



**V'Smart
Academy**

CA FINAL GST AMENDMENTS

Applicable for Nov. 2018 Examination

BY : CA VISHAL BHATTAD

- All Circulars & Notifications upto 30th April 2018
- All Statutory Updates of ICAI
- RTP for Nov.2018



Module
1

Dear Students

The Indirect tax amendments handout book consists of all the statutory updates issued by ICAI as made applicable for Nov 2018 exams & also covers important clarifications of CBIC that are relevant for your exams.

It does not include any case laws pertaining to GST as there no relevant judgments are issued under GST act yet & also there are no case laws of Customs covered as not released by ICAI till date. Thus if any further updates on case laws issued by ICAI it will be posted on youtube channel of Vsmart & also stay tuned to the updates link i.e. www.vsmartacademy.com/vishalsir

You will get two modules of Amendments

Module 1 : Amendments in GST

Module 2 : Amendments in Customs and FTP

Thank you

Regards

CA Vishal Bhattad

Wish you all the very best !!

**Summary of Amendments
to be published in 1st
week of Sept.2018
Stay Tune with**

www.vsmartacademy.com/vishalsir

Index

Chapter	Pg. No.	Covered in Video Lect.
Levy & Concept of Supply	1	1
Composite & Mixed Supply	7	1
RCM & ECO	11	1
Composition Scheme	14	1
Time of Supply	18	1
Value of Supply (Incl.IGST Rules)	20	1 & 2
Exemptions	28	2
Registration	45	2
Input Tax Credit	47	3
Job Work	48	3
Invoice	51	3
Return	53	3
E-Way Bill	55	3
Accounts & Records	65	3
Demand & Recovery	67	3
Appeal, Review & Revision	67	3
Refund	68	4
Miscellaneous Provisions	78	4
RTP Discussion		4

Amendments and Clarification

- Levy & Charge
- Concept of Supply
- Composite & Mixed Supply



Concept of Supply

Definition of Goods & Services

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

Services As per sec 2(102) of CGST Act, "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;

Clarification on certain issues related to Banking & Financial Services via Circulars

Issue:

Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?
[Circular no. 34/8/2018 dt 01/03/2018]

Clarification :

In Reserve Bank of India FAQ on PSLC,

it has been mentioned that PSLC may be construed to be in the nature of goods, dealing in which has been notified as a permissible activity under section 6(1) of the Banking Regulation Act, 1949 vide Government of India notification dated 4th February, 2016. PSLC are not securities. PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which attracted VAT.

In GST there is no exemption to trading in PSLCs. **Thus, PSLCs are taxable as goods at standard rate of 18%** under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates.

Clarification regarding levability of GST on taxable services provided by the members of the JV to the JV and vice versa and inters se between the members of the JV. [Circular No. 35/09/2018 GST dated 05.03.2018]

Issue:- Whether GST is to be levied on taxable services provided by the members of the JV to the JV and vice versa and inters se between the members of the JV

Legal Provision:-

CGST Act	Provisions
Section 7	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, and includes activities specified in Schedule II to the CGST Act. GST is levied on intra-State and inter-State supply of goods and services.
Section 2(17)	"business" includes 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.
Section 2(84)	The term person to include an association of persons or a body of individuals, whether incorporated or not, in India or outside India.
Schedule II	enumerates activities which are to be treated as supply of goods or as supply of services. As per para 7 of Sch II states that supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of goods.

Clarification:- A conjoint reading of the above provisions of the law implies that supply of services by an unincorporated association or body of persons (AOP) to a member thereof for cash, deferred payment or other valuable consideration shall be treated as supply of services.

It is reiterated that the question whether cash calls are taxable or not will entirely depend on the facts and circumstances of each case.

