classification of goods and services**

- **HSN (Harmonised System of Nomenclature)** code is used for the goods under the GST
- A new **Scheme of Classification of Services** has been devised where services are classified under various sections, headings and groups. Each group consists of various Service Codes (Tariff). Chapters referred are the Chapters of First Schedule to Customs Tariff Act, 1975.

4. **Registration**

- Every supplier is required to obtain registration in State/UT from where he makes the taxable supply if his aggregate turnover exceeds ₹ 20 lakh during a FY.
- The limit of ₹ 20 lakh will be reduced to ₹ 10 lakh if the person is carrying out business in Manipur, Mizoram, Nagaland, Tripura
- In case of exclusive supply of goods limit is also ₹40 lakhs is also provided.

5. **Composition Scheme**

For providing relief to small businesses making intra-State supplies, a simpler method of paying taxes and accounting thereof is also prescribed, known as Composition Levy

6. **Exemptions :**

GST Law also contains provisions for granting exemption from payment of tax on essential goods and/or services.

7. Manner of utilization of ITC

- Credit of IGST can be utilized for the payment of IGST & then Either for CGST or for SGST/UTGST in any manner or proportion

Credit of IGST has to exhausted before claiming CGST/SGST/UTGST Credit

- CGST credit can be utilized for payment of CGST & then IGST
- SGST credit can be utilized for payment of SGST & then IGST
- CGST credit cannot be utilized for payment of SGST & Vice versa

8. GST Common Portal

Common GST Electronic Portal – www.gst.gov.in – a website managed by Goods & Services Network (GSTN) [a company incorporated u/s 8 of the Companies Act, 2013] has been set by the Government

- The portal is one single common portal for all GST related services (Registration, Payment and Return etc)
- Provides common and shared IT infrastructure between the Centre and States
- The GST portal is accessible over Internet (by taxpayers and their CAs/Tax Advocates etc.) and by Tax Officials ,Banks and other stakeholders

9. GSPs/ASPs

GSTN has selected certain IT, and financial technology companies, to be called GST Suvidha Providers(GSPs). GSPs develop applications to be used by taxpayers for interacting with the GSTN. They facilitate the tax payers in uploading invoices as well as filing of returns and act as a single stop shop for GST related services. GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs

10. Taxes to be Subsumed under VAT**CENTRAL TAXES**

- Central Excise Duty
- Additional Excise Duties
- Excise Duty under Medicinal & Toilet Preparation Act
- Service Tax
- CVD & Special CVD
- Central Sales Tax
- Central surcharges and Cesses in so far as they relate to supply of goods & services

STATE TAXES

- Entertainment Tax (except those levied by local bodies)
- Tax on lottery, betting and gambling
- Entry Tax (All Forms) & Purchase Tax
- VAT/ Sales tax
- Luxury Tax
- Taxes on advertisements
- State surcharges and cesses in so far as they relate to supply of goods & services

Benefits of GST

- 1. Creation of unified national market :** GST aims to make India a common market with common tax rates and procedures and paving the way for an integrated economy at the national level.
- 2. Mitigation of ill effects of cascading :** By subsuming most of Central and State taxes into a single tax and by allowing a set- off of prior-stage taxes for the transactions across the entire value chain, it would mitigate the ill effects of cascading, improve competitiveness and improve liquidity of the businesses.
- 3. Elimination of multiple taxes and double taxation:** GST has subsumed majority of existing indirect tax levies both at Central and State level into one tax .This will make doing business easier and will also tackle the highly disputed issues relating to double taxation of a transaction as both goods and services.
- 4. Boost to 'Make in India' initiative:** GST will give a major boost to the 'Make in India' initiative of the Government of India by making goods and services produced in India competitive in the national as well as international market.
- 5. Buoyancy to the Government Revenue:** GST is expected to bring buoyancy to the Government Revenue by widening the tax base and improving the taxpayer compliance.

CHAPTER - 2
DEFINITIONS**SEC 2 : DEFINITIONS**

(1) “**Actionable claim**” shall have the same meaning u/s 3 of the Transfer of Property Act, 1882;

As per section 3 of the Transfer of Property Act, 1882,

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

(2) “**Address of delivery**” means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;

(3) “**Address on record**” means the address of the recipient as available in the records of the supplier;

(4) “**Adjudicating authority**” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include

- Central Board of Indirect tax and Customs,
- Revisional Authority,
- Authority for Advance Ruling,
- Appellate Authority for Advance Ruling,
- Appellate Authority,
- Appellate Tribunal and
- Authority referred u/s 171(2)

(5) “**Agent**” means a person, including a factor, broker, commission agent, *arhatia*, *del credere* agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;

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

(7) “**Agriculturist**” means an individual or a Hindu Undivided Family who undertakes cultivation of land—

- (a) by own labour, or
- (b) by the labour of family, or
- (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family;

(8) “**Appellate Authority**” means an authority appointed or authorised to hear appeals as referred u/s 107;

(9) “**Appellate Tribunal**” means the Goods and Services Tax Appellate Tribunal constituted u/s 109;

(10) “**Appointed day**” means the date on which the provisions of this Act shall come into force;

- (11) **“Assessment”** means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;
- (12) **“Associated enterprises”** shall have the same meaning u/s 92A of the Income-tax Act, 1961;
- (13) **“Audit”** means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;
- (14) **“Authorised bank”** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act;
- (15) **“Authorised representative”** means the representative u/s 116;
- (16) **“Board”** means the **CBIC constituted** under the **Central Boards of Revenue Act, 1963**;
- (17) **“Business”** includes—
- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
 - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
 - (f) admission, for a consideration, of persons to any premises;
 - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
 - (h) activities of a race club including by way of totalisator or license to book maker or activities of a licensed book maker in such club; and
 - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;
- ~~(18) **“Business Vertical”** means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.~~
- ~~*Explanation.*—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—~~
- ~~(a) Nature of the goods or services;~~
 - ~~(b) Nature of the production processes;~~
 - ~~(c) Type or class of customers for the goods or services;~~
 - ~~(d) Methods used to distribute the goods or supply of services; and~~
 - ~~(e) Nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;~~
- ~~“Deleted by CGST Amendment Act, 2018”~~

- (19) “**Capital Goods**” means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business;
- (20) “**Casual taxable person**” means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;
- (21) “**Central tax**” means the central goods and services tax levied u/s 9;
- (22) “**Cess**” shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act;
- (23) “**Chartered accountant**” means a chartered accountant as defined u/s 2 of Chartered Accountants Act, 1949;
- (24) “**Commissioner**” means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;
- (25) “**Commissioner in the Board**” means the Commissioner referred to in section 168;
- (26) “**Common portal**” means the common goods and services tax electronic portal referred to in section 146;
- (27) “**Common working days**” in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government;
- (28) “**Company secretary**” means a company secretary as defined u/s 2 of Company Secretaries Act, 1980;
- (29) “**Competent authority**” means such authority as may be notified by the Government;
- (30) “**Composite supply**” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;
Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;
- (31) “**Consideration**” in relation to the supply of goods or services or both includes—
- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) Monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by Central Government or a State Government;

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

- (32) **“Continuous supply of goods”** means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;
- (33) **“Continuous supply of services”** means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;
- (34) **“Conveyance”** includes a vessel, an aircraft and a vehicle;
- (35) **“Cost accountant”** means a cost accountant as defined u/s 2 of CWA Act, 1959;
- (36) **“Council”** means the Goods and Services Tax Council established under article 279A of the Constitution;
- (37) **“Credit note”** means a document issued by a registered person u/s section 34(1);
- (38) **“Debit note”** means a document issued by a registered person u/s 34(3);
- (39) **“Deemed exports”** means such supplies of goods as may be notified u/s 147;
- (40) **“Designated authority”** means such authority as may be notified by the Board;
- (41) **“Document”** includes written or printed record of any sort and electronic record as u/s 2(f) of the Information Technology Act, 2000;
- (42) **“Drawback”** in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;
- (43) **“Electronic cash ledger”** means the electronic cash ledger referred to u/s 49(1);
- (44) **“Electronic commerce”** means the supply of goods or services or both, including digital products over digital or electronic network;
- (45) **“Electronic commerce operator”** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
- (46) **“Electronic credit ledger”** means the electronic credit ledger referred to u/s 49(2);
- (47) **“Exempt supply”** means supply of any goods or services or both which attracts *nil* rate of tax or which may be wholly exempt from tax u/s 11, or under section 6 of the IGST Act, and includes non-taxable supply;
- (48) **“Existing law”** means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;
- (49) **“Family”** means,—
- (i) Spouse and children of the person, and
 - (ii) Parents, grand-parents, brothers and sisters of person if they are wholly or mainly dependent on person;

- (50) **“Fixed establishment”** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
- (51) **“Fund”** means the Consumer Welfare Fund established u/s 57;
- (52) **“Goods”** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- (53) **“Government”** means the Central Government;
- (54) **“Goods and Services Tax (Compensation to States) Act”** means the Goods and Services Tax (Compensation to States) Act, 2017;
- (55) **“Goods and services tax practitioner”** means any person who has been approved under section 48 to act as such practitioner;
- (56) **“India”** means the territory of India as referred under Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, and the air space above its territory and territorial waters;
- (57) **“Integrated Goods and Services Tax Act”** means the Integrated Goods and Services Tax Act, 2017;
- (58) **“Integrated tax”** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;
- (59) **“Input”** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business;
- (60) **“Input service”** means any service used or intended to be used by a supplier in the course or furtherance of business;
- (61) **“Input Service Distributor”** means an office of the supplier of goods or services or both which receives tax invoices issued u/s 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;
- (62) **“Input tax”** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
- (a) IGST charged on import of goods;
 - (b) Tax payable u/s 9(3) and 9(4);
 - (c) Tax payable u/s 5(3) & 5(4) of IGST Act;
 - (d) Tax payable u/s 9(3) and 9(4) of the respective SGST Act; or
 - (e) Tax payable u/s 7(3) & 7(4) of UTGST Act, but does not include tax paid under the composition levy;
- (63) **“Input tax credit”** means the credit of input tax;
- (64) **“Intra-State supply of goods”** shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(65) **“Intra-State supply of services”** shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(66) **“Invoice” or “tax invoice”** means the tax invoice referred to in section 31;

(67) **“Inward supply”** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;

(68) **“Job work”** means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly;

(69) **“Local authority”** means —

- (a) “Panchayat” as defined under article 243(d) of Constitution;
- (b) “Municipality” as defined in article 243P(e) of Constitution;
- (c) Municipal Committee, Zilla Parishad, District Board, and other authority legally entitled to local fund;
- (d) Cantonment Board defined u/s 3 of Cantonments Act, 2006;
- (e) Regional Council or a District Council constituted under Sixth Schedule to the Constitution;
- (f) Development Board constituted under article 371 & 371J of Constitution; or
- (g) Regional Council constituted under article 371A of Constitution;

(70) **“Location of the recipient of services”** means,—

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) in absence of such places, the location of the usual place of residence of the recipient;

(71) **“Location of the supplier of services”** means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

(72) **“Manufacture”** means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;

(73) **“Market value”** shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(74) “**Mixed supply**” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

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

(75) “**Money**” means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(76) “**Motor vehicle**” shall have the same meaning as assigned u/s 2(28) of the Motor Vehicles Act, 1988;

(77) “**Non-resident taxable person**” means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

(78) “**Non-taxable supply**” means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;

(79) “**Non-taxable territory**” means the territory which is outside the taxable territory;

(80) “**Notification**” means a notification published in the Official Gazette and the expressions “notify” and “notified” shall be construed accordingly;

(81) “**Other territory**” includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114) ;

(82) “**Output tax**” in relation to taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(83) “**Outward supply**” in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange, licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(84) “**Person**” includes—

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

(85) **“Place of business”** includes—

- (a) Place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
- (b) Place where a taxable person maintains his books of account; or
- (c) Place where a taxable person is engaged in business through an agent, by whatever name called;

(86) **“Place of supply”** means the place of supply as referred to in Chapter V of IGST Act;

(87) **“Prescribed”** means prescribed by rules made under this Act on the recommendations of the Council;

(88) **“Principal”** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(89) **“Principal place of business”** means the place of business specified as the principal place of business in the certificate of registration;

(90) **“Principal supply”** means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

(91) **“Proper officer”** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;

(92) **“Quarter”** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

(93) **“Recipient”** of supply of goods or services or both, means—

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

(94) **“Registered person”** means a person who is registered u/s 25 but does not include a person having a Unique Identity Number;

(95) **“Regulations”** means the regulations made by the Board under this Act on the recommendations of the Council;

(96) **“Removal”** in relation to goods, means—

- (a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
- (b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(97) **“Return”** means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

(98) **“Reverse charge”** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both u/s 9(3) or 9(4), or under sub-section (3) or subsection (4) of section 5 of the IGST Act;

(99) **“Revisional Authority”** means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

(100) **“Schedule”** means a Schedule appended to this Act;

(101) **“Securities”** shall have the same meaning as assigned u/s 2(h) of the Securities Contracts (Regulation) Act, 1956;

(102) **“Services”** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

Explanation : The expression “services” includes facilitating or arranging transactions in securities.

(103) **“State”** includes a Union territory with Legislature;

(104) **“State tax”** means the tax levied under any State Goods and Services Tax Act;

(105) **“Supplier”** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(106) **“Tax period”** means the period for which the return is required to be furnished;

(107) **“Taxable person”** means a person who is registered or liable to be registered u/s 22 or u/s 24;

(108) **“Taxable supply”** means a supply of goods or services or both which is leviable to tax under this Act;

(109) **“Taxable territory”** means the territory to which the provisions of this Act apply;

(110) **“Telecommunication service”** means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;

(111) **“The State Goods and Services Tax Act”** means the respective State Goods and Services Tax Act, 2017;

(112) **“Turnover in State” or “turnover in Union territory”** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;

(113) **“Usual place of residence”** means—

(a) in case of an individual, the place where he ordinarily resides;

(b) in other cases, the place where the person is incorporated or otherwise legally constituted;

(114) “Union territory” means the territory of—

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli & Daman and Diu;
- (d) Ladakh;
- (e) Chandigarh; and
- (f) other territory.

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;

(115) “Union territory tax” means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;

(116) “Union Territory Goods and Services Tax Act” means the Union Territory Goods and Services Tax Act, 2017;

(117) “Valid return” means a return furnished u/s 39(1) on which self-assessed tax has been paid in full;

(118) “Voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

(119) “Works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

(120) Words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(121) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER - 3

CHARGE OF GST

Sec 1 : Short Title, Extent and Commencement of CGST ACT 2017

(1) This Act may be called the Central Goods and Services Tax Act, 2017.

(2) It extends to the whole of India **except the State of Jammu and Kashmir**.

Extended to J & K w.e.f 8/7/2017 by The Central Goods and Services Tax (Extension to Jammu and Kashmir) Act, 2017

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Sec 9 of CGST Act,2017 : Charging Section

Sec 9(1) : CHARGE OF CGST

- Subject to the provisions of sub-section (2),
- There shall be **levied a tax** called the central goods and services tax
- On all **intra-State supplies** of goods or services or both,
- **Except** on the supply of alcoholic liquor for human consumption,
- On the **value** determined under section 15 and
- At such rates, **not exceeding 20%** ,
- As may be **notified by the Government**
- On the **recommendations of the Council** and
- **Collected in such manner** as may be **prescribed** and
- Shall be **paid by the taxable person**.

Sec 9(2) : CGST ON PETROLEUM PRODUCTS

- The central tax on the supply of
- **petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel**
- shall be levied with effect from
- such date as may be notified by the Government
- on the recommendations of the Council.

Sec 9(3) : CGST ON REVERSE CHARGE

- 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.

Sec 9(4) : CGST BY UNREGISTERED SUPPLIER

- The Government may,
- on the recommendations of Council,
- by notification,
- specify a **class of registered persons** who shall,
- in respect of **supply of specified categories of goods or services** or both
- received from an **unregistered supplier**,
- pay the tax on reverse charge basis as the recipient
- of such supply of goods or services or both.
- All the provisions of the CGST Act shall apply to such recipient
- as if he is the person liable for paying the tax in relation
- to such supply of goods or services or both.

Sec 9(5) : CGST BY ELECTRONIC COMMERCE OPERATOR

- The Government may,
- on the recommendations of the Council,
- by notification,
- specify **categories of services**
- the tax on intra-State supplies of which
- shall be paid by the **electronic commerce operator**
- if such services are supplied through it, and
- all the provisions of this Act shall apply to such electronic commerce operator
- as if he is the supplier liable for paying the tax
- in relation to the supply of such services:

If electronic commerce operator does not have a physical presence in the taxable territory :

Any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

If Electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory :

Such electronic commerce operator **shall appoint a person** in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax

Special point :**1. REVERSE CHARGE u/s 9(3) for GOODS [N/N- 4/2017]**

Sno.	Description of supply of Goods	Supplier of Goods	Recipient of supply
1.	Cashew nuts, not shelled or peeled Agriculturist	Agriculturist	Any registered person
2.	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	Tobacco leaves	Agriculturist	Any registered person
4.	Silk yarn Any	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
5	Raw cotton	Agriculturist	Any registered person
6.	Supply of Lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent.
7.	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	CG, SG, UT or a local authority	Any registered person
8.	Priority sector lending certificate	Any Registered Person	Any Registered Person

2. REVERSE CHARGE u/s 9(3) for SERVICES [N/N- 13/2017]

Sl. No.	Category of Supply of Service	Supplier of service	Recipient of Service
1.	Services of transportation of goods by road See WN 1	Goods Transport Agency (GTA) <i>[who has not paid GST @ 12%]</i>	(a) Factory registered under Factories Act (b) Registered Society (c) Co-operative society established under any law (d) Person registered under CGST/ IGST/SGST/UTGST (e) Body corporate established, under any law (f) Partnership firm including AOP (g) Casual taxable person; liable to pay freight & Located in taxable territory.
2.	Legal services <i>Legal services = Service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority</i>	Advocate	Business entity located in Taxable territory.
3.	Services of Arbitral Tribunal	Arbitral tribunal	Business entity located in taxable territory
4.	Sponsorship Services	Any Person	Body corporate or partnership firm located in Taxable Territory
5.	Govt services Excluding : (i) Services by postal department by way of speed post, express parcel post, life insurance, and agency services provided to person other than GOVT/Union territory/local authority;	CG, SG, Union territory or local authority	Any Business Entity located in the taxable territory

	(ii) Services to aircraft or vessel, at precincts of port or airport; (iii) Transport of goods or passengers. (iv) Renting of Immovable Property		
6.	Renting of Immovable Property	Central Government, State Government, Union territory or local authority	Person registered under CGST Act
7.	Director Services	Director of company or body corporate	The company or a body corporate located in taxable territory
8.	Insurance agent services	Insurance agent	Any person carrying on insurance business , located in taxable territory
9.	Recovery agent Services	Recovery agent	Banking company or financial institution or non-banking financial company, Located in taxable territory
10.	Music etc services	Music Composer, Photographer, Artist by way of transfer of copyright under Copyright Act relating to original literary/dramatic, musical/artistic works	Music company, producer located in Taxable Territory
11.	Author services <i>Author can choose to pay tax under forward charge if-</i> (i) <i>Taken registration under CGST & files declaration, that he exercises option to pay CGST on service under forward charge u/s 9(1) and to comply with all provisions & shall not withdraw option within 1 year from date of exercising such option</i> (ii) <i>He makes declaration on invoice issued by him to publisher</i>	Author	Publisher located in Taxable Territory

12.	Overseeing committee Services	Members of Overseeing Committee constituted by RBI	Reserve Bank of India
13.	Business facilitator Services	Business facilitator (BF)	Banking company, located in the taxable territory
14.	Services by Agent of Business Correspondent	An agent of business correspondent (BC)	Business correspondent, located in the taxable territory.
15.	Services of supply of security personnel <i>Provided that nothing contained in this entry shall apply to, -</i> (i) Department of Govt/Union territory, local authority, Govt agencies; which has taken registration under CGST only for deducting tax u/s 51 & not for making taxable supplies or (ii) Registered person paying tax u/s 10 of the said Act.	Any person other than body corporate	Registered person, located in the taxable territory
16.	Services of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project	Any person	Promoter
17.	Long term lease of land (30 years or more) in consideration in the form of upfront amount (called as premium, salami, cost, price, development charges and/or periodic rent for construction of a project	Any person	Promoter
18.	Services of renting of motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from service recipient	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging CGST @6 % to the service recipient	Any body corporate located in the taxable territory

19.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of SEBI, as amended	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.
20.	Services of Direct Selling Agents (DSA)	Individual direct selling agents (DSA) other than a body corporate, partnership or limited liability partnership (LLP) firm	A banking company or a NBFC, located in the taxable territory

WN 1

1. Supply of services provided by GTA to unregistered person, including unregistered casual taxable person, have been exempted from GST. [Notification No. 32/2017]
2. Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use, the goods transport agency has an option to pay integrated tax @ 12% on all the services of GTA supplied by it.
3. 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.
4. RCM of GTA will not apply if services are provided to Govt deptt, local authority or govt agency which are registered under GST only for deducting TDS u/s 51 and does not make taxable supplies

3. SOME MORE REVERSE CHARGE for SERVICES UNDER IGST**Notification No. 10/2017**

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1.	Any Service supplied	Any person located in a non-taxable territory	Any person located in the taxable territory OTHER THAN non-taxable online recipient.
2.	Services of transportation of goods by vessel from place outside India upto customs station of clearance in India	A person located in non-taxable territory	Importer , as defined u/s 2(26) of Customs Act, 1962 located in taxable territory.

	<i>Gujarat HC in case of Mohit Minerals Pvt Ltd Vs Union of India has declared the levy & collection of GST on above point 2 as unconstitutional</i>		
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4. Notified supplies u/s 9(4)

Notification No. 07/2019 & 24/2019 wef 1st of April, 2019

Sl. No.	Category of supply of goods and services	Recipient of goods and services
1	Supply of inputs and input services or both purchased by promoter which constitute the shortfall from 80% value of goods or services or both required to be purchased from registered dealer for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier)	Promoter.
2	Cement falling in chapter heading 2523 in first schedule to the Customs Tariff Act, 1975 purchased by a promoter from unregistered dealer for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier)	Promoter.
3	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975	Promoter

Special point :

- Following services are not covered under above notification
 - services by way of grant of development rights,
 - long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or
 - FSI (including additional FSI)

Special points :

1. Inputs and input services on which tax is paid by promoter under reverse charge under Section 9(3) of CGST Act shall be deemed to have been procured from registered person.
2. Input & input services from composition dealer shall be considered as purchase from registered person paying taxes under composition scheme.
3. Calculations of shortfalls are to be done financial year-wise. The excess % of purchased from registered suppliers in a financial year cannot be adjusted in a next financial year.
4. Inward supplies of exempted goods/services shall be included in the value of supplies from unregistered persons while calculating threshold of 80%
5. Expenditure such as salaries, wages etc should not be considered in calculating the 80% threshold of input and input services because these are not supplies under GST Schedule III.
6. The **GST Rate is 18%** even if the actual rate of GST in case of some of inputs or input services is lower than 18%

Illustration 1 : A promoter purchased 60% of input and input services used in the construction of project from registered supplier. Despite he also purchased 15% Cement & 25% other input & input services from unregistered person, during financial year 2020-21.

Promoter purchased input and input services used in the construction of project from registered supplier	60%
Promoter purchased Cement used in the construction of project from unregistered person. [He is liable to pay under RCM for total purchase of Cement from unregistered person, irrespective of % total purchase]	15%
Other purchases from unregistered person	25%
Promoter is required to purchase minimum 80% of input and input services or both required to be purchased from registered person	
Shortfall from the minimum value of goods or services or both required to be purchased by a promoter Liable to pay under RCM on shortfall $80\% - (60\% + 15\%)$	5%

Illustration 2 : A promoter purchased 60% of input and input services used in the construction of project from registered supplier. Despite he also purchased 15% Cement & 12% other input & input services from unregistered person, during financial year 2020-21. He has also purchased input services on which tax is paid under reverse charge under Section 9(3) of the CGST Act.

Promoter purchased input and input services used in the construction of project from registered supplier.	60%
Promoter purchased Cement used in the construction of project from unregistered person. [He is liable to pay under RCM for total purchase of Cement from unregistered]	15%

person, irrespective of % total purchase]	
Input services on which tax is paid under reverse charge under Section 9(3) of the CGST Act.	13%
Other purchases from unregistered person.	12%
Promoter is required to purchase minimum 80% of input and input services or both required to be purchased from registered person.	
Shortfall from the minimum value of goods or services or both required to be purchased by a promoter Liable to pay under RCM on shortfall $80\% - (60\% + 15\% + 13\%)$	NIL

Illustration 3 : A promoter purchased 82% of input and input services used in the construction of project from registered supplier. Despite he also purchased 05% Cement & 03% other input & input services from unregistered person, during financial year 2020-21. He has also purchased 10% capital goods from unregistered person during financial year 2020-21.

Promoter purchased input and input services used in the construction of project from registered supplier.	82%
Promoter purchased Cement used in the construction of project from unregistered person. [He is liable to pay under RCM for total purchase of Cement from unregistered person, irrespective of % total purchase]	05%
Capital Good purchased from unregistered person.	10%
Other purchases from unregistered person.	03%
Promoter is required to purchase minimum 80% of input and input services or both required to be purchased from registered person.	
Shortfall from the minimum value of goods or services or both required to be purchased by a promoter Liable to pay under RCM on shortfall $80\% - (82\% + 05\% + 10\%)$ [However, Promoter is liable to pay GST under RCM on purchase of Cement and Capital Goods in spite of his purchased from registered supplier exceeds from minimum value of 80%]	NIL

5. Notified services u/s 9(5)

N/N- 17/2017 and 23/2017

Central Government, on the recommendations of Council, hereby notifies that in case of the following categories of services, the tax on intra-State supplies shall be paid by the electronic commerce operator –

- (i) **Services by way of transportation of passengers** by a Radio-taxi, Motorcab, Maxicab and Motor cycle;

- (ii) **Services by way of providing accommodation** in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes,

except where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of CGST Act.
- (iii) **Services by way of house-keeping**, such as plumbing, carpentering etc, EXCEPT where the person supplying such service through electronic commerce operator is liable for registration u/s 22(1) of CGST Act.

Special point :

- (a) **Radio taxi means** a taxi including a radio cab, by whatever name called, which is in two way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS)
- (b) **Maxicab, Motorcab and Motor cycle** shall have the same meanings as assigned to them respectively u/s 2 of Motor Vehicles Act, 1988 .

CHAPTER - 4

CONCEPT OF SUPPLY

CONCEPT OF SUPPLY [SECTION 7]

Sec 7(1) “Supply” includes

(a)

- All forms of **Supply of Goods or Services** or both
- such as **Sale, transfer, barter, exchange, licence, rental, lease or disposal**
- made or agreed to be made for a **consideration**
- by a **person**
- in the course or furtherance of **business**

(b)

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

(c)

- Activities specified in **Schedule I**,
- made or agreed to be made
- without a **consideration**

Sec 7(1A) : Where certain activities or transactions constitute a supply u/s Sec 7(1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

Sec 7(2) : Notwithstanding anything contained in sub-section (1),—

(a) Activities or transactions specified in **Schedule III**; or

(b) such activities undertaken by Central Government, State Government or local authority in which they are engaged as public authorities, as may be notified by Government on recommendations of Council, shall be treated **neither as supply of goods nor supply of services**.

1. Notification 14/2017 has notified the services by way of any activity in relation to function entrusted to **Panchayat** under article 243G of Constitution or to a **Municipality** under article 243W of the constitution for said purpose.

3. Service by way of grant of alcoholic liquor licence by state government is neither a supply of goods nor a supply of service

§. No GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors [Circular No. 116/35/2019]

(3) : Subject to Sec 7(1),7(1A) & 7(2), the Government may, on recommendations of the Council, specify, by notification, the transactions that are to be treated as—

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

Special point :

1. SCHEDULE I : ACTIVITIES TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

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

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding ₹50,000 in value in a F/Y by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

- (a) By principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
- (b) By agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of service without consideration from a related party/establishment outside India in course of furtherance of business received by a taxable person

Special point :

Circular No. 57/31/2018-GST

In terms of Schedule I of CGST Act, 2017, the supply of goods by an agent on behalf of principal without consideration has been deemed to be a supply.

As per section 182 of Indian Contract Act, 1872, an “agent” is a person employed to do any act for another, or to represent another in dealings with third person. The person for whom such act is done, or who is so represented, is called the “principal”.

As delineated in the definition, an agent can be appointed for performing any act on behalf of the principal which may or may not have the potential for representation on behalf of the principal. So, the crucial element here is the representative character of the agent which enables him to carry out activities on behalf of the principal.

The term “agent” has been defined u/s 2(5) of the CGST Act as follows: 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.

4. The following two key elements emerge from the above definition of agent

a) The term agent is defined in terms of the various activities being carried out by the person concerned in the principal-agent relationship; and

b) the supply or receipt of goods or services has to be undertaken by the agent on behalf of the principal. From this, it can be deduced that the crucial component for covering a person within the ambit of the term agent under the CGST Act is corresponding to the representative character identified in the definition of agent under the Indian Contract Act, 1872.

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

Supply of goods— (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

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

7. It may be noted that the crucial factor is how to determine whether the agent is wearing the representative hat and is supplying or receiving goods on behalf of the principal. Since in the commercial world, there are various factors that might influence this relationship, it would be more prudent that an objective criteria is used to determine whether a particular principal-agent relationship falls within the ambit of the said entry or not.

Thus, the key ingredient for determining relationship under GST would be whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not. Where the invoice for further supply is being issued by the agent in his name then, any provision of goods from the principal to the agent would fall within the fold of the said entry. However, it may be noted that in cases where the invoice is issued by the agent to the customer in the name of the principal, such agent shall not fall within the ambit of Schedule I of the CGST Act. Similarly, where the goods being procured by the agent on behalf of the principal are invoiced in the name of the agent then further provision of the said goods by the agent to the principal would be covered Circular No. 57/31/2018-GST Page 3 of 4 by the said entry. In other words, the crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.

8. Looking at the convergence point between the character of the agent under both the CGST Act and the Indian Contract Act, 1872, the following scenarios are discussed:

Scenario 1

Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and

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

Scenario 2

M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders. The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder. In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mr. B is not an agent of M/s XYZ for the supply of goods in terms of Schedule I.

Scenario 3

Mr. A, an artist, appoints M/s B (auctioneer) to auction his painting. M/s B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by M/s B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder. In this scenario, M/s B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I. A similar situation can exist in case of supply of goods as well where the C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F/commission agent is an agent of the principal for the supply of goods in terms of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.

Scenario 4

Mr A sells agricultural produce by utilizing the services of Mr B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Mr B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A. As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction. In cases where the invoice is issued by Mr. B to the buyer, the former is an agent covered under Schedule I. However, in cases where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I.

9. In scenario 1 and scenario 2, Mr. B shall not be liable to obtain registration in terms of clause (vii) of section 24 of the CGST Act. He, however, would be liable for registration if his aggregate turnover of supply of taxable services exceeds the threshold specified in sub-section (1) of section 22 of the CGST Act. In scenario 3, M/s B shall be liable for compulsory registration in terms of the clause (vii) of section 24 of the CGST Act. In respect of commission agents in Scenario 4, notification No. 12/2017 Central Tax (Rate) dated 24.06.2017 has exempted "services by any APMC or board or services provided by the commission agents for sale or purchase of agricultural produce" from GST.

Thus, the services provided by the commission agent for sale or purchase of agricultural produce is exempted. Such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered according to sub-clause (a) of sub-section (1) of section 23 of the CGST Act, if the supply of the agricultural produce, and/or other goods or services supplied by them are not liable to tax or wholly exempt under GST. However, in cases where the supply of agricultural produce is not exempted and liable to tax, such commission agent shall be liable for compulsory registration under sub-section (vii) of section 24 of the CGST Act.

2. SCHEDULE II : ACTIVITIES OR TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

- (a) any transfer of the title in goods is a **supply of goods**;
- (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a **supply of services**;
- (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a **supply of goods**.

2. Land and Building

- (a) any lease, tenancy, easement, licence to occupy land is a **supply of services**;
- (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a **supply of services**.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a **supply of services**.

4. Transfer of business assets

- (a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, ~~whether or not for a consideration~~, such transfer or disposal is a **supply of goods** by the person;
- (b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a **supply of services**;
- (c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
 - (i) Business is transferred as a going concern to another person; or
 - (ii) Business is carried on by personal representative who is deemed to be a taxable person.

5. Supply of services

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

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the **competent authority** or after its first occupation, whichever is earlier.

Construction" includes additions, alterations, replacements or remodelling of any existing civil structure

- (c) Temporary transfer or permitting the use or enjoyment of any intellectual property right;
- (a) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
- (e) Agreeing to obligation to refrain from act, or to tolerate an act or a situation, or to do an act;
- (f) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

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

- (a) works contract as defined u/s 2(119); and
- (b) supply of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods

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

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

3. SCHEDULE III : ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an **employee to employer** in the course of or in relation to his employment.
2. Services by any **court or Tribunal** established under any law for the time being in force
(**Court includes District Court, High Court and Supreme Court**).
3.
 - (a) Functions performed by **Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities**;
 - (b) Duties performed by any person who holds any post in pursuance of the provisions of the **Constitution** in that capacity; or
 - (c) Duties performed by any person as **Chairperson or Member or Director** in a body established by the Central Government or State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of **funeral, burial, crematorium or mortuary including transportation of the deceased**.
5. Sale of **land** and, subject to clause (b) of paragraph 5 of Schedule II, sale of **building**.
6. **Actionable claims**, other than lottery, betting and gambling.