Cash calls in joint venture	Is merely a transaction in money and hence not a supply
Cash Calls in nature of advance for supply of service	cash calls pooled by a JV towards taxable services received from a member or a third party is in the nature of consideration & hence attracts GST

'Cash calls' are raised by an operating member of the joint venture on other members in proportion to their participating interests in the joint venture (unincorporated) to meet the expenditure on the operations to be carried out as per the approved work programme and budget. Taxability of cash calls can be further explained by the following illustrations:

Illustration A: There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member purchases machinery for ₹ 400 for the JV to be used in oil production.

In the above situation it will not be the subject matter of 'ST/GST' for the reason that the operating member is not carrying out an activity for another for consideration. In Illustration A, the money paid for purchase of machinery is merely in the nature of capital contribution and is therefore a transaction in money.

Illustration B: There are 4 members in the JV including the operating member and each one contributes ₹ 100 as part of their share. A total amount of ₹ 400 is collected. The operating member thereafter uses its own machine and performs exploration and production activities on behalf of the JV.

In the above situation the operating member uses its own machinery and is therefore providing 'service' within the scope of supply of CGST Act. This is because in this scenario, the operating member is recovering the cost appropriated towards machinery and services from the other JV members in their participating interest ratio

Deemed Distinct Person & Supply (Para 2 of schedule I)

Circular No 1/1/2017- IGST Act, Dated 7/7/2017

Clarification on Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

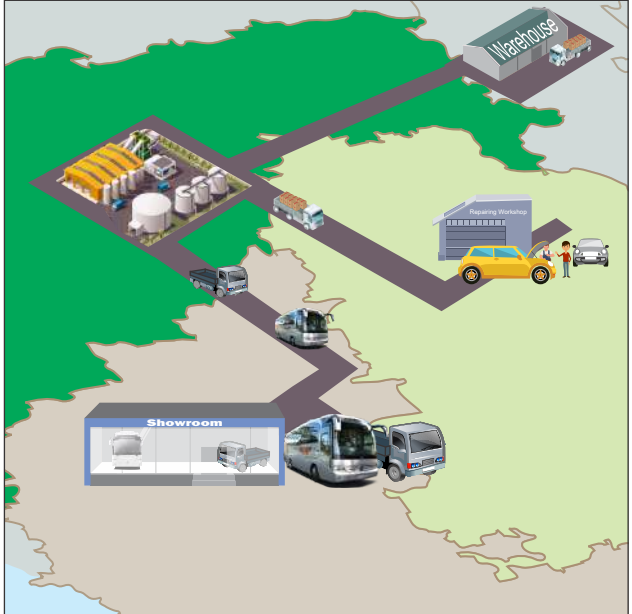
Issue: *Whether inter-state movement of various modes of conveyance carrying goods or passengers or both, or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST Act [except in cases where such movement is for further supply of the same conveyance], is leviable to IGST?*

Legal Provision: In the above context, the legal provisions in GST laws are as under:

- As per section 24(1)(i) of the CGST Act, persons making any inter-State taxable supply of goods shall be required to be registered under this Act.
- As per section 25(4) of the said Act 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.
- Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes 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

Clarification: Against the above background, the issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including

- Trains,
- Buses,
- Trucks,
- Tankers,
- Trailers,
- Vessels,
- Containers,
- Aircrafts,

Situations	GST Council recommendation and conclusion	
Carrying Goods or passenger or both in conveyance	Between deemed distinct person shall be Treated neither as supply of goods or services & no IGST to be levied	
Repairs & Maintenance of conveyance	On movement between deemed distinct persons shall be treated neither as supply of goods or services & no IGST to be levied Note: On repairs & maintenance charges done for such conveyances GST shall be payable	
Movement for further supply	Treated as supply of goods or services & IGST to be levied	

Conclusion : In view of above, it is hereby clarified that the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply.

However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

Clarification on Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes]- [Circular no. 21/21/2017 dt 22/11/2017]

Basis of Clarification:-

IGST exemption on inter-state movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the Central Goods and Services Tax Act, 2017, carrying goods or passengers or both; or for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was examined and a circular 1/1/2017-IGST dated 7.7.2017, was issued clarifying that such interstate movement shall be treated "neither as a supply of goods nor supply of service" and therefore would not be leviable to IGST.