7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India. It seeks to exclude from the tax net such transactions which involve movement of goods, caused by a registered person, from one non-taxable territory to another non-taxable territory.

8. Supply of warehoused goods to any person before clearance for home consumption.

Special point : Warehoused goods means goods deposited in a warehouse.

9. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

Sec 8 : Composite & Mixed supply

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

(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) Mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Special point :

Sec 2(30) : Composite supply

- Means a **supply** made
- by **Taxable Person**
- to a **Recipient**
- Consisting of two or more **taxable supplies**
- of **goods or services** or both, or any combination thereof,
- which are **naturally bundled** and
- supplied in conjunction with each other in the ordinary course of business,
- one of which is a principal supply

Illustration : Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Sec 2(74) : Mixed Supply

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

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

CHAPTER - 5 **TIME OF SUPPLY**

Sec 12 : Time of supply of goods

Sec 12(1) : When GST liability arises on Goods

- The liability to pay
- tax on goods
- shall arise
- at the time of supply,
- as determined in accordance
- with the provisions of this section.

Sec 12(2) : Time of supply under forward charge

The time of supply of goods shall be the earlier of the following dates, namely:—

(a) **Date of issue of invoice** by supplier or

(b) **Last date to issue invoice** u/s 31, with respect to supply; or

(c) ~~Date on which the supplier receives the payment with respect to the supply:~~

~~Provided that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.~~

Date of receipt is not applicable for all registered suppliers of goods (excluding composition suppliers)

Notification No. 66/2017 CT dated 15.11.2017

Last date of issue of Invoice

Section	Case	Last date for issue of invoice
Sec 31(1)	Invoice for single supply of goods	Upto Date of removal of goods for supply to the recipient, where the supply involves movement of goods; or Upto Date of delivery of goods or making available thereof to the recipient, in any other case
Sec 31(4)	Continuous supply of goods	Where successive statements of accounts or successive payments are involved, the invoice shall be issued Before or at t time each such statement is issued or each such payment is received ,as the case may be,
Sec 31(7)	Goods sent on approval basis	Before or at the time of supply or six months from the date of removal, whichever is earlier.

Sec 12(3) : Time of supply under Reverse charge

In case of supplies in respect of which tax is paid or liable to be paid on **reverse charge basis**, the time of supply shall be the earliest of the following dates, namely:—

(a) Date of receipt of goods; or

(b) Date of payment as entered in books of account of recipient or date on which payment is debited in his bank account, whichever is earlier; or

(c) Date immediately following 30 days from date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

Sec 12(4) : Time of supply in case of supply of vouchers

In case of supply of vouchers by a supplier, the time of supply shall be—

(a) Date of issue of voucher, if the supply is identifiable at that point; or

(b) Date of redemption of voucher, in all other cases.

Sec 12(5) : Time of supply in other cases

Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—

(a) in a case where periodical return has to be filed, be the **date on which such return is to be filed**; or

(b) in any other case, be the **date on which the tax is paid**.

Sec 12(6) : Time of supply in case of late fees

- The time of supply to the extent
- it relates to an addition in the value of supply
- by way of interest, late fee or penalty for delayed payment of any consideration
- shall be the date
- on which the supplier receives such addition in value

Sec 13 : Time of supply of services

Sec 13(1) : When GST liability arises on Services

The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

Sec 13(2) : Time of supply under forward charge

The time of supply of services shall be the earliest of the following dates, namely:—

- (a) **Date of issue of invoice by the supplier**, if invoice is issued within **period prescribed u/s 31** or the date of receipt of payment, whichever is earlier; or
- (b) **Date of provision of service**, if invoice is not issued within **period prescribed u/s 31** or the date of receipt of payment, whichever is earlier; or
- (c) **Date on which recipient shows receipt of services in his books of account**, in a case where the provisions of clause (a) or clause (b) do not apply:

Provided that where the supplier of taxable service receives an amount up to ₹1,000 in excess of amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

For the purposes of clauses (a) and (b)—

- (i) Supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;
- (ii) “Date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Special point :

Last date of issue of Invoice

Section	Case	Last date for issue of invoice
Sec 31(2)	Invoice for single supply of service	<p>A registered person supplying taxable services shall issue a tax invoice, before or after the provision of service but within prescribed period</p> <p>Prescribed period : Rule 47 Within 30 days from the date of supply of service</p> <p>Provided in case of Insurance Services or Banking company services or a financial institution service, including non-banking financial company services, it shall be 45 days from date of supply of service</p>

Sec 31(5)	Continuous supply of services	<p>(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;</p> <p>(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;</p> <p>(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of the event.</p>
Sec 31 (6)	Supply ceases before completion	In a case where the supply of services ceases under a contract before the completion of the supply, invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

Sec 13(3) : Time of supply under Reverse charge

In case of supplies in respect of which tax is paid or liable to be paid **on reverse charge basis**, the time of supply shall be the earlier of the following dates, namely:—

- (a) **Date of payment** as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (b) **Date immediately following 60 days** from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

Sec 13(4): Time of supply in case of supply of vouchers

In case of supply of vouchers by a supplier, the time of supply shall be—

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

Sec 13(5) : Time of supply in other cases

Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall—

- (a) in case where periodical return has to be filed, be the date on which such return is to be filed; or
- (b) in any other case, be the date on which the tax is paid.

Sec 13(6) : Time of supply in case of late fees

The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Sec 14 : Change in rate of tax in respect of supply of goods or services.

Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

(a) Goods or services or both have been supplied before the change in rate of tax,

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(b) Goods or services or both have been supplied after the change in rate of tax,

(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice;

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation.—For the purposes of this section, “the date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

SPECIAL POINT :

- 1. Date of receipt is not applicable for all registered suppliers of goods (excluding composition suppliers) *Notification No. 66/2017 CT dated 15.11.2017***

Therefore, in case of Change in rate of tax in respect of supply of goods, Sec 14 will not apply and rate of GST will be applicable as per sec 12 only

- 2. Special procedure for determining the time of supply of services in certain cases**

With effect from 01.04.2019, supply of services by a landowner to a developer by way of –

Such exemption for TDR, FSI, long term lease (premium) shall not be available in case of flats which remain un-booked on the date of issuance of completion certificate or first occupation of the project, whichever is earlier. The promoter (developer) shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of (i) value of development rights and/or FSI, or (ii) upfront amount paid for long term lease, as is attributable to such un-booked residential apartments.

- Transfer of transferable development rights (TDR) or floor space index (FSI);
- granting of long term lease

for construction of residential apartments have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate or first occupation of the project, whichever is earlier, and tax is paid on them.

In view of the above change, with effect from 01.04.2019, a special procedure for payment of tax has been laid down for following classes of registered persons, namely-

The Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons u/s 148 , namely:-

(i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;

(ii) a promoter, who receives long term lease of land on or after 1 st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name), as the registered persons in whose case the liability to pay central tax on, -

(a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relatable to construction of residential apartments in project;

(c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relatable to construction of residential apartments in the project; and

(d) the supply of construction service by him against consideration in the form of development rights or FSI(including additional FSI), - shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

Explanation:- For the purpose of this notification,-

- “Project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);
- “Real Estate Project (REP)” shall have the same meaning as assigned to it in under the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);.
- “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 % of the total carpet area of all the apartments in the REP.
- “Floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.
- Tax on services covered above is required to be paid under reverse charge basis in accordance with notification No. 13/2017- Central Tax (Rate), dated 28.06.2017

CHAPTER - 6

VALUE OF SUPPLY

Sec 15 : Value of Taxable supply

(1) Transaction value

- The value of a supply of goods or services or both
- shall be the transaction value,
- which is the price actually paid or payable
- for the said supply of goods or services or both
- where the supplier and the recipient of the supply
- are not related and
- the price is the sole consideration for the supply.

(2) The value of supply shall include –

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST Act, the UTGST Act and the GST (Compensation to States) Act, if charged separately by the supplier;

It has been clarified that for the purpose of determination of value of supply under GST, tax collected at source (TCS) under the provisions of the Income Tax Act, 1961 would not be includible as it is an interim levy not having the character of tax. *Circular No. 76/50/2018 GST*

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

(4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Explanation : For the purposes of this Act,—

(a) persons shall be deemed to be “related persons” if—

- (i) such persons are officers or directors of one another’s businesses;
- (ii) such persons are legally recognised partners in business;
- (iii) such persons are employer and employee;
- (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
- (v) one of them directly or indirectly controls the other;
- (vi) both of them are directly or indirectly controlled by a third person;
- (vii) together they directly or indirectly control a third person; or
- (viii) they are members of the same family;

(b) the term “person” also includes legal persons;

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

Circular No. 92/11/2019

Tax treatment of sales promotion schemes under GST

It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier (hereinafter referred to as the “ITC”) in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per sec 7(1)(a) of the said Act, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.

Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as supply under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as supply under GST, except where the activity falls within the ambit of Schedule I of the said Act.

ii. Further, Sec 17(5)(h) of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of supply on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

i. Sometimes, companies announce offers like 'Buy One, Get One free' For example, buy one soap and get one soap free or Get one tooth brush free along with the purchase of tooth paste. As per Sec 7(1)(a) of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as supply under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like Buy One, Get One Free, one item is being supplied free of cost without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including 'Buy more, save more' offers:

i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume).

For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.

ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as "volume discounts". Such discounts are passed on by the supplier through credit notes.

iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under Buy more, save more scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down u/s 15(3) of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

ii. The provisions of sec 34(1) of the said Act provides as under: “Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”

iii. Representations have been received from the trade and industry that whether credit notes(s) u/s 34(1) of the said Act can be issued in such cases even if the conditions laid down u/s 15(3)(b) of the said Act are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned u/s 15(3)(b) of the said Act are not satisfied.

In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down u/s 15(3)(b) of the said Act are not satisfied.

v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.

vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

Clarification on value to be adopted for computing GST on services of Business Facilitator (BF) or a Business Correspondent (BC) to Banking Company (Circular No. 86/05/2019 GST)

Clarification: As per RBI's Circular and subsequent instructions on the issue (referred to as 'guidelines' hereinafter), banks may pay reasonable commission/fee to the BC, the rate and quantum of which may be reviewed periodically. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank.

On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner. The arrangements of banks with the BCs specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the BF/BC.

Clarification regarding applicability of GST on delayed payment charges in case of late payment of Equated Monthly Instalments(EMI)

Issue: Whether GST is applicable on additional / penal interest on the overdue loan? Whether such penal interest would be exempt or it would be taxable treating it as consideration for liquidated damages?

Clarification: As per the provisions of section 15 of the CGST Act, the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply. Entry 27 of exemption notification, *inter alia*, exempts the services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services). Here, interest means interest payable in any manner in respect of any moneys borrowed/debt incurred (including a deposit, claim or other similar right or obligation), but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.

There are two transaction options involving EMI that are prevalent in the trade.

Illustration – 1: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. However, X gives Y an option to pay in installments, Rs. 11,000/- every month before 10th day of the following month, over next four months (Rs. 11,000/- \times 4 = Rs. 44,000/-). As per the contract, if there is any delay in payment by Y beyond the scheduled date, Y would be liable to pay additional/ penal interest amounting to Rs. 500/- per month for the delay.

In some instances, X is charging Y Rs. 40,000/- for the mobile and is separately issuing another invoice for providing the services of extending loans to Y, the consideration for which is the interest of 2.5% per month and an additional/ penal interest amounting to Rs. 500/- per month for each delay in payment.

Illustration – 2: X sells a mobile phone to Y. The cost of mobile phone is Rs. 40,000/-. Y has the option to avail a loan at interest of 2.5% per month for purchasing the mobile from M/s. ABC Ltd. The terms of the loan from M/s. ABC Ltd. allows Y a period of four months to repay the loan and an additional/ penal interest @ 1.25% per month for any delay in payment.

Here, the additional/ penal interest is charged for a transaction between Y and M/s. ABC Ltd., and the same is getting covered under exemption Entry 27. Consequently, in this case the 'penal interest' charged thereon on a transaction between Y and M/s. ABC Ltd. would not be subject to GST as the same would be covered under said exemption entry. However, any service fee/ charge or any other charges, if any, are levied by M/s. ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify to be interest as defined in exemption notification, and accordingly will not be exempt.

Moreover, the value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST.

DETERMINATION OF VALUE OF SUPPLY

RULE 27 to 35 of CGST Rules ,2017

Explanation : For the purposes of the below provisions, the expressions-

(a) —Open market value of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess payable by a person in a transaction, where the supplier and the recipient of the supply are not related and the price is the sole consideration, to obtain such supply at the same time when the supply being valued is made;

(b) —Supply of goods or services or both of like kind and quality means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and the reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.

Rule 27: Value of supply of goods or services where consideration is not wholly in money

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,-

(a) be the open market value of such supply;

(b) if the open market value is not available under clause (a), be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;

(c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;

(d) if the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order.

Illustration:

(1) Where a new phone is supplied for twenty thousand rupees along with the exchange of an old phone and if the price of the new phone without exchange is twenty four thousand rupees, the open market value of the new phone is twenty four thousand rupees.

(2) Where a laptop is supplied for forty thousand rupees along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is four thousand rupees but the open market value of the laptop is not known, the value of the supply of the laptop is forty four thousand rupees.

Rule 28 : Value of supply of goods or services or both between distinct or related persons, other than through an agent

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall-

(a) be the open market value of such supply;

(b) if the open market value is not available, be the value of supply of goods or services of like kind and quality;

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person: Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

Rule 29 : Value of supply of goods made or received through an agent

The value of supply of goods between the principal and his agent shall-

(a) be the open market value of the goods being supplied, or at the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.

Illustration: A principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of five thousand rupees per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of four thousand five hundred and fifty rupees per quintal. The value of the supply made by the principal shall be four thousand five hundred and fifty rupees per quintal or where he exercises the option, the value shall be 90 % of five thousand rupees i.e., four thousand five hundred rupees per quintal.

(b) where the value of a supply is not determinable under clause (a), the same shall be determined by the application of rule 30 or rule 31 in that order.

Rule 30 : Value of supply of goods or services or both based on cost

Where the value of a supply of goods or services or both is not determinable by any of the preceding rules of this Chapter, the value shall be 110% of the cost of production or manufacture or the cost of acquisition of such goods or the cost of provision of such services.

Rule 31 : Residual method for determination of value of supply of goods or services or both

Where the value of supply of goods or services or both cannot be determined under rules 27 to 30, the same shall be determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter:

Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

Rule 31A : Value of supply in case of lottery, betting, gambling and horse racing

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

(2) The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the Organising State, whichever is higher.

Explanation:— For the purposes of this sub-rule, the expression —Organising State has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.

(3) The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

Rule 32 : Determination of value in respect of certain supplies

(1) Notwithstanding anything contained in the provisions of this Chapter, the value in respect of supplies specified below shall, at the option of the supplier, be determined in the manner provided hereinafter.

(2) The value of supply of services in relation to the **Purchase or Sale of foreign currency, including money changing**, shall be determined by the supplier of services in the following manner, namely:-

(a) for a currency, when exchanged from, or to, Indian Rupees, the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the RBI reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupees, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by the RBI.

Provided also that a person supplying the services may exercise the option to ascertain the value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(b) at the option of the supplier of services, the value in relation to the supply of foreign currency, including money changing, shall be deemed to be-

(i) 1% of the gross amount of currency exchanged for an amount up to ₹1 lakh, subject to a minimum amount of ₹250;

(ii) ₹1000 and $\frac{1}{2}$ % of the gross amount of currency exchanged for an amount exceeding ₹1lakh and up to ₹10 lakh; and

(iii) ₹5500 and $\frac{1}{10}$ % of the gross amount of currency exchanged for an amount exceeding ₹10 lakh, subject to a maximum amount of ₹60,000.

(3) The value of the supply of services in relation to **Booking of tickets for travel by air provided by an air travel agent** shall be deemed to be an amount calculated @5% of the basic fare in the case of domestic bookings, and at the rate of @10% of the basic fare in the case of international bookings of passage for travel by air.

Explanation.- For the purposes of this sub-rule, the expression —basic fare means that part of the air fare on which commission is normally paid to the air travel agent by the airlines.

(4) The value of supply of services in relation to **Life insurance business** shall be,-

(a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service;

(b) in case of single premium annuity policies other than (a), 10% of single premium charged from the policy holder; or

(c) 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:

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

(5) Where a taxable supply is provided by **a person dealing in buying and selling of second hand goods** i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored:

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by 5% points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

(6) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

(7) The value of taxable services provided by such class of service providers as may be notified by the Government, on the recommendations of the Council, as referred to in paragraph 2 of Schedule I of the said Act between distinct persons as referred to in section 25, where input tax credit is available, shall be deemed to be NIL.