Issue & Clarification:

The issue pertaining to inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] was discussed in GST Council's meeting held on 10th November, 2017 and the Council recommended that the circular 1/1/2017-IGST shall mutatis mutandis apply to inter-state movement of such goods, and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.

Conclusion:

In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.



Clarification on issue of inter-state transfer of aircraft engines, parts and accessories for use by their own airlines? [Circular No. 16/16/2017 GST dated 15.11.2017]

Issue:- Is GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?

Legal provision:- Sec 7 of CGST Act read with Schedule I of the CGST Act, 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, even if, without consideration, attracts GST.

Clarification: -

Levy of GST in Transfer of Engine, Parts & accessories	Yes, GST Payable on such transfers
Eligibility of Input Tax Credit	On purchase of engines, parts & accessories by way of interstate stock transfers between distinct persons ITC available However, No ITC if above goods used for consumption to provide transport services

Example:- Go Airways Ltd is an airlines operating company & has its offices registered in States of Maharashtra , Gujarat & Karnataka. During the year it sent some parts & accessories of aircrafts from its office of Maharashtra to its registered office of Gujarat. Whether this would be considered as supply of goods under GST ?

Answer :

As per the above stated circular clarification & provision this will be treated as s supply & GST is payable.

Supply on Approval Basis

Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis [Circular No. 10/10/2017 GST dated 18.10.2017]

Issue: Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval.

In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.



Legal Provision:

CGST Act	Provisions
Rule 55(1)(c)	provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply.
Rule 55(3)	provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules.
Rule 55(4)	provides that "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".
Sec 168 (1)	In exercise of powers conferred under this section for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter

Clarification :

What document is required at the final removal?	➡ Supply on approval basis - Delivery challan along with e-way bill ➡ other than approval basis - Tax invoice
When to issue Invoice?	Supply on approval basis - When supply is fructified Other than approval basis - At the time of supply
Which tax is payable on Approval?	Interstate supplies IGST shall be levied
Whether CTP registration is required?	No.

Question:

Vishwas Jewellers of Tumkur (Karnataka) takes gold jewel articles to Mumbai (Maharashtra). Determine the GST applicability in the given case

Answer

As in the given case the customer is not ascertained beforehand by Vishwas Jewellers & thus the movement of jewellery from State of Karnataka to Maharashtra will be under delivery challan.

And on approval of jewel article by customer it will be a supply and tax invoice shall be issued, IGST shall be levied as an interstate supply and not is not required to be registered as casual taxable person.

Clarification on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries [Circular No. 22/22/2017 GST dated 21.12.2017]

Issue:- Regarding taxation of the supply of art works by artists in different States other than the State in which they are registered as a taxable person. In such cases, if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. As the artists give their work of art to galleries where it is exhibited for supply. There seems to be confusion regarding the treatment of this activity whether it is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery.

Therefore, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter.

Legal Provision:- Same provisions as stated in above scenario shall be applicable for the given issue.

Clarification :

What Document to be Issued?	For supply on approval basis - Delivery challan along E-way Bill. On actual supply - Invoice to be issued
When Is GST Leviable?	On Inter state - IGST Shall be levied Display at Gallery - GST applicable on actual supply
Whether CTP registration is required?	No.

Note :- In case of art work sent to the gallery for exhibition there is no consideration flow hence not a supply.

Schedule III

Clarification on certain issues regarding GST applicability on fees, penalty etc paid to Consumer Disputes Redressal Commission [Circular No. 32/06/2018 GST dated 12.02.2018]

Issue:- Is GST leviable on the fee/amount charged in the following situations/cases: –

- (1) A customer pays fees while registering complaints to Consumer Disputes Redressal Commission office and its subordinate offices. These fees are credited into State Customer Welfare Fund's bank account.
- (2) Consumer Disputes Redressal Commission office and its subordinate offices charge penalty in cash when it is required.
- (3) When a person files an appeal to Consumers Disputes Redressal Commission against order of District Forum, amount equal to 50% of total amount imposed by the District Forum or Rs 25000/- whichever is less, is required to be paid.