Rule 32A : Value of supply in cases where Kerala Flood Cess is applicable

The value of supply of goods or services or both on which **Kerala Flood Cess** is levied under clause 14 of the Kerala Finance Bill, 2019 shall be deemed to be the value determined in terms of section 15 of the Act, but shall not include the said cess.

Rule 33 : Value of supply of services in case of pure agent

Notwithstanding anything contained in the provisions of this Chapter, the expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Explanation.- For the purposes of this rule, the expression —pure agent means a person who-

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Illustration.- Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the Registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

Rule 34 : Rate of exchange of currency, other than Indian rupees, for determination of value

(1) The rate of exchange for determination of value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 for the date of time of supply of such goods in terms of section 12 of the Act.

(2) The rate of exchange for determination of value of taxable services shall be the applicable rate of exchange determined as per the generally accepted accounting principles for the date of time of supply of such services in terms of section 13 of the Act.]41

Rule 35 : Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely,-

Tax amount = (Value inclusive of taxes X tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)

CHAPTER - 7

PLACE OF SUPPLY

Sec 1 : Short Title, Extent and Commencement of IGST ACT 2017

(1) This Act may be called the **Integrated Goods and Services Tax Act, 2017**.

(2) It shall extend to the **whole of India except State of Jammu & Kashmir**.

Extended to J & K w.e.f 8/7/2017 by The IGST (Extension to Jammu & Kashmir) Act, 2017

(3) It shall come into **force on such date as Central Government may, by notification** in Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

IMPORTANT DEFINITIONS

Sec 2(3) : “Continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

Explanation.—For the purposes of this clause, the term “stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

Sec 2(5): “Export of Goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

Sec 2(6) “Export of services” means the supply of any service when,—

- (i) Supplier of service is located in India;
- (ii) Recipient of service is located outside India;
- (iii) Place of supply of service is outside India;
- (iv) Payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) Supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with *Explanation 1* in section 8;

Sec 2(7) : “Fixed establishment” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;

Sec 2(10) : “Import of goods” with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

Sec 2(11) : “Import of services” means the supply of any service, where—

- (i) Supplier of service is located outside India;
- (ii) Recipient of service is located in India; and
- (iii) Place of supply of service is in India;

Sec2 (14): “location of the recipient of services” means,—

(a) Where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) Where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) Where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) In absence of such places, the location of the usual place of residence of the recipient;

Sec 2(15) : “Location of the supplier of services” means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

Sec 2(16) : “Non-taxable online recipient” means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body,—

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

Sec 2(17) : “Online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

(i) advertising on the internet;

(ii) providing cloud services;

(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming;

Sec 5 of the IGST Act,2017 : LEVY & COLLECTION OF IGST

Sec 5(1) : Charge of IGST

- Subject to the provisions of sub-section (2),
- There shall be levied a tax called the IGST
- On all inter-State supplies of goods or services or both,
- Except on the supply of alcoholic liquor for human consumption,
- On the value determined u/s 15 of the CGST Act and
- At such rates, not exceeding 40%.
- As may be notified by the Government on the recommendations of Council and
- Collected in such manner as may be prescribed and s
- Shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods u/s 12 of the Customs Act, 1962.

Sec 5(2) : CGST ON PETROLEUM PRODUCTS

- The integrated tax on
- the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel
- shall be levied with effect from such date
- as may be notified by the Government
- on the recommendations of the Council.

Sec 5(3) : IGST ON REVERSE CHARGE

- 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.

Sec 5(4) : IGST BY UNREGISTERED SUPPLIER

- The Government may,
- on the recommendations of the Council,
- by notification,
- specify a class of registered persons
- who shall, in respect of supply of specified categories of goods or services or both
- received from an unregistered supplier,
- pay the tax on reverse charge basis
- as the recipient of such supply of goods or services or both, and
- all the provisions of this Act shall apply to such recipient
- as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

Sec 5(5) : IGST BY ELECTRONIC COMMERCE OPERATOR

- The Government may,
- on the recommendations of the Council,
- by notification,
- specify categories of services,
- the tax on inter-State supplies of which
- shall be paid by the electronic commerce operator
- if such services are supplied through it, and
- all the provisions of this Act shall apply
- to such electronic commerce operator
- as if he is the supplier liable for paying
- the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Sec 7: Inter State Supply

Sec 7(1) : Inter state supply of goods

Subject to provisions of section 10, supply of goods, where location of supplier and place of supply are in—

- (a) Two different States;
- (b) Two different Union territories; or
- (c) State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce.

Sec 7(2) : Import of Goods to be treated as interstate supply

- Supply of goods
- imported into the territory of India,
- till they cross the customs frontiers of India,
- shall be treated to be a supply of goods
- in the course of inter-State trade or commerce.

Sec 17(3) : Inter state supply of services

Subject to provisions of section 12, supply of services, where location of supplier & place of supply are in—

- (a) Two different States;
- (b) Two different Union territories; or
- (c) a State and a Union territory,

shall be treated as a supply of services in the course of inter-State trade or commerce.

Sec 17(4) : Import of Services to be treated as interstate supply

- Supply of services
- imported into the territory of India
- shall be treated to be a
- supply of services
- in the course of inter-State trade or commerce.

Sec 7(5) : Export & SEZ to be treated as Interstate supply

Supply of goods or services or both,—

- (a) when supplier is located in India and place of supply is outside India;
- (b) To or by SEZ developer or a SEZ unit; or
- (c) In taxable territory, not being intra-State supply & not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

Sec 8 : Intra-State supply

Sec 8(1) : Intra state supply of goods

- Subject to provisions of section 10,
- supply of goods
- where location of supplier and
- place of supply of goods
- are in the same State or
- same Union territory
- shall be treated as intra-State supply

Provided that the following supply of goods shall not be treated as intra-State supply, namely:—

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
- (iii) supplies made to a tourist referred to in section 15.

Sec 8(2) : Intra state supply of services

- Subject to provisions of section 12,
- supply of services
- where location of the supplier and
- Place of supply of services
- are in same State or
- same Union territory
- shall be treated as intra-State supply

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Explanation 1 : For the purposes of this Act, where a person has,—

- (i) Establishment in India and any other establishment outside India;
- (ii) Establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) Establishment in State or Union territory & any other establishment ~~being business vertical~~ registered within that State or Union territory,

then such establishments shall be treated as establishments of distinct persons.

Explanation 2.—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Sec 9 : Supplies in territorial waters

Notwithstanding anything contained in this Act,—

(a) where location of supplier is in territorial waters, the location of such supplier; or

(b) where place of supply is in territorial waters, the place of supply, shall, for the purposes of this Act,

be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Sec 10 : Place of supply of goods other than supply of goods imported into, or exported from India.

(1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

(a) **where the supply involves movement of goods**, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

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

(c) **where the supply does not involve movement of goods**, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

(d) **where the goods are assembled or installed at site**, the place of supply shall be the place of such installation or assembly;

(e) **where the goods are supplied on board a conveyance**, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(2) **Where the place of supply of goods cannot be determined**, the place of supply shall be determined in such manner as may be prescribed.

Sec 11 : Place of supply of goods imported into/exported from India.

The place of supply of goods,—

(a) imported into India shall be the location of the importer;

(b) exported from India shall be the location outside India.

Sec 12 : Place of supply of Services where location of supplier and recipient is in India.

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

(2) **The place of supply of services**, except the services specified in sub-sections (3) to (14),—

- (a) made to a registered person shall be the location of such person;
- (b) made to any person other than a registered person shall be,—
 - (i) the location of the recipient where the address on record exists; and
 - (ii) the location of the supplier of services in other cases.

(3) The place of supply of services,—

(a) **directly in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

(b) **by way of lodging accommodation** by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

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

(d) **any services ancillary to the services** referred to in clauses (a), (b) and (c), shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(4) **The place of supply of restaurant and catering services**, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

(5) **The place of supply of services in relation to training** and performance appraisal to,—

- (a) a registered person, shall be the location of such person;
- (b) a person other than a registered person, shall be the location where the services are actually performed.

(6) **The place of supply of services provided by way of admission** to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

(7) The place of supply of services provided by way of,—

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

(b) **services ancillary to organisation of any of the events** or services referred to in clause (a), or assigning of sponsorship to such events,—

(i) to a registered person, shall be the location of such person;

(ii) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(8) The place of supply of services by way of transportation of goods, including by mail or courier to,

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

(9) The place of supply of passenger transportation service to,—

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).

Explanation.—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

(10) The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.**(11) The place of supply of telecommunication services** including data transfer, broadcasting, cable and direct to home television services to any person shall,—

(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;

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

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

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

(d) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

Provided that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

Provided further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

Explanation.—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(12) The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services: Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

(13) The place of supply of insurance services shall,—

(a) to a registered person, be the location of such person;

(b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

(14) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Sec 13 : Place of supply of services where location of supplier or location of recipient is outside India.

(1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the **location of the recipient of services:**

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(3) The place of supply of following services shall be the location where services are actually performed, namely:—

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;

(b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

(4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

(5) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.

(6) Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

(7) Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(8) The place of supply of the following services shall be the location of the supplier of services, namely:—

(a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

(b) intermediary services;

(c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

(9) The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

(10) The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

(11) The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.

(12) The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

Explanation.—For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non contradictory conditions are satisfied, namely:—

(a) the location of address presented by the recipient of services through internet is in the taxable territory;

(b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;

(c) the billing address of the recipient of services is in the taxable territory;

(d) the internet protocol address of the device used by the recipient of services is in the taxable territory;

(e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;

(f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;

(g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

(13) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

Sec 14 : Special provision for payment of tax by a supplier of online information and database access or retrieval services.

(1) On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely:—

(a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;

(b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;

(c) the intermediary involved in the supply does not authorise delivery; and

(d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

(2) The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

Sec 15. : Refund of integrated tax paid on supply of goods to tourist leaving India.

The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

Explanation.—For the purposes of this section, the term “tourist” means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Sec 16 : Zero rated Supply

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

(a) export of goods or services or both; or

(b) supply of goods or services or both to a SEZ developer or a SEZ unit.

(2) Subject to the provisions of sub-section (5) of section 17 of Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—

(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the CGST Act or the rules made thereunder.

Sec 25 : Removal of difficulties

(1) If any difficulty arises in giving effect to any provision of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of **FIVE** years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament

CHAPTER - 8

COMPOSITION SCHEME

Sec 10 : Composition scheme + Rule 3 to Rule 7

Sec 10(1) : Eligibility

- Notwithstanding anything to the contrary contained in this Act
- but subject to the provisions of section 9(3) & 9(4),
- a registered person, whose aggregate turnover
- in the preceding f/y
- did not exceed one crore rupees*,
- may opt to pay,
- in lieu of the tax payable by him u/s 9(1),
- an amount of tax calculated at such rate as may be prescribed, but not exceeding,—

(a) 0.5% of turnover in State or turnover in Union territory for manufacturer [other than Ice cream and other edible ice, whether or not containing cocoa, Pan masala & Tobacco and manufactured tobacco substitutes].

(b) 2.5% of turnover in State or turnover in Union territory for restaurant services (Supply of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption))

(c) 0.5% of turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed

For traders availing composition scheme, 1% tax rate will be applicable on turnover of taxable supplies of goods & Services.

Analysis : Therefore exempted supplies would not be added in the turnover for the purpose of levy of 1% composition levy.

Provided that the Government may, by notification, increase the said limit of one crore rupees to such higher amount, not exceeding 1.5 crore rupees, as may be recommended by the Council.

Special Point :

Provided further a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than restaurant services), of value not exceeding 10% of turnover in a State or Union territory in preceding f/y or five lakh rupees, whichever is higher.

The value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be considered for above limit of 10%:

Special point :**Notification No. 14/2019 – Central Tax**

Eligible registered person whose aggregate turnover in the preceding f/y did not exceed 1.5 crore rupees , may opt to pay, in lieu of tax payable by him u/s 9(1) , tax as prescribed under rule 7 of CGST Rules, 2017:

Provided that the said aggregate turnover in the preceding f/y shall be 75 lakh rupees in the case of an eligible registered person, registered u/s 25 , in any of the following States, namely: –

- (i) Arunachal Pradesh,
- (ii) Manipur,
- (iii) Meghalaya,
- (iv) Mizoram,
- (v) Nagaland,
- (vi) Sikkim,
- (vii) Tripura,
- (viii) Uttarakhand:

Provided further that the registered person shall not be eligible to opt for composition levy u/s 10(1) ,if such person is a manufacturer of below goods

- 1. Ice cream and other edible ice, whether or not containing cocoa**
- 2. Pan masala**
- 3. Tobacco and manufactured tobacco substitutes**
- 4. Aerated Water**

Sec 10(2) : Non Eligibility

The registered person shall be eligible to opt under sub-section (1) , if:—

- (a) **Save as provided in 10(1), he is not engaged in supply of services;**
- (b) **he is not engaged in making any supply of goods or services which are not leviable to tax under this Act;**
- (c) **he is not engaged in making any inter-State outward supplies of goods or services ;**
- (d) **he is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source u/s 52; and**
- (e) **he is not a manufacturer of such goods as may be notified by Government on recommendations of Council:**

Provided that where more than one registered persons are having same PAN (issued under Income-tax Act, 1961), registered person shall not be eligible to opt for scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

Sec 10(2A) : New Composition scheme

A registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding F/Y did not exceed 50 lakh, may opt to pay, in lieu of the tax payable by him u/s 9(1), an amount of tax calculated at such rate as may be prescribed, but not exceeding 3% of the turnover in State or turnover in Union territory, if he is not—

- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
- (b) engaged in making any inter-State outward supplies of goods or services;
- (c) engaged in making any supply of goods or services through an ECO who is required to collect tax at source u/s 52;
- (d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
- (e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same PAN issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.

Special Point :

Aggregate turnover of a person for determining his eligibility to pay tax under this section shall include the value of supplies made by such person from the 1st April of a F/Y up to the date when he becomes liable for registration under this Act,

but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Turnover in State or turnover in Union territory shall not include the value of following supplies, namely:—

- (i) supplies from the first day of April of a F/Y up to the date when such person becomes liable for registration under this Act; and
- (ii) 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.’.

Sec 10(3) : Lapse of option

The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his **aggregate turnover during a f/y** exceeds the limit specified u/s 10(1).

Sec 10(4) : Composite dealer not to collect tax

A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

Sec 10(5) : Penalty

If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

Special Points :**1. Sec 2(6) : “Aggregate turnover” means**

- Aggregate value of all taxable supplies
- Excluding the value of inward supplies on which tax is payable by a person on reverse charge basis,
- Exempt supplies,
- Exports of goods or services or both and
- Inter-State supplies of
- Persons having the same PAN,
- to be computed on all India basis but
- Excludes central tax, State tax, Union territory tax, integrated tax and cess

2. Value of supply of exempt services by way of extending deposits, loans or advances to be excluded while computing aggregate turnover for determining eligibility for composition scheme. Interest income not to render a person ineligible for composition scheme**3. Effective date in case of denial of composition option by tax authorities**

In case of denial of option to pay tax under composition levy by the tax authorities, it has been clarified that the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules.

[Circular No. 77/51/2018 GST dated 31.12.2018].

RULE 3 to 7 : COMPOSITION LEVY

Rule 3 : Intimation for composition levy

(1) Any person who has been granted registration on a provisional basis under clause (b) of sub-rule (1) of rule 24 and who opts to pay tax under section 10, shall electronically file an intimation in **FORM GST CMP-01**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the appointed day, but not later than thirty days after the said day, or such further period as may be extended by the Commissioner in this behalf:

Provided that where the intimation in **FORM GST CMP-01** is filed after the appointed day, the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.

(2) Any person who applies for registration under sub-rule (1) of rule 8 may give an option to pay tax under section 10 in Part B of **FORM GST REG-01**, which shall be considered as an intimation to pay tax under the said section.

(3) Any registered person who opts to pay tax under section 10 shall electronically file an intimation in **FORM GST CMP-02**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 within a period of sixty days from the commencement of the relevant financial year.

Provided that any registered person who opts to pay tax under section 10 for the financial year 2020-21 shall electronically file an intimation in **FORM GST CMP-02**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, on or before 30th day of June, 2020 and shall furnish the statement in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 upto the 31st day of July, 2020.

(3A) Notwithstanding anything contained in sub-rules (1), (2) and (3), a person who has been granted registration on a provisional basis under rule 24 or who has been granted certificate of registration under sub-rule (1) of rule 10 may opt to pay tax under section 10 with effect from the first day of the month immediately succeeding the month in which he files an intimation in **FORM GST CMP-02**, on the common portal either directly or through a Facilitation Centre notified by the Commissioner, on or before the 31st day of March, 2018, and shall furnish the statement in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 within a period of one hundred and eighty days from the day on which such person commences to pay tax under section 10:

Provided that the said persons shall not be allowed to furnish the declaration in **FORM GST TRAN-1** after the statement in **FORM GST ITC-03** has been furnished.]⁴

(4) Any person who files an intimation under sub-rule (1) to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in **FORM GST CMP-03**, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within a period of [ninety]⁵ days from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.

(5) Any intimation under sub-rule (1) or sub-rule (3) [or sub-rule (3A)]⁶ in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

Rule 4 : Effective date for composition levy

(1) The option to pay tax under section 10 shall be effective from the beginning of the financial year, where the intimation is filed under sub-rule (3) of rule 3 and the appointed day where the intimation is filed under sub-rule (1) of the said rule.

(2) The intimation under sub-rule (2) of rule 3, shall be considered only after the grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule 10.

Rule 5 : Conditions and restrictions for composition levy

(1) The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely:-

(a) he is neither a casual taxable person nor a non-resident taxable person;

(b) the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under sub-rule (1) of rule 3;

(c) the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9;

(d) he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both;

(e) he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year;

(f) he shall mention the words —composition taxable person, not eligible to collect tax on supplies at the top of the bill of supply issued by him; and

(g) he shall mention the words —composition taxable person on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

(2) The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

Rule 6 : Validity of composition levy

(1) The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.

(2) The person referred to in sub-rule (1) shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 or the provisions of this Chapter and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of the occurrence of such event.

(3) The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04**, duly signed or verified through electronic verification code, electronically on the common portal.

(4) Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 or has contravened the provisions of the Act or provisions of this Chapter, he may issue a notice to such person in **FORM GST CMP-05** to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under section 10 shall not be denied

(5) Upon receipt of the reply to the show cause notice issued under sub-rule (4) from the registered person in **FORM GST CMP-06**, the proper officer shall issue an order in **FORM GST CMP-07** within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.

(6) Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in **FORM GST CMP-07** under sub-rule (5), may electronically furnish at the common portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in **FORM GST ITC-01** containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of thirty days from the date from which the option is withdrawn or from the date of the order passed in **FORM GST CMP-07**, as the case may be.

(7) Any intimation or application for withdrawal under sub-rule (2) or (3) or denial of the option to pay tax under section 10 in accordance with sub-rule (5) in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

Rule 7 : Rate of tax of the composition levy.-The category of registered persons, eligible for composition levy under section 10 and the provisions of this Chapter, specified in column (2) of the Table below shall pay tax under section 10 at the rate specified in column (3) of the said Table:-

Sl. No.	Section under which composition levy is opted	Category of registered persons	Rate of tax
(1)	(1A)	(2)	(3)
1.	Sub-sections (1) and (2) of section 10	Manufacturers, other than manufacturers of such goods as may be notified by the Government	half per cent. of the turnover in the State or Union territory
2.	Sub-sections (1) and (2) of section 10	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. of the turnover in the State or Union territory
3.	Sub-sections (1) and (2) of section 10	Any other supplier eligible for composition levy under sub-sections (1) and (2) of section 10	half per cent. of the turnover of taxable supplies of goods and services in the State or Union territory
4.	Sub-section (2A) of section 10	Registered persons not eligible under the composition levy under sub-sections (1) and (2), but eligible to opt to pay tax under sub-section (2A), of section 10	three per cent. of the turnover of supplies of goods and services in the State or Union territory

CHAPTER - 9 **INPUT TAX CREDIT**

Sec 16 , Sec 17 , Sec 18

Sec 2(62) : Input tax” in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

- (a) IGST charged on import of goods;
- (b) Tax payable u/s 9(3) and 9(4) of CGST Act;
- (c) Tax payable u/s 5(3) & 5(4) of IGST Act;
- (d) Tax payable u/s 9(3) and 9(4) of SGST Act; or
- (e) Tax payable u/s 7(3) & 7(4) of UTGST Act, but does not include tax paid under composition levy

Sec 16 : Eligibility and conditions for taking input tax credit

Sec 16(1) : Eligibility of Input Tax credit

- Every registered person shall,
- subject to prescribed conditions and restrictions and
- in manner specified in section 49,
- be entitled to take credit of input tax charged
- on any supply of goods or services or both to him
- which are used or intended to be used in the course or furtherance of his business and
- the said amount shall be credited to the electronic credit ledger of such person.

Sec 16(2) : Conditions for claiming ITC

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 **Tax invoice or Debit note** issued by registered supplier, or such other **Prescribed Tax Paying Documents**

(b) He has **Received goods or services** or both.

Explanation : For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.

(c) Subject to section 41 or **Section 43A** , **Tax charged in respect** of such supply has been actually paid to Government, either in cash or through utilisation of ITC admissible in respect of said supply; and

(d) He has **furnished return u/s 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 **180 days from date of issue of invoice** by supplier,*

an amount equal to ITC availed by recipient shall be added to his output tax liability, along with interest thereon, in prescribed manner:

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

Special point : Rule 36(4) of CGST Rules, 2017

Restriction on availment of ITC for invoices/debit notes not uploaded by suppliers in their GSTR-1s

Sec16(2) of CGST Act provides certain conditions for availing ITC wherein one of the conditions is that the taxpayer must be in possession of the tax invoice or other tax paying document in respect of which he is claiming the ITC.

Quantum of ITC that can be claimed against the invoices/debit notes uploaded and invoices/debit notes not uploaded, by the supplier. ITC 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 in GSTR-1, cannot exceed 10% of eligible credit available in respect of invoices or debit notes the details of which have been uploaded by suppliers in GSTR-1.

Sec 16(3) : No ITC on Depreciation

- 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.

Sec 16(4) : Time limit for ITC

- 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 u/s 39
- for the month of September following the end of F/Y
- to which such invoice or debit note pertains or
- furnishing of the relevant annual return,
- whichever is earlier.

Sec 17 : Apportionment of Credit and Blocked credits**Sec 17(1) : ITC if Supply used partly for business & partly for non business purpose :**

- Where the goods or services or both
- are used by 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.

Sec 17(2) : ITC where Supply used partly for providing taxable supplies & partly for exempt supplies

- 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 IGST Act and partly for effecting exempt supplies under the said Acts,
- the amount of credit shall be restricted to so much of the input tax
- as is attributable to the said taxable supplies including zero-rated supplies.

Sec 17(3) : Exempt supply prescribed & includes

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,
- Sale of building subject to paragraph 5(b) of Schedule II

Explanation.—For this sub-section, “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.

Sec 17(4) : ITC for Banking company / Financial institution

- A banking company or a financial institution including a non-banking financial company,
- engaged in accepting deposits, extending loans or advances
- shall have the option to either comply with sec 17(2), or
- avail of, every month, an amount equal to 50% of the eligible ITC 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 financial year:

Provided further that the restriction of 50% shall not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

Special point :

Rule 38 : Claim of credit by a banking company or a financial institution

A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sec 17(2), in accordance with the option permitted u/s 17(4) shall follow the following procedure, namely,-

- (a) Said company or institution shall not avail the credit of,-
 - (i) Tax paid on inputs and input services that are used for non-business purposes; and
 - (ii) Credit attributable to the supplies specified in section 17(5), in **FORM GSTR-2**;
- (b) the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso of section 17(4) and not covered under clause (a);
- (c) 50% of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR- 2**;
- (d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

Sec 17 (5) : Negative list For ITC

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

1. 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;

2. 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;

3. Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in pt 1 or pt 2

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 pt1 or pt 2 are used for the purposes specified therein;

(ii) where received by a taxable person engaged—

- in the manufacture of such motor vehicles, vessels or aircraft; or
- in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

4. 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 pt 1 or pt 2 except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

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

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.”.

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

6. Goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

7. Goods or services or both on which tax has been paid u/s 10;

8. Goods or services or both received by a non-resident taxable person except on goods imported by him;

Sec 17(6) : The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

Explanation. : “Plant and Machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

- (i) land, building or any other civil structures;*
- (ii) telecommunication towers; and*
- (iii) pipelines laid outside the factory premises*

Sec 18 : Availability of credit in special circumstances

(I) Subject to such conditions and restrictions as may be prescribed—

Sec 18(1)(a) : ITC in case of New registration

- 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;

Sec 18(1)(b) : ITC in case of voluntary registration

- A person who takes registration u/s 25(3)
- 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;

Sec 18(1)(c) : ITC in case of shifting from composition scheme to normal scheme

- Where any registered person
- ceases to pay tax u/s 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 u/s 9

Provided that the credit on capital goods shall be reduced by such **percentage points** as may be prescribed;

Sec 18(1)(d) : ITC in case of exempt supply becoming taxable supply

- 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.

Sec 18(2) : Time limit

- 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.

Sec 18(3) : ITC in case of Amalgamation/Demerger

- Where there is a change in the constitution
- of registered person on account
- of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities,
- the said registered person
- shall be allowed to transfer the input tax credit
- which remains unutilised in his electronic credit ledger
- to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed

Special point :**Clarification in respect of transfer of ITC in case of death of sole proprietor**

Issue: Whether section 18(3) of the CGST Act provides for transfer of ITC which remains unutilized to the transferee in case of death of the sole proprietor?

Clarification: For the purpose of section 18(3) of the CGST Act and rule 41(1) of the CGST Rules, transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

[Circular No. 96/15/2019 GST dated 28.03.2019]

In case of transfer of business with the specific provisions for transfer of liabilities, unutilized ITC can be transferred to the transferred business in terms of section 18(3) of the CGST Act. Rule 41(1) of the CGST Rules requires the registered person to furnish the details of transfer of business in the prescribed form electronically on the common portal along with a request for transfer of unutilized ITC lying in his electronic credit ledger to the transferee.

Sec 18(4) : ITC in case of shifting from normal scheme to composition scheme

- Where any registered person
- who has availed of input tax credit
- opts to pay tax u/s 10 or,
- where the goods or services or both supplied by him become wholly exempt,
- he shall pay an amount,
- by way of debit in electronic credit ledger or electronic cash ledger,
- equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods,
- reduced by such percentage points as may be prescribed,
- on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Sec 18(5) : Calculation

The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

Sec 18(6) : Reversal of ITC in case of supply of capital goods on which ITC has been taken

- In case of supply of capital goods or plant and machinery,
- on which input tax credit has been taken,
- the registered person
- shall pay an amount equal to the input tax credit taken
- on the said capital goods or plant and machinery
- reduced by such percentage points as may be prescribed or
- the tax on the transaction value of such capital goods or plant and machinery determined u/s 15, whichever is higher

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Sec 19 : ITC wrt inputs & capital goods sent for Job Work(Refer Chapter Job work)**Sec 20 : Manner of distribution of credit by Input Service Distributor.**

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

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

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

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

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

(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

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

Explanation.—For the purposes of this section,—

(a) the “relevant period” shall be—

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

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

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

(c) the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the

amount of any duty or tax levied under entry 84 and 92A of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Sec 21 : Manner of recovery of credit distributed in excess.

Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of amount to be recovered.

RULE 36 to 45: ITC

Rule 36 : Documentary requirements and conditions for claiming input tax credit

(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-

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

(2) Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORMGSTR-2** by such person:

Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.

(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.

Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in **FORM GSTR-3B** for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.

Rule 37 : Reversal of input tax credit in the case of non-payment of consideration

(1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to subsection (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 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.]⁴⁶

(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.

Rule 38 : Claim of credit by a banking company or a financial institution

A banking company or a financial institution, including a non-banking financial company, engaged in the supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of that section, shall follow the following procedure, namely,-

(a) the said company or institution shall not avail the credit of,-

(i) the tax paid on inputs and input services that are used for non-business purposes; and

(ii) the credit attributable to the supplies specified in sub-section (5) of section 17, in **FORM GSTR-2**;

(b) the said company or institution shall avail the credit of tax paid on inputs and input services referred to in the second proviso to sub-section (4) of section 17 and not covered under clause (a);

(c) fifty per cent. of the remaining amount of input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR-2**;

(d) the amount referred to in clauses (b) and (c) shall, subject to the provisions of sections 41, 42 and 43, be credited to the electronic credit ledger of the said company or the institution.

Rule 39 : Procedure for distribution of input tax credit by Input Service Distributor

(1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the following conditions, namely,-

(a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** in accordance with the provisions of Chapter VIII of these rules;

(b) the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;

(c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);

(d) the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients 'R1', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, —C1, to be calculated by applying the following formula -

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

where,

"C" is the amount of credit to be distributed, Page 31 of 161

“T1” is the turnover, as referred to in section 20, of person R1 during the relevant period, and “T” is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20;

(e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;

(f) the input tax credit on account of central tax and State tax or Union territory tax shall-

(i) in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;

(ii) in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);

(g) the Input Service Distributor shall issue an Input Service Distributor invoice, as prescribed in sub-rule (1) of rule 54, clearly indicating in such invoice that it is issued only for distribution of input tax credit;

(h) the Input Service Distributor shall issue an Input Service Distributor credit note, as prescribed in sub-rule (1) of rule 54, for reduction of credit in case the input tax credit already distributed gets reduced for any reason;

(i) any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) and such credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**;

(j) any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed in terms of clause (d), and the amount so apportioned shall be-

(i) reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; or

(ii) added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

(2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process specified in clause (j) of sub-rule (1) shall apply, *mutatis mutandis*, for reduction of credit.

(3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the Input Service Distributor credit note specified in clause (h) of sub-rule (1), issue an Input Service Distributor invoice to the recipient entitled to such credit and include the Input Service Distributor credit note and the Input Service Distributor invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

Rule 40 : Manner of claiming credit in special circumstances

(1) The input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions, namely,-

(a) the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.

(b) the registered person shall within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in **FORM GST ITC-01** to the effect that he is eligible to avail the input tax credit as aforesaid:

Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(c) the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods—

(i) on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under clause (a) of sub-section (1) of section 18;

(ii) on the day immediately preceding the date of the grant of registration, in the case of a claim under clause (b) of sub-section (1) of section 18;

(iii) on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of section 18;

(iv) on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of section 18;

(d) the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;

(e) the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in **FORM GSTR-1** or as the case may be, in **FORM GSTR- 4**, on the common portal.

(2) The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.

Rule 41 : Transfer of credit on sale, merger, amalgamation, lease or transfer of a business.-

(1) A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC-02**, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- For the purpose of this sub-rule, it is hereby clarified that the —value of assets means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

(2) The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.

(3) The transferee shall, on the common portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

Rule 41A. Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory

(1) A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in **FORM GST ITC-02A** electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:

Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.

Explanation.- For the purposes of this sub-rule, it is hereby clarified that the __value of assets‘ means the value of the entire assets of the business whether or not input tax credit has been availed thereon.

(2) The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such acceptance, the unutilised input tax credit specified in **FORM GST ITC-02A** shall be credited to his electronic credit ledger.]⁴⁹
 49Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 wef 01.02.2019

Rule 42 : Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- (a) the total input tax involved on inputs and input services in a tax period, be denoted as ₹T ;
- (b) the amount of input tax, out of ₹T , attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as ₹T1 ;
- (c) the amount of input tax, out of ₹T , attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as ₹T2 ;
- (d) the amount of input tax, out of ₹T , in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as ₹T3 ;
- (e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as ₹C1 and calculated as-

$$\text{C1} = \text{T} - (\text{T1} + \text{T2} + \text{T3});$$
- (f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as ₹T4 ;

Explanation: For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, value of T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

- (g) ₹T1 , ₹T2 , ₹T3 and ₹T4 shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2**[and at summary level in **FORM GSTR-3B**]⁵¹;
- (h) input tax credit left after attribution of input tax credit under clause (f) shall be called common credit, be denoted as ₹C2 and calculated as-

$$\text{C2} = \text{C1} - \text{T4};$$

- (i) the amount of input tax credit attributable towards exempt supplies, be denoted as ₹D1 and calculated as-

$$\text{D1} = (\text{E} \div \text{F}) \times \text{C2}$$
 where,

$\underline{\underline{E}}$ is the aggregate value of exempt supplies during the tax period, and $\underline{\underline{F}}$ is the total turnover in the State of the registered person during the tax period:

Provided that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the value of $\underline{\underline{E/F}}$ for a tax period shall be calculated for each project separately, taking value of E and F as under:-

E= aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the project;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier;

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 *vide* GSR number 690(E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of $\underline{\underline{E}}$ in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 *vide* GSR number 690(E) dated 28th June, 2017, as amended.