Legal Provision:- As per sec 7 of CGST act read with schedule III of CGST Act, Services by any court or Tribunal established under any law for the time being in force is neither a supply of goods nor services

Clarification:- Consumer Disputes Redressal Commissions (National/ State/ District) may not be tribunals literally as they may not have been set up directly under Article 323B of the Constitution. **However, they are clothed with the characteristics of a tribunal.**

In view of the aforesaid, it is hereby clarified that fee paid by litigants in the Consumer Disputes Redressal Commissions are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.

Composite & Mixed Supply

As per sec 8 of CGST Act, 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

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

Composite Supply	Mixed Supply
<p>As per sec 2(30) of CGST Act, "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply</p> <p>Sec 2(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 the composite supply is ancillary</p>	<p>As per sec 2(74) of CGST Act, "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.</p>

Circular No. 11/11/2017 GST dated 20.10.2017 Clarification on taxability of printing contracts

Issue: Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 or supply of services falling under heading 9989 of the scheme of classification of services annexed to Notification No. 11/2017-CT(R)?

Clarification: Whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as 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.

Cases	Situations	Observation	Classification
Case 1	In the case of printing of books, pamphlets, brochures, annual reports, and the like	where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer,	supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.
Case 2	In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc.	supplied by the recipient of goods but made using physical inputs including paper belonging to the printer,	Predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

Clarification on levy of GST on printing - [Circular no. 27/01/2018 dt 04/01/2018]

Issue:-

To clarify whether supply in the situations listed below shall be treated as a supply of goods or supply of service: -

1. The books are printed/ published/ sold on procuring copyright from the author or his legal heir. [e.g. White Tiger Procures copyright from Ruskin Bond]
2. The books are printed/ published/ sold against a specific brand name. [e.g. Manorama Year Book]
3. The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian edition (same language) of foreign books. [e.g. Penguin (India) Ltd. pays fees to Routledge (London)] The books are printed/ published/ sold on paying copyright fees to a foreign publisher for publishing Indian language edition (translated). [e.g. Ananda Publishers Ltd. pays fees to Penguin (NY)]

Clarification:

The supply of books shall be treated as supply of goods as long as the supplier owns the books and has the legal rights to sell those books on his own account.

Clarifications regarding GST in respect of certain services [Circular No. 34/08/2018 GST dated 01.03.2018]

Issue	Clarification
i) Whether activity of bus body building, is a supply of goods or services?	In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.
ii) Whether retreading of tyres is a supply of goods or services?	<p>The primary question that should be asked is what the essential nature of the composite supply is and which element of the supply imparts that essential nature to the composite supply.</p> <p>Value may be one of the guiding factors in this determination, but not the sole factor.</p> <p>In retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply.</p> <p>Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%)</p>

Clarification regarding applicability of GST on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]

Issue: Whether GST is applicable on the superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB]? [Circular No. 12/12/2017 GST dated 26.10.2017]

Facts: In this context, LAB manufacturers have stated that they receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n- Paraffin from SKO and return back the remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, doubt have also been raised as to whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

Clarification : The matter was examined. LAB manufacturers generally receive superior kerosene oil [SKO] from a refinery through a dedicated pipeline; on an average about 15 to 17% of the total quantity of SKO received from refinery is retained and balance quantity ranging from 83%- 85% is returned back to refinery. The retained SKO is towards extraction of Normal Paraffin, which is used in the manufacturing of LAB. In this transaction consideration is paid by LAB manufactures only on the quantity of retained SKO (n-paraffin). In this context, the GST Council has recommended for issuance of a clarification that in this transaction GST will be payable by the refinery on the value of net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB).

Conclusion:-

Accordingly, it is hereby clarified that, in aforesaid case, GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person

Clarification on classification of cut pieces of fabrics under GST (Unstitched Salwar Suits) [Circular No. 13/13/2017 GST dated 27.10.2017]

Facts : It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size.