Provided further that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of $\underline{\underline{E/F}}$ shall be calculated by taking values of $\underline{\underline{E}}$ and $\underline{\underline{F}}$ of the last tax period for which the details of such turnover are available, previous to the month during which the said value of $\underline{\underline{E/F}}$ is to be calculated;

Explanation: For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 and entry 92A 55 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as $\underline{D2}$, and shall be equal to five per cent. of $\underline{C2}$; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as $\underline{C3}$, where,-

$$\underline{C3} = \underline{C2} - (\underline{D1} + \underline{D2});$$

(l) the amount $\underline{C3}$, $\underline{D1}$ and $\underline{D2}$ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B** or through **FORM GST DRC-03**;

(m) the amount equal to aggregate of $\underline{D1}$ and $\underline{D2}$ shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03**:

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in $\underline{T1}$ and $\underline{T2}$ respectively, and the remaining amount of credit on such inputs or input services shall be included in $\underline{T4}$.

(2) Except in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule and-

(a) where the aggregate of the amounts calculated finally in respect of $\underline{D1}$ and $\underline{D2}$ exceeds the aggregate of the amounts determined under sub-rule (1) in respect of $\underline{D1}$ and $\underline{D2}$, such excess shall be [reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03**] in the month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(c) where the aggregate of the amounts determined under sub-rule (1) in respect of $\underline{D1}$ and $\underline{D2}$ exceeds the aggregate of the amounts calculated finally in respect of $\underline{D1}$ and $\underline{D2}$, such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

(3) In case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the input tax determined under sub-rule (1) shall be calculated finally, for each ongoing project or project which commences on or after 1st April, 2019, which did not undergo or did not require transition of input tax credit consequent to change of rates of tax on 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first

occupation of the project, whichever is earlier, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the project, in the manner prescribed in the said sub-rule, with the modification that value of E/F shall be calculated taking value of E and F as under:

E= aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier:

F= aggregate carpet area of the apartments in the project;

and,-

(a) where the aggregate of the amounts calculated finally in respect of D1 and D2 exceeds the aggregate of the amounts determined under sub-rule (1) in respect of D1 and D2, such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation of the project takes place and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where the aggregate of the amounts determined under sub-rule (1) in respect of D1 and D2 exceeds the aggregate of the amounts calculated finally in respect of D1 and D2, such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

(4) In case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the input tax determined under sub-rule (1) shall be calculated finally, for commercial portion in each project, other than residential real estate project (RREP), which underwent transition of input tax credit consequent to change of rates of tax on the 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published *vide* GSR No. 690(E) dated the 28th June, 2017, as amended for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first occupation of the project, whichever is earlier, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the project, in the following manner.

(a) The aggregate amount of common credit on commercial portion in the project (C3aggregate_comm) shall be calculated as under,

$$C3_{\text{aggregate_comm}} = [\text{aggregate of amounts of C3 determined under sub- rule (1) for the tax periods starting from 1st July, 2017 to 31st March, 2019,} \times (AC / AT)] + [\text{aggregate of amounts of C3 determined under sub- rule (1) for the tax periods starting from 1st April, 2019 to the date of completion or first occupation of the project, whichever is earlier}]$$

Where, -

AC = total carpet area of the commercial apartments in the project

AT = total carpet area of all apartments in the project

(b) The amount of final eligible common credit on commercial portion in the project (C3final_comm) shall be calculated as under

$C3_{final_comm} = C3_{aggregate_comm} \times (E / F)$

Where, -

E = total carpet area of commercial apartments which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

F = AC = total carpet area of the commercial apartments in the project

(c) where, C3aggregate_comm exceeds C3final_comm, such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment;

(d) where, C3final_comm exceeds C3aggregate_comm, such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

(5) Input tax determined under sub- rule (1) shall not be required to be calculated finally on completion or first occupation of an RREP which underwent transition of input tax credit consequent to change of rates of tax on 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published *vide* GSR No. 690(E) dated the 28th June, 2017, as amended.

(6) Where any input or input service are used for more than one project, input tax credit with respect to such input or input service shall be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (3).

Rule 43 : Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases

(1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in **FORM GSTR-2** and **FORM GSTR-3B** and shall not be credited to his electronic credit ledger;

(b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in **FORM GSTR-2**[and **FORM GSTR-3B**]⁶²and shall be credited to the electronic credit ledger;

Explanation: For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the said Act, the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies, shall be zero during the construction phase because capital goods will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date. (c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as A, being the amount of tax as reflected on the invoice, shall credit directly to the electronic credit ledger and the validity of the useful life of such goods shall extend upto five years from the date of the invoice for such goods:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, input tax in respect of such capital goods denoted as A shall be credited to the electronic credit ledger subject to the condition that the ineligible credit attributable to the period during which such capital goods were covered by clause (a),denoted as Tie, shall be calculated at the rate of five percentage points for every quarter or part thereof and added to the output tax liability of the tax period in which such credit is claimed:

Provided further that the amount Tie shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B**.

Explanation.- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of A shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount A shall be credited to the electronic credit ledger;

Explanation.- An item of capital goods declared under clause (a) on its receipt shall not attract the provisions of sub-section (4) of section 18, if it is subsequently covered under this clause.

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under clause (c), the value of A arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value Tc;

(d) the aggregate of the amounts of A credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as Tc, shall be the common credit in respect of such capital goods:

Provided that where any capital goods earlier covered under clause (b) are subsequently covered under clause (c), the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value ₹Tc ;

(e) the amount of input tax credit attributable to a tax period on common capital goods during their useful life, be denoted as ₹Tm and calculated as-

$$\text{₹Tm} = \text{₹Tc} \div 60$$

Explanation.- For the removal of doubt, it is clarified that useful life of any capital goods shall be considered as five years from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.

(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period, be denoted as ₹Tr and shall be the aggregate of ₹Tm for all such capital goods;]

(g) the amount of common credit attributable towards exempted supplies, be denoted as ₹Te , and calculated as-

$$\text{₹Te} = (\text{₹E} \div \text{₹F}) \times \text{₹Tr}$$

where,

₹E is the aggregate value of exempt supplies, made, during the tax period, and

₹F is the total turnover [in the State] of the registered person during the tax period:

Provided that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the value of ₹E/F for a tax period shall be calculated for each project separately, taking value of E and F as under:

E= aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the project;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in notification No. 11/2017-Central Tax (Rate) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR No. 690 (E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of ₹E in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated the 28th June, 2017 vide GSR No. 690 (E) dated 28th June, 2017, as amended.

Provided further that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of $\frac{E}{F}$ shall be calculated by taking values of $\frac{E}{F}$ of the last tax period for which the details of such turnover are available, previous to the month during which the said value of $\frac{E}{F}$ is to be calculated;

Explanation.- For the purposes of this clause, it is hereby clarified that the aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 [and entry 92A] of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) the amount T_e along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

(i) The amount T_e shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B**.]72

(2) In case of supply of services covered by clause (b) of paragraph 5 of schedule II of the Act, the amount of common credit attributable towards exempted supplies (T_{final}) shall be calculated finally for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first occupation of the project, whichever is earlier, for each project separately, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the project, as under:

$$T_{final} = [(E1 + E2 + E3) / F] \times T_{cfinal},$$

Where,-

E1= aggregate carpet area of the apartments, construction of which is exempt from tax

E2= aggregate carpet area of the apartments, supply of which is partly exempt and partly taxable, consequent to change of rates of tax on 1st April, 2019, which shall be calculated as under, -

$$E2 = [\text{Carpet area of such apartments}] \times [V1 / (V1 + V2)], -$$

Where,-

V1 is the total value of supply of such apartments which was exempt from tax; and

V2 is the total value of supply of such apartments which was taxable

E3 = aggregate carpet area of the apartments, construction of which is not exempt from tax, but have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier:

F= aggregate carpet area of the apartments in the project;

Tcfinal= aggregate of Afinalin respect of all capital goods used in the project and Afinalfor each capital goods shall be calculated as under,

Afinal= A x (number of months for which capital goods is used for the project/ 60)and,-

(a) where value of Tefinal exceeds the aggregate of amounts of Te determined for each tax period under sub-rule (1), such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where aggregate of amounts of Te determined for each tax period under sub-rule (1) exceeds Tefinal, such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

Explanation.- For the purpose of calculation of Tc final, part of the month shall be treated as one complete month.

(3) The amount Tefinal and Tcfinal shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(4) Where any capital goods are used for more than one project, input tax credit with respect to such capital goods shall be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (2).

(5) Where any capital goods used for the project have their useful life remaining on the completion of the project, input tax credit attributable to the remaining life shall be availed in the project in which the capital goods is further used;

(a) the value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 42/2017-Integrated Tax (Rate), dated the 27th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1338(E) dated the 27th October, 2017;

Explanation - For the purposes of rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude the value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 42/2017-Integrated Tax (Rate), dated the 27th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1338(E)

(b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and

(c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

Explanation 2: For the purposes of rule 42 and this rule,-

(i) the term —apartment shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 ;

(ii) the term —project shall mean a real estate project or a residential real estate project;

(iii) the term —Real Estate Project (REP) shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 ;

(iv) the term —Residential Real Estate Project (RREP) shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;

(v) the term —promoter shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 ;

(vi) —Residential apartment shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority;

(vii) —Commercial apartment shall mean an apartment other than a residential apartment;

(viii) the term "competent authority" as mentioned in definition of —residential apartment, means the local authority or any authority created or established under any law for the time being in force by the Central Government or State Government or Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(ix) the term —Real Estate Regulatory Authority shall mean the Authority established under sub- section (1) of section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 by the Central Government or State Government;

(x) the term —carpet areall shall have the same meaning assigned to it in in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 ;

(xi) —an apartment booked on or before the date of issuance of completion certificate or first occupation of the projectll shall mean an apartment which meets all the following three conditions, namely-

(a) part of supply of construction of the apartment service has time of supply on or before the said date; and

(b) consideration equal to at least one installment has been credited to the bank account of the registered person on or before the said date; and

(c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.

(xii) The term —ongoing project shall have the same meaning as assigned to it in notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended;

(xiii) The term —project which commences on or after 1st April, 2019ll shall have the same meaning as assigned to it in notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended;

Rule 44 : Manner of reversal of credit under special circumstances.

(1) The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-

(a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;

(b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.

Illustration:

Capital goods have been in use for 4 years, 6 month and 15 days.

The useful remaining life in months= 5 months ignoring a part of the month

Input tax credit taken on such capital goods= C

Input tax credit attributable to remaining useful life= C multiplied by 5/60

(2) The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(3) Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the

goods on the effective date of the occurrence of any of the events specified in sub-section (4) of section 18 or, as the case may be, sub-section (5) of section 29.

(4) The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in **FORM GST ITC-03**, where such amount relates to any event specified in sub-section (4) of section 18 and in **FORM GSTR-10**, where such amount relates to the cancellation of registration.

(5) The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.

(6) The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax:

Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in **FORM GSTR-1**.

Rule 44A : Manner of reversal of credit of Additional duty of Customs in respect of Gold dore bar.

The credit of Central tax in the electronic credit ledger taken in terms of the provisions of section 140 relating to the CENVAT Credit carried forward which had accrued on account of payment of the additional duty of customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975, paid at the time of importation of gold dore bar, on the stock of gold dore bar held on the 1st day of July, 2017 or contained in gold or gold jewellery held in stock on the 1st day of July, 2017 made out of such imported gold dore bar, shall be restricted to one-sixth of such credit and five-sixth of such credit shall be debited from the electronic credit ledger at the time of supply of such gold dore bar or the gold or the gold jewellery made therefrom and where such supply has already been made, such debit shall be within one week from the date of commencement of these Rules.

Rule 45 : Conditions and restrictions in respect of inputs and capital goods sent to the job worker

(1) The inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where such goods are sent directly to a job-worker, and where the goods are sent from one job worker to another job worker, the challan may be issued either by the principal or the job worker sending the goods to another job worker:

Provided that the challan issued by the principal may be endorsed by the job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal:

Provided further that the challan endorsed by the job worker may be further endorsed by another job worker, indicating therein the quantity and description of goods where the goods are sent by one job worker to another or are returned to the principal.

(2) The challan issued by the principal to the job worker shall contain the details specified in rule 55.

(3) The details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another]80 during a quarter shall be included in **FORM GST ITC-04** furnished for that period on or before the twenty-fifth day of the month succeeding the said quarter[or within such further period as may be extended by the Commissioner by a notification in this behalf:

Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(4) Where the inputs or capital goods are not returned to the principal within the time stipulated in section 143, it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out and the said supply shall be declared in **FORM GSTR-1** and the principal shall be liable to pay the tax along with applicable interest.

Explanation.- For the purposes of this Chapter,-

(1) the expressions —capital goods shall include —plant and machinery as defined in the Explanation to section 17;

(2) for determining the value of an exempt supply as referred to in sub-section (3) of section 17-

(a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and

(b) the value of security shall be taken as one per cent. of the sale value of such security.

CHAPTER - 10
REGISTRATION**Sec 22 : Persons liable for Registration****Sec 22(1) : Liability for Registration**

- 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 **F/Y exceeds 20 lakhs**
-

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 F/Y **exceeds 10 lakhs**

Provided further that the Government may, at the request of a special category State and on recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified.

Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

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.

Special point :**1. Special category states for limit of 10 lakhs are**

- Manipur
- Mizoram
- Nagaland
- Tripura

2. Sec 2(6) : Aggregate turnover means

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

3. Subsequently, with effect from 01.04.2019, Notification No. 10/2019 CT dated 07.03.2019 is issued which exempts any person who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed ` 40 lakh.

Exceptions to this exemption are as follows:

- a) Persons required to take compulsory registration under section 24 of the CGST Act.
- b) Persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, Pan masala and all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes.
- c) Persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.
Inter-State supplies of goods are nevertheless liable to compulsory registration and are thus covered in above exception
- d) Person who has opted for voluntary registration or such registered persons who intend to continue with their registration under the CGST Act.

Sec 22(2) : Registered under old law

- Every person who,
- on the day immediately preceding the appointed day,
- is registered or holds a licence under an existing law,
- shall be liable to be registered under this Act
- with effect from the appointed day.

Sec22(3): Transfer of Business

- Where a business carried on by a taxable person
- registered under this Act is transferred,
- whether on account of succession or otherwise,
- to another person as a going concern,
- the transferee or the successor, as the case may be,
- shall be liable to be registered with effect from the date of such transfer or succession.

Explanation.—For the purposes of this section,—

(i) “Aggregate turnover” shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;

(ii) Supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to u/s 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;

Sec 23 : Persons not liable for registration**Sec 23(1) : No liability for Registration**

The following persons shall not be liable to registration, namely:—

- (a) Any person engaged exclusively in business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under IGST Act;
- (b) An agriculturist, to the extent of supply of produce out of cultivation of land.

Sec 23(2): Person exempted by government

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.

Special point :**1) Notification No. 5/2017**

The Central Government has specified that Persons who are **only engaged** in making **supplies of taxable goods or services or both**, the total tax on which is liable to be paid on **reverse charge basis** by the recipient of such goods or services or both u/s 9(3) of the CGST Act as the category of persons **EXEMPTED** from obtaining registration under the Act.

2) Notification No. 65/2017

The Central Government hereby specifies the **persons making supplies of SERVICES, other than supplies u/s 9(5) through ECO** who is required to collect tax at source u/s 52 ,and **having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in F/Y**, as the category as the category of persons **exempted** from obtaining registration under the said Act,

Provided that the aggregate value of such supplies, to be computed on all India basis, **should not exceed** an amount of **ten lakh rupees** in case of “**special category States**.”

Sec 24 : Compulsory registration in certain cases.

Notwithstanding anything contained u/s 22(1), the following categories of persons shall be required to be registered under this Act,—

- (1) Persons making any inter-State taxable supply;

Special point :**Notification No.10/2017- IGST**

Government has notified that person making **inter-state supply of SERVICES** having turnover not exceeding threshold limit of 20 lakh in the financial year is not required to get registered.

This exemption is to a person making **inter-state supply of services only**.

Also provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of “special category States” as specified in article 279A(4)(g) of the Constitution, other than the State of Jammu and Kashmir.

Notification No.8/2017-IGST

Supplier Making inter-state supplies of handicraft goods. Such supplier shall be exempt from taking registration provided

- i) Person is required to obtain PAN
- ii) Generate E-way Bill as per the provisions of Rule 138.