Classifications : Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials.

Conclusion : Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, **will not change the nature** of these goods and such pieces of fabrics would continue to be **classifiable under the respective heading** as the fabric.

Charge of GST

Clarification regarding applicability of section 16 of the IGST Act, 2017, relating to zero rated supply for the purpose of compensation cess on exports. [Circular No. 01/01/2017 CC dated 26.07.2017]

Section 11(2) of the Goods and Services tax (Compensation to States) Act, 2017 provides that provisions of IGST Act, and the rules made thereunder, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 of that Act on the inter-State supply of goods and services, as they apply in relation to the levy and collection of integrated tax on such inter-State supplies under the said Act or the rules made thereunder.

In view of the above, **it has been clarified that provisions of section 16 of the IGST Act, 2017, relating to zero rated supply will apply mutatis mutandis for the purpose of compensation cess (wherever applicable), that is to say that:**

- a) Exporter will be eligible for refund of compensation cess paid on goods exported by him [on similar lines as refund of IGST under section 16(3)(b) of the IGST, 2017]; or
- b) No compensation cess will be charged on goods exported by an exporter under bond and he will be eligible for refund of input tax credit of compensation cess relating to goods exported [on similar lines as refund of input taxes under section 16(3)(a) of the IGST, 2017].

Analysis: -

A registered person engaged in export of goods on which compensation less is applicable shall avail the benefit of 'zero rated supply' u/s 16 of IGST Act & thus eligible for refund of compensates

Amendments and Clarification

- RCM [Sec 9(3)]
- ECO [Sec 9(5)]
- Composition Scheme



Service Supplied

By

An individual advocate including a senior advocate ~~by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates or by a firm (including LLP) of advocates, by way of legal services, to a business entity.~~

To

to any business entity located in the taxable territory

Person liable to pay tax :
Any business entity located in the taxable territory.

4) **"Legal service"** [para 2(zm)N/N 12/2017] means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority

Revised Notification [F. No. 336/20/2017- TRU]

Service Supplied

By

"Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.

To

to any business entity located in the taxable territory

Person liable to pay tax :
Any business entity located in the taxable territory.

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

Clarification on levy of GST on legal services - [Circular no. 27/01/2018 dt 04/01/2018]

Issue

Whether legal services other than representational services provided by an individual advocate or a senior advocate to a business entity are liable for GST under reverse charge mechanism?

Clarification

Yes. In case of legal services including representational services provided by an advocate including a senior advocate to a business entity, GST is required to be paid by the recipient of the service under reverse charge mechanism, i.e. the business entity.

Newly inserted by N/N 33-2017 (w.e.f. 13.10.2017)

Supply of Services

By

Members of Overseeing committee

To

Reserve Bank of India (RBI)

Person liable to pay tax : Reserve Bank of India (RBI)

Note : Overseeing Committee formed by RBI which aimed to vet resolution of all types of dud loans would harm customers as well as banks