(2) **casual taxable persons making taxable supply;**

Special point :

Notification No.32/2017-IGST

Supplier who is a Casual taxable person making taxable supplies of handicraft goods. Such supplier shall be exempt from taking registration. Provided:

- i) Person is required to obtain PAN*
- ii) Generate E-way Bill as per the provisions of Rule 138.*
- (iii) persons who are required to pay tax under reverse charge;*

(3) **persons who are required to pay tax under reverse charge;**

(4) **Person who are required to pay tax u/s 9(5);**

(5) **Non-resident taxable persons making taxable supply;**

(6) **Persons who are required to Deduct tax u/s 51, whether or not separately registered under this Act;**

(7) **Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;**

(8) **Input Service Distributor, whether or not separately registered under this Act;**

(9) **Persons who supply goods or services or both, other than supplies specified u/s 9(5), through such ECO who is required to collect tax at source u/s 52;**

Special point :**1. Notification No- 65/2017**

Persons making supplies of services, other than supplies specified u/s 9(5) through an ECO who is required to collect tax at source u/s 52, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of 20 lakh rupees in a f/y, is exempted from obtaining registration

Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of 10 lakh rupees in case of “special category States” as specified in article 279A(4)(g) of Constitution, other than State of J&K

(10) Every Electronic commerce operator who is required to collect tax at source u/s 52

(11) Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than registered person; and

(12) Such other person/ class of persons as notified by Govt on recommendations of Council.

Special point :

1. **Sec 2(77) : “Non-resident taxable person”** means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.
2. **Sec 2(61) : “Input Service Distributor”** means an office of the supplier of goods or services or both which receives tax invoices issued u/s 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.
3. **Sec 2(20) : “Casual taxable person”** means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.
4. **Sec 2(45) : “Electronic commerce operator”** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
5. **Sec 51 : Person required to deduct Tax**

(1) Notwithstanding anything to contrary contained in this Act, Government may mandate,—

- (a) Department or establishment of the Central Government or State Government; or
- (b) Local authority; or

(c) Governmental agencies; or
 (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council, (hereafter in this section referred to as “the deductor”),

to deduct tax at the rate of 1% from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds 2,50,000:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

6. Sec 52 : Collection of Tax at source

- Notwithstanding anything to the contrary contained in this Act,
- every electronic commerce operator (“operator”),
- not being agent,
- shall collect amount calculated at such rate not exceeding 1%.,
- as may be notified by Government
- on recommendations of Council,
- of net value of taxable supplies made through it by other suppliers where consideration with respect to such supplies is to be collected by operator.

Sec 25 : Procedure for registration

Sec 25(1) : Time limit

- Every person who is liable to be registered u/s 22 or u/s 24
- shall apply for registration in every such State or Union territory
- in which he is so liable
- within 30 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 5 days prior** to the commencement of business.

“Provided further that a person having a unit, as defined in the SEZ Act, 2005, in a SEZ or being a SEZ 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.

Sec 25(2) : Single / Multiple registration

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.

Sec 25(3) : Voluntary registration

- A person, though not liable to be registered u/s 22 or u/s 24
- may get himself registered voluntarily, and
- all provisions of this Act, as are applicable to a registered person,
- shall apply to such person.

Sec 25(4) : Distinct person

- 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.

Sec 25(5) : Establishments of distinct persons

- Where a person who has obtained or is required to obtain registration
- in a State or Union territory in respect of an establishment,
- has an establishment in another State or Union territory,
- then such establishments
- shall be treated as establishments of distinct persons
- for the purposes of this Act.

Sec 25(6) : Requirement of PAN

Every person shall have a PAN 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 PAN, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

Sec 25 (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.

Sec 25(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.

Sec 25(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.

Sec 25 (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.

Sec 25(8) : Compulsory registration

- 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.

Sec 25 (9) : UN/Diplomats

Notwithstanding anything contained in sub-section (1),—

(a) any specialised agency of UNO 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.

Sec 25(10) : Granting of registration

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.

Sec 25(11) : Certificate of registration

A certificate of registration shall be issued in such form & with effect from such date as may be prescribed.

Sec 25(12) : Deemed registration

- 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.

Sec 26 : Deemed registration / Non registration

(1) The grant of registration or the Unique Identity Number under the SGST Act or the UTGST 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 u/s 25(10).

(2) Notwithstanding anything contained u/s 25(10), any rejection of application for registration or the Unique Identity Number under the SGST Act or the UTGST Tax Act shall be deemed to be a rejection of application for registration under this Act.

Sec 27 : Special provisions relating to casual taxable person and non-resident taxable person.

(1) The certificate of registration issued to a casual taxable person or a non resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.

(2) A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration u/s 25(1), 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.

Sec 28 : Amendment of registration

(1) Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.

(2) The proper officer may, on the basis of information furnished under sub-section (1) or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:

Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

Sec 29 : Cancellation Of registration

Sec 29(1) : Application for cancellation or Suspension

The proper officer may,

- either on his own motion or

- on an application filed by registered person or by his legal heirs, in case of death of such person,
- **cancel the registration,**

having regard to the circumstances where,—

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person is no longer liable to be registered u/s 22 or u/s 24 or intends to optout of registration voluntarily made u/s 25(3).

“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.”

Special point :

** Where a person was voluntarily registered, the application can be filed only after the expiry of 1 year from the effective date of registration*

Clarification that transfer/change in the ownership of business to include the transfer /change in the ownership of business due to death of the sole proprietor

Section 29(1) of the CGST Act provides that reason of transfer of business includes “death of the proprietor”.

Similarly, for uniformity and for the purpose of section 22(3) of the said Act, it is clarified that transfer or change in the ownership of business under said section will include transfer/change in the ownership of business due to death of the sole proprietor.

Circular No. 96/15/2019 GST dated 28.03.2019

Sec 29(2) : Cancellation by Proper officer on contravention

The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

(a) a registered person has contravened such provisions of the Act or the rules as may be prescribed; or

(b) a person paying tax u/s 10 has not furnished returns for **3 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 u/s 25(3) has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

“Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”.

Sec 29(3): Cancellation not to effect liability

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.

Sec 29(4) : Cancellation under SGST/UTGST

The cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

Sec 29(5) : Reversal of credit

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 ITC 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.

Sec 30 : Revocation of cancellation of registration (Rule 23)

Sec 30(1) : Application for revocation

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 [**Form REG-21**] to such officer for revocation of cancellation of the registration in the prescribed manner within 30 days from the date of service of the cancellation order.

“Provided that such period may, on sufficient cause being shown, & for reasons to be recorded in writing, be extended,—

(a) by Additional Commissioner or Joint Commissioner, as the case may be, for a period not exceeding 30 days;

(b) by Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a).

Sec 30(2) : Order of revocation

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.

Sec 30(3) : Revocation under SGST/UTGST

The revocation of cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

RULE 8 to 26 : REGISTRATION

Rule 8 : Application for registration

(1) Every person, other than a non-resident taxable person, a person required to deduct tax at source under section 51, a person required to collect tax at source under section 52 and a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25 (hereafter in this Chapter referred to as —the applicant) shall, before applying for registration, declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in **Part A** of **FORM GST REG-01** on the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that a person having a unit(s) in a Special Economic Zone or being a Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from his other units located outside the Special Economic Zone:

Provided further that every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor.

(2)

(a) The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes.

(b) The mobile number declared under sub-rule (1) shall be verified through a one-time password sent to the said mobile number; and

(c) The e-mail address declared under sub-rule (1) shall be verified through a separate one-time password sent to the said e-mail address.

(3) On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.

(4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in **Part B** of **FORM GST REG-01**, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(4A) The applicant shall, while submitting an application under sub-rule (4), with effect from 01.04.2020, undergo authentication of Aadhaar number for grant of registration.

(5) On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in **FORM GST REG-02**.

(6) A person applying for registration as a casual taxable person shall be given a temporary reference number by the common portal for making advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) shall be issued electronically only after the said deposit.

Rule 9 : Verification of the application and approval

(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of three working days from the date of submission of the application.

Provided that where a person, other than those notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, then the registration shall be granted only after physical verification of the principle place of business in the presence of the said person, not later than sixty days from the date of application, in the manner provided under rule 25 and the provisions of sub-rule (5) shall not be applicable in such cases.

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in **FORM GST REG-03** within a period of three working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in **FORM GST REG-04**, within a period of seven working days from the date of the receipt of such notice.

Explanation.- For the purposes of this sub-rule, the expression —clarification includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in **Part A** of **FORM GST REG-01**.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.

(4) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in **FORM GST REG-05**.

(5) If the proper officer fails to take any action, -

(a) within a period of three working days from the date of submission of the application; or

(b) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2), the application for grant of registration shall be deemed to have been approved.

Rule 10 : Issue of registration certificate

(1) Subject to the provisions of sub-section (12) of section 25, where the application for grant of registration has been approved under rule 9, a certificate of registration in **FORM GST REG-06** showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal and a Goods and Services Tax Identification Number shall be assigned subject to the following characters, namely:-

(a) two characters for the State code;

(b) ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number;

(c) two characters for the entity code; and

(d) one checksum character.

(2) The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within a period of thirty days from such date.

(3) Where an application for registration has been submitted by the applicant after the expiry of thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of the grant of registration under sub-rule (1) or sub-rule (3) or sub-rule (5) of rule 9.

(4) Every certificate of registration shall be [duly signed or verified through electronic verification code by the proper officer under the Act.

(5) Where the registration has been granted under sub-rule (5) of rule 9, the applicant shall be communicated the registration number, and the certificate of registration under sub-rule (1), duly signed or verified through electronic verification code, shall be made available to him on the common portal, within a period of three days after the expiry of the period specified in sub-rule (5) of rule 9.

Rule 10A : Furnishing of Bank Account Details

After a certificate of registration in **FORMGST 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.

Rule 11 : Separate registration for multiple places of business within a State or a Union territory.

(1) Any person having multiple places of business within a State or a Union territory, requiring a separate registration for any such place of business under sub-section (2) of section 25 shall be granted separate registration in respect of each such place of business subject to the following conditions, namely:-

- (a) such person has more than one place of business as defined in clause (85) of section 2;
- (b) such person shall not pay tax under section 10 for any of his places of business if he is paying tax under section 9 for any other place of business;
- (c) all separately registered places of business of such person shall pay tax under the Act on supply of goods or services or both made to another registered place of business of such person and issue a tax invoice or a bill of supply, as the case may be, for such supply.

Explanation. - For the purposes of clause (b), it is hereby clarified that where any place of business of a registered person that has been granted a separate registration becomes ineligible to pay tax under section 10, all other registered places of business of the said person shall become ineligible to pay tax under the said section.

(2) A registered person opting to obtain separate registration for a place of business shall submit a separate application in **FORM GST REG-01** in respect of such place of business.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, mutatis mutandis, apply to an application submitted under this rule. (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.

Rule 12 : Grant of registration to persons required to deduct tax at source or to collect tax at source

(1) Any person required to deduct tax in accordance with the provisions of section 51 or a person required to collect tax at source in accordance with the provisions of section 52 shall electronically submit an application, duly signed or verified through electronic verification code, in **FORM GST REG-07** for the grant of registration through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(1A) A person applying for registration to deduct or collect tax in accordance with the provisions of section 51, or, as the case may be, section 52, in a State or Union territory where he does not have a physical presence, shall mention the name of the State or Union territory in **PART A** of the application in **FORM GST REG-07** and mention the name of the State or Union territory in **PART B** thereof in which the principal place of business is located which may be different from the State or Union territory mentioned in **PART A**.

(2) The proper officer may grant registration after due verification and issue a certificate of registration in **FORM GST REG-06** within a period of three working days from the date of submission of the application.

(3) Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in **FORM GST REG-06** has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person electronically in **FORM GST REG-08**: Provided that the proper officer shall follow the procedure as provided in rule 22 for the cancellation of registration.

Rule 13 : Grant of registration to non-resident taxable person.

(1) A non-resident taxable person shall electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code, in **FORM GST REG-09**, at least five days prior to the commencement of business at the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that in the case of a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its Permanent Account Number, if available.

(2) A person applying for registration as a non-resident taxable person shall be given a temporary reference number by the common portal for making an advance deposit of tax in accordance with the provisions of section 27 and the acknowledgement under sub-rule (5) of rule 8 shall be issued electronically only after the said deposit in his electronic cash ledger.

(3) The provisions of rule 9 and rule 10 relating to the verification and the grant of registration shall, *mutatis mutandis*, apply to an application submitted under this rule.

(4) The application for registration made by a non-resident taxable person shall be [duly signed or verified through electronic verification code] by his authorised signatory who shall be a person resident in India having a valid Permanent Account Number.

Rule 14 : Grant of registration to a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient.

(1) Any person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient shall electronically submit an application for registration, duly signed or verified through electronic verification code, in **FORM GST REG-10**, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(2) The applicant referred to in sub-rule (1) shall be granted registration, in **FORM GST REG-06**, subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.

Rule 15 : Extension in period of operation by casual taxable person and non-resident taxable person.

(1) Where a registered casual taxable person or a non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in **FORM GST REG-11** shall be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him.

(2) The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section 27. **Rule 16 : Suomoto registration** (1) Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in **FORM GST REG- 12**.

(2) The registration granted under sub-rule (1) shall be effective from the date of such order granting registration.

(3) Every person to whom a temporary registration has been granted under sub-rule (1) shall, within a period of ninety days from the date of the grant of such registration, submit an application for registration in the form and manner provided in rule 8 or rule 12:

Provided that where the said person has filed an appeal against the grant of temporary registration, in such case, the application for registration shall be submitted within a period of thirty days from the date of the issuance of the order upholding the liability to registration by the Appellate Authority.

(4) The provisions of rule 9 and rule 10 relating to verification and the issue of the certificate of registration shall, *mutatis mutandis*, apply to an application submitted under sub-rule (3).

(5) The Goods and Services Tax Identification Number assigned, pursuant to the verification under sub-rule (4), shall be effective from the date of the order granting registration under sub-rule (1).

Rule 17 : Assignment of Unique Identity Number to certain special entities.

(1) Every person required to be granted a Unique Identity Number in accordance with the provisions of sub-section (9) of section 25 may submit an application electronically in **FORM GST REG-13**, duly signed or verified through electronic verification code, in the manner specified in rule 8 at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

(1A) The Unique Identity Number granted under sub-rule (1) to a person under clause (a) of sub-section (9) of section 25 shall be applicable to the territory of India.

(2) The proper officer may, upon submission of an application in **FORM GST REG-13** or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a Unique Identity Number to the said person and issue a certificate in **FORM GST REG-06** within a period of three working days from the date of the submission of the application.

Rule 18 : Display of registration certificate and Goods and Services Tax Identification Number on the name board.(1)Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or places of business.

(2)Every registered person shall display his Goods and Services Tax Identification Number on the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

Rule 19 : Amendment of registration.

(1)Where there is any change in any of the particulars furnish ed in the application for registration in **FORM GST REG-01** or **FORM GST REG-07** or **FORM GST REG-09** or **FORM GST REG-10** or for Unique Identity Number in **FORM GST-REG-13**, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in **FORM GST REG-14**, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that –(a) where the change relates to,-

- (i) legal name of business;
- (ii) address of the principal place of business or any additional place(s) of business; or
- (iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within a period of fifteen working days from the date of the receipt of the application in **FORM GST REG-14** and issue an order in **FORM GST REG-15** electronically and such amendment shall take effect from the date of the occurrence of the event warranting such amendment;

(b) the change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same Permanent Account Number;

(c) where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in **FORM GST REG- 14** on the common portal;

(d) where a change in the constitution of any business results in the change of the Permanent Account Number of a registered person, the said person shall apply for fresh registration in **FORM GST REG-01**:

Provided further that any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under sub-rule(2) of rule 8.

(1A) Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in **FORM GST REG-14** on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.

(2) Where the proper officer is of the opinion that the amendment sought under sub-rule (1) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within a period of fifteen working days from the date of the receipt of the application in **FORM GST REG-14**, serve a notice in **FORM GST REG-03**, requiring the registered person to show cause, within a period of seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.

(3) The registered person shall furnish a reply to the notice to show cause, issued under sub-rule (2), in **FORM GST REG-04**, within a period of seven working days from the date of the service of the said notice.

(4) Where the reply furnished under sub-rule (3) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (2) within the period prescribed in sub-rule (3), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in **FORM GST REG -05**.

(5) If the proper officer fails to take any action,-

(a) within a period of fifteen working days from the date of submission of the application, or

(b) within a period of seven working days from the date of the receipt of the reply to the notice to show cause under sub-rule (3), the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

Rule 20 : Application for cancellation of registration A registered person, other than a person to whom a registration has been granted under rule 12 or a person to whom a Unique Identity Number has been granted under rule 17, seeking cancellation of his registration under sub-section (1) of section 29 shall electronically submit an application in **FORM GST REG-16**, including therein the details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock on the date from which the cancellation of registration is sought, liability thereon, the details of the payment, if any, made against such liability and may furnish, along with the application, relevant documents in support thereof, at the common portal within a period of thirty days of the occurrence of the event warranting the cancellation, either directly or through a Facilitation Centre notified by the Commissioner: Provided that no application for the cancellation of registration shall be considered in case of a taxable person, who has registered voluntarily, before the expiry of a period of one year from the effective date of registration.