Supply of Services by Government

Services supplied by

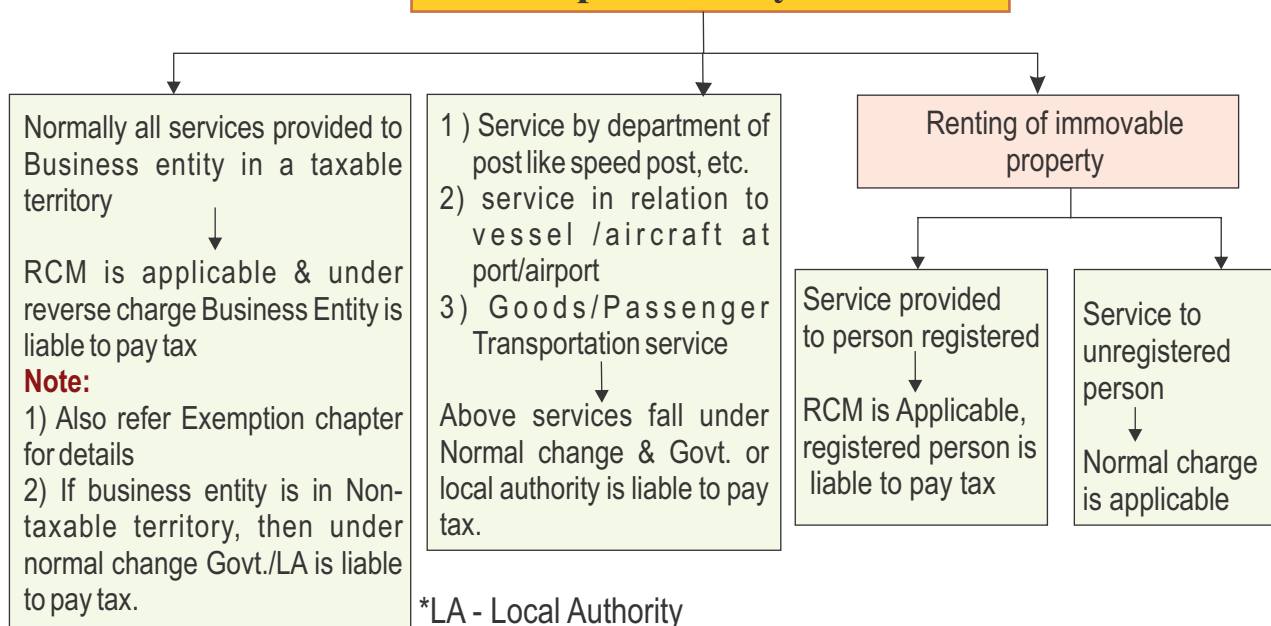
By	To	
<ul style="list-style-type: none"> ➤ Central Govt. ➤ State Govt. ➤ Union Territory ➤ Local authority <p>except</p> <ul style="list-style-type: none"> (a) Renting of immovable property, and (b) (i) Services by the department of post by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government State Government or Union Territory or local authority. (ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport (iii) Transport of goods or passengers 	<p>Business entity in taxable territory</p>	<p>Person liable to pay tax : Business entity in Taxable territory is liable</p> <p>In following cases government or local authority is liable</p> <p>(a) renting of immovable property, and</p> <p>(b) (i) Services by the department of post by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government State Government or Union Territory or local authority.</p> <p>(ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport</p> <p>(iii) Transport of goods or passengers</p>

New Entry inserted

Services supplied by

By	To	
<ul style="list-style-type: none"> ➤ Central Govt. ➤ State Govt. ➤ Union Territory ➤ Local authority <p>by way of Renting of immovable property,</p>	<p>Any registered person under CGST Act read with clause (v) of Section 20 of IGST Act, 2017</p>	<p>Person liable to pay tax : Any registered person in taxable territory</p>

Service provided by Govt. /LA



Insurance Agent

Service Supplied by		
By	To	Person liable to pay tax : Any person carrying any insurance business located in taxable territory e.g. LIC or GIC
Insurance Agent	Any person carrying insurance business	

Insurance Agent has now been defined via **N/N 13/2017 -CT(Rate) dt 25/1/2018** i.e. **‘Insurance Agent’ shall have the same meaning assigned to it in sec 2(10) of Insurance Act 1938.**

“Insurance Agent” means an insurance agent licensed under section 42 who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business [including business relating to the continuance, renewal or revival of policies of insurance.]

Impact of the above amendment:

Before this amendment, many insurance companies who were selling their policies through ECO operator even if such ECO was not licensed u/s 42 of Insurance Act & thus covered under the ambit of Reverse charge as an insurance agent **but after this amendment** clarity has been added to this provision & thus only if ECO satisfies the definition of Insurance agent, RCM shall be applicable.