Rule 21 : Registration to be cancelled in certain cases

The registration granted to a person is liable to be cancelled, if the said person,-

- (a) does not conduct any business from the declared place of business; or
- (b) issues invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder; or
- (c) violates the provisions of section 171 of the Act or the rules made thereunder.
- (d) violates the provision of rule 10A

Rule 21A : Suspension of registration

(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may, after affording the said person a reasonable opportunity of being heard, suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.

Explanation.-For the purposes of this sub-rule, the expression —shall not make any taxable supply shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

(4) The suspension of registration under sub-rule (1) or sub-rule (2) shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.

(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

Rule 22 : Cancellation of registration

(1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he shall issue a notice to such person in **FORM GST REG-17**, requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled.

(2) The reply to the show cause notice issued under sub-rule (1) shall be furnished in **FORM REG-18** within the period specified in the said sub-rule.

(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in **FORM GST REG-19**, within a period of thirty days from the date of application submitted under sub-rule (1) of rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.

(4) Where the reply furnished under sub-rule (2) is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in **FORM GST REG -20**:

Provided that where the person instead of replying to the notice served under sub-rule (1) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in **FORM GST-REG 20**

(5) The provisions of sub-rule (3) shall, *mutatis mutandis*, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

Rule 23 : Revocation of cancellation of registration (1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in **FORM GST REG-21**, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns:

Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration

(2) (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-22** within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05**, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(3) The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in **FORM GST REG-23** requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in **FORM GST REG-24**.

(4) Upon receipt of the information or clarification in **FORM GST REG-24**, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.

Rule 24 : Migration of persons registered under the existing law

(1) (a) Every person, other than a person deducting tax at source or an Input Service Distributor, registered under an existing law and having a Permanent Account Number issued under the provisions of the Income-tax Act, 1961 shall enrol on the common portal by validating his e-mail address and mobile number, either directly or through a Facilitation Centre notified by the Commissioner.

(b) Upon enrolment under clause (a), the said person shall be granted registration on a provisional basis and a certificate of registration in **FORM GST REG-25**, incorporating the Goods and Services Tax Identification Number therein, shall be made available to him on the common portal: Provided that a taxable person who has been granted multiple registrations under the existing law on the basis of a single Permanent Account Number shall be granted only one provisional registration under the Act:

(2)(a) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in **FORM GST REG-26**, duly signed or verified through electronic verification code, along with the information and documents specified in the said application, on the common portal either directly or through a Facilitation Centre notified by the Commissioner.

(b) The information asked for in clause (a) shall be furnished within a period of three months or within such further period as may be extended by the Commissioner in this behalf.

(c) If the information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration in **FORM GST REG-06** shall be made available to the registered person electronically on the common portal.

(3) Where the particulars or information specified in sub-rule (2) have either not been furnished or not found to be correct or complete, the proper officer shall, after serving a notice to show cause in **FORM GST REG-27** and after affording the person concerned a reasonable opportunity of being heard, cancel the provisional registration granted under sub-rule (1) and issue an order in **FORM GST REG-28**:

(3A) Where a certificate of registration has not been made available to the applicant on the common portal within a period of fifteen days from the date of the furnishing of information and particulars referred to in clause (c) of sub-rule (2) and no notice has been issued under sub-rule (3) within the said period, the registration shall be deemed to have been granted and the said certificate of registration, duly signed or verified through electronic verification code, shall be made available to the registered person on the common portal.

Provided that the show cause notice issued in **FORM GST REG- 27** can be withdrawn by issuing an order in **FORM GST REG- 20**, if it is found, after affording the person an opportunity of being heard, that no such cause exists for which the notice was issued.

(4) Every person registered under any of the existing laws, who is not liable to be registered under the Act may, on or before [31st March, 2018]³³³⁴, at his option, submit an application electronically in **FORM GST REG-29** at the common portal for the cancellation of registration granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said registration.

Rule 25 : Physical verification of business premises in certain cases

Where the proper officer is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of fifteen working days following the date of such verification.

Rule 26 : Method of authentication

(1) All applications, including reply, if any, to the notices, returns including the details of outward and inward supplies, appeals or any other document required to be submitted under the provisions of these rules shall be so submitted electronically with digital signature certificate or through e-signature as specified under the provisions of the Information Technology Act, 2000 (21 of 2000) or verified by any other mode of signature or verification as notified by the Board in this behalf:

Provided that a registered person registered under the provisions of the Companies Act, 2013 shall furnish the documents or application verified through digital signature certificate.

Provided further that a registered person registered under the provisions of the Companies Act, 2013 shall, during the period from the 21st day of April, 2020 to the 30th day of September, 2020, also be allowed to furnish the return under section 39 in **FORM GSTR-3B** verified through electronic verification code (EVC).

Provided also that a registered person registered under the provisions of the Companies Act, 2013 shall, during the period from the 27th day of May, 2020 to the 30th day of September, 2020, also be allowed to furnish the details of outward supplies under section 37 in **FORM GSTR-1** verified through electronic verification code (EVC). ³⁶(2) Each document including the return furnished online shall be signed or verified through electronic verification code-

(a) in the case of an individual, by the individual himself or where he is absent from India, by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the chief executive officer or authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or authorised signatory thereof;

(f) in the case of any other association, by any member of the association or persons or authorised signatory thereof;

(g) in the case of a trust, by the trustee or any trustee or authorised signatory thereof; or

(h) in the case of any other person, by some person competent to act on his behalf, or by a person authorised in accordance with the provisions of section 48.

(3) All notices, certificates and orders under the provisions of this Chapter shall be issued electronically by the proper officer or any other officer authorised to issue such notices or certificates or orders, through digital signature certificate [or through E-signature as specified under the provisions of the Information Technology Act, 2000 or verified by any other mode of signature or verification as notified by the Board in this behalf.

CHAPTER - 11 **TAX INVOICE**

Sec 31 : Tax Invoice

Sec 31(1) : Time limit for issue of invoice of goods

A registered person **supplying taxable goods** shall, before or at the time of,—

- (a) **removal of goods for supply to the recipient**, where the supply involves movement of goods; or
- (b) **delivery of goods or making available thereof to the recipient**, in any other case,

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Sec 31(2) : Time limit for issue of invoice of 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 may be prescribed:

“Provided that the Government may, on the recommendations of the Council, by notification,—

(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;

(b) subject to the condition mentioned therein, specify the categories of services in respect of which—

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

Special point :

Rule 47 : Time limit for issuing tax invoice

The invoice in the case of the taxable supply of services, shall be issued within a period of **30 days** from the date of the supply of service:

Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be **45 days** from the date of the supply of service:

Sec 31(3) : Special cases

Notwithstanding anything contained in sub-sections (1) and (2)—

- (a) A registered person may, within **one month** from the date of issuance of certificate of registration and in prescribed manner, issue a revised invoice against the invoice already issued during the period

beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(b) registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than ₹200 subject to such conditions and in such manner as may be prescribed;

(c) registered person supplying exempted goods or services or both or paying tax under section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

Provided that the registered person may not issue a bill of supply if value of goods or services or both supplied is less than 200 rupees subject to prescribed conditions and prescribed manner

(d) registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment

(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(f) a registered person who is liable to pay tax u/s section 9(3) or 9(4) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(g) a registered person who is liable to pay tax u/s 9(3) or 9(4) shall issue a payment voucher at the time of making payment to the supplier.

Sec 31(4) : Invoice in case of continuous supply of goods

- In case of continuous supply of goods,
- where successive statements of accounts or successive payments
- are involved,
- the invoice shall be issued
- before or at the time each such statement is issued or,
- as the case may be, each such payment is received.

Sec 31(5) : Invoice in case of continuous supply of services

Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—

(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

Sec 31 (6) : Supply ceases before completion

- In a case where the supply of services ceases under a contract
- before the completion of the supply,
- the invoice shall be issued
- at the time when the supply ceases and
- such invoice shall be issued to the extent
- of the supply made before such cessation.

Sec 31(7) : Goods sent on approval basis

- Notwithstanding anything contained in sub-section (1),
- where the goods being sent or taken on approval for sale or return
- are removed before the supply takes place,
- the invoice shall be issued
- before or at the time of supply or
- six months from the date of removal,
- whichever is earlier.

Explanation.—For the purposes of this section, the expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Sec 31A : Electronic payments

The Government may, on the recommendations of council, prescribe class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.

Sec 32. : Prohibition of unauthorised collection of tax

- (1) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.
- (2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

Sec 33 : Amount of tax to be indicated in tax invoice and other documents.

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Sec 34 : Credit & Debit Notes

Sec 34(1) : Credit note

- Where one or more tax invoices have been issued and
- the taxable value or tax charged in that tax invoice
- is found to exceed
- the taxable value or
- tax payable in respect of such supply, or
- where the goods supplied are returned by the recipient, or
- where goods or services or both supplied are found to be deficient,
- the registered person,
- who has supplied such goods or services or both,
- may issue to the recipient
- one or more credit notes for supplies made in a financial year
- containing such particulars as may be prescribed.

Sec 34(2) : Declaration of details of credit note

- Any registered person
- who issues a credit note in relation to a supply of goods or services or both
- shall declare the details of such credit note
- in the return for the month during which such credit note has been issued but
- not later than
- September following the end of F/Y in which such supply was made, or
- the date of furnishing of the relevant annual return,
- whichever is earlier,
- and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

Sec 34(3) : Debit note

- Where one or more tax invoice have been issued
- for supply of any goods or services or both and
- the taxable value or tax charged in that tax invoice
- is found to be less than the taxable value or tax payable in respect of such supply,
- the registered person,
- who has supplied such goods or services or both,
- shall issue to the recipient
- one or more debit notes for
- supplies made in a financial year”
- containing such particulars as may be prescribed.

Sec 34(4) : Declaration of details of debit note

- Any registered person
- who issues a debit note
- in relation to a supply of goods or services or both
- shall declare the details of such debit note
- in the return for the month during which such debit note has been issued and
- the tax liability shall be adjusted in such manner as may be prescribed.

Explanation : For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

Rule 46 to 55A : TAX INVOICE, CREDIT AND DEBIT NOTES**Rule 46 : Tax invoice**

Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash and slash symbolised as — and —/ respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more;
- (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;
- (g) Harmonised System of Nomenclature code for goods or services;
- (h) description of goods or services;
- (i) quantity in case of goods and unit or Unique Quantity Code thereof;
- (j) total value of supply of goods or services or both;
- (k) taxable value of the supply of goods or services or both taking into account discount or abatement, if any;
- (l) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (n) place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;
- (o) address of delivery where the same is different from the place of supply;
- (p) whether the tax is payable on reverse charge basis; and
- (q) signature or digital signature of the supplier or his authorised representative;

Provided that the Board may, on the recommendations of the Council, by notification, specify-

(i) the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention, for such period as may be specified in the said notification; and

(ii) the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services, for such period as may be specified in the said notification:

Provided further that where an invoice is required to be issued under clause (f) of sub-section (3) of section 31, a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9, the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers:

Provided also that in the case of the export of goods or services, the invoice shall carry an endorsement —SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX or —SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX, as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details, namely,-

(i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination:

Provided also that a registered person, other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens,]§3may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely,-

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such invoice, and

shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000 . Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.

Rule 46A : Invoice-cum-bill of supply

Notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single —invoice-cum-bill of supply‡ may be issued for all such supplies.

Rule 47 : Time limit for issuing tax invoice

The invoice referred to in rule 46, in the case of the taxable supply of services, shall be issued within a period of thirty days from the date of the supply of service:

Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty five days from the date of the supply of service:

Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

Rule 48 : Manner of issuing invoice

(1) The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely,-

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

(2) The invoice shall be prepared in duplicate, in the case of the supply of services, in the following manner, namely,-

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

(3) The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in **FORM GSTR-1**.

(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in **FORM GST INV-01** after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

(5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.

(6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).

Sec 49 : Bill of supply

A bill of supply referred to in clause (c) of sub-section (3) of section 31 shall be issued by the supplier containing the following details, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) Harmonised System of Nomenclature Code for goods or services;
- (f) description of goods or services or both;
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorised representative:

Provided that the provisos to rule 46 shall, *mutatis mutandis*, apply to the bill of supply issued under this rule:

Provided further that any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of the Act.

Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000

Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.

Rule 50 : Receipt voucher

A receipt voucher referred to in clause (d) of sub-section (3) of section 31 shall contain the following particulars, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;

(d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(e) description of goods or services;

(f) amount of advance taken;

(g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

(h) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

(i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;

(j) whether the tax is payable on reverse charge basis; and

(k) signature or digital signature of the supplier or his authorised representative:

Provided that where at the time of receipt of advance,-

(i) the rate of tax is not determinable, the tax shall be paid at the rate of eighteen per cent.;

(ii) the nature of supply is not determinable, the same shall be treated as inter-State supply.

Rule 51 : Refund voucher

A refund voucher referred to in clause (e) of sub-section (3) of section 31 shall contain the following particulars, namely:-

(a) name, address and Goods and Services Tax Identification Number of the supplier;

(b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;

(c) date of its issue;

(d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(e) number and date of receipt voucher issued in accordance with the provisions of rule 50;

(f) description of goods or services in respect of which refund is made;

(g) amount of refund made;

(h) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

(i) amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

(j) whether the tax is payable on reverse charge basis; and

(k) signature or digital signature of the supplier or his authorised representative.

Rule 52 : Payment voucher

A payment voucher referred to in clause (g) of sub-section (3) of section 31 shall contain the following particulars, namely:-

(a) name, address and Goods and Services Tax Identification Number of the supplier if registered;

(b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;

(c) date of its issue;

(d) name, address and Goods and Services Tax Identification Number of the recipient;

(e) description of goods or services;

(f) amount paid;

(g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

(h) amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);

(i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and

(j) signature or digital signature of the supplier or his authorised representative.

Rule 53 : Revised tax invoice and credit or debit notes

(1) A revised tax invoice referred to in section 31 [and credit or debit notes referred to in section 34 shall contain the following particulars, namely:-

(a) the word —Revised Invoice||, wherever applicable, indicated prominently;

(b) name, address and Goods and Services Tax Identification Number of the supplier;

(c) nature of the document;

(d) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;

(e) date of issue of the document;

(f) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(g) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(h) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply; and

(i) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient;]⁹²

(j) signature or digital signature of the supplier or his authorised representative.

(1A) A credit or debit note referred to in section 34 shall contain the following particulars, namely:—

(a) name, address and Goods and Services Tax Identification Number of the supplier;

(b) nature of the document;

(c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as —|| and —/|| respectively, and any combination thereof, unique for a financial year;

(d) date of issue of the document;

(e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

(h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

(i) signature or digital signature of the supplier or his authorised representative

(2) Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration:

Provided that the registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period:

Provided further that in the case of inter-State supplies, where the value of a supply does not exceed two lakh and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act.

(3) Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of section 74 or section 129 or section 130 shall prominently contain the words —INPUT TAX CREDIT NOT ADMISSIBLE.

Rule 54 : Tax invoice in special cases.

(1) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:-

- (a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash and slash symbolised as —|, —/| respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
- (e) amount of the credit distributed; and
- (f) signature or digital signature of the Input Service Distributor or his authorised representative:

Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.

(1A) (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:-

- i. name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;
- ii. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as —| and —/| respectively, and any combination thereof, unique for a financial year;
- iii. date of its issue;
- iv. Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;
- v. name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
- vi. taxable value, rate and amount of the credit to be transferred; and
- vii. signature or digital signature of the registered person or his authorised representative.

(b) The taxable value in the invoice issued under clause (a) shall be the same as the value of the common services.

(2) Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called [for the supply of services made during a month at the end of the month]⁹⁷, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.

Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000

(3) Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as mentioned under rule 46.

(4) Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as mentioned under rule 46.

Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).

(4A) A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:

Provided that the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.

(5) The provisions of sub-rule (2) or sub-rule (4) shall apply, *mutatis mutandis*, to the documents issued under rule 49 or rule 50 or rule 51 or rule 52 or rule 53.

Rule 55 : Transportation of goods without issue of invoice

(1) For the purposes of-

- (a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
- (b) transportation of goods for job work,

- (c) transportation of goods for reasons other than by way of supply, or
- (d) such other supplies as may be notified by the Board,

the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-

- (i) date and number of the delivery challan;
- (ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;
- (iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;
- (iv) Harmonised System of Nomenclature code and description of goods;
- (v) quantity (provisional, where the exact quantity being supplied is not known);
- (vi) taxable value;
- (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
- (viii) place of supply, in case of inter-State movement; and
- (ix) signature.

(2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:-

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

(3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.

(4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

(5) Where the goods are being transported in a semi knocked down or completely knocked down condition [or in batches or lots]¹⁰¹⁻

- (a) the supplier shall issue the complete invoice before dispatch of the first consignment;
- (b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
- (c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
- (d) the original copy of the invoice shall be sent along with the last consignment.

Rule 55A : Tax Invoice or bill of supply to accompany transport of goods

The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.