Seeks to exempt payment of tax u/s 9(4) of CGST act & u/s 5(4) of IGST Act

Reverse charge applicability as per sec 9(4) of CGST Act / Sec 5(4) of IGST Act - Supply by unregistered supplier to a registered recipient this clause has been further **suspended till 30.09.2018 via N/N 12/2018 – CT (Rate) dt 29.06.2018 & 13/2018 – IT (Rate)**

Reverse charge applicability as per sec 9(4) of CGST Act / Sec 5(4) of IGST Act - Supply by unregistered supplier to a registered recipient this clause has been further suspended till 30.09.2018 via N/N 12/2018 – CT (Rate) dt 29.06.2018 & 13/2018 – IT (Rate)

Composition Scheme

Clarification on eligibility of restaurant services for composition scheme [Order No. 01/2017 CT dated 13.10.2017]

Legal Provision : Section 172 of CGST Act empowers the Central Government to issue a general or special order, on the recommendations of the GST Council, for removing any difficulty that may arise in giving effect to the provisions of that Act.

Clarification : In exercise of such power, the Central Government, on recommendations of the Council, for the removal of difficulties -

(i) has clarified that if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act (restaurant service) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount,

the said person shall not be ineligible for the composition scheme under section 10 of CGST Act subject to the fulfilment of all other conditions specified therein.

(ii) has further clarified that **in computing his aggregate turnover** in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, **shall not be taken into account.**

Q:- Shubhlaxmi Foods is engaged in supplying restaurant service in Maharashtra. In the preceding financial year, it has a turnover of ₹ 90 lakh from the restaurant service and ₹ 10 lakh from the supply of farm labour in said State. Further, it has also earned a bank interest of ₹ 10 lakh from the fixed deposits.

Shubhlaxmi Foods wishes to opt for composition scheme in the current year. You are required to advise Shubhlaxmi Foods on the same. (RTP – Nov 2018)

Answer:-

As per section 10(1) of the CGST Act, 2017, a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1 crore, may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates if, inter alia, he is not engaged in the supply of services other than restaurant services.

However, the restriction on service provider not to be engaged in any service other than restaurant service for being eligible for composition levy has been relaxed vide **Order No. 01/2017 CT dated 13.10.2017**. The said order clarifies that:

i) if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act (restaurant service) and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme under section 10 of the CGST Act, 2017 subject to the fulfilment of all other conditions specified therein.

ii) in computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account

In the given case, the two other services provided by Shubhlaxmi Foods apart from the restaurant service, viz. the services of supply of farm labour and services by way of extending deposits where the consideration is represented by way of interest, are exempt from GST vide **Notification No. 12/2017 CT (R) dated 28.06.2017**.

Thus, in view of the aforementioned order, since other services supplied by Shubhlaxmi Foods apart from restaurant service are exempt services, Shubhlaxmi Foods is not ineligible for the composition scheme.

Further, in computing his aggregate turnover in order to determine the eligibility of Shubhlaxmi Foods for composition scheme, value of supply of exempt services - supply of farm labour and bank interest shall not be taken into account. Thus, the aggregate turnover of Shubhlaxmi Foods is ₹ 90 lakh (turnover from restaurant services).

From the aforesaid discussion, it can be inferred that Shubhlaxmi Foods is eligible for composition scheme.

The rate of tax for a person registered under composition scheme has been revised with effect 23rd January 2018 via N/N.3/2018 – CT

Before Amendment : Rule 7 of CGST rules – Rate of tax for Composition

Sr.No	Categories of registered person	Central Rate	State/UT GST Rate	Total Rate	Basis of Calculation
1	Manufacturers other than manufacturers of such goods as may be notified by the government	1%	1%	2%	Turnover in State
2	Suppliers making supplies referred to in Clause (b) of para 6 of schedule II Example - Restaurant, Catering, Mess or any other service contract where goods as food or drink is supplied for human consumption	2.50%	2.50%	5%	Turnover in State
3	Other Suppliers	0.50%	0.50%	1%	Turnover in State

After Amendment

Actual Rate of Tax under Composition Scheme notified in Rule 7 of CGST Rules, 2017

[Amended via N/n 1/2018 C.T.] [following rates to be memorized by students]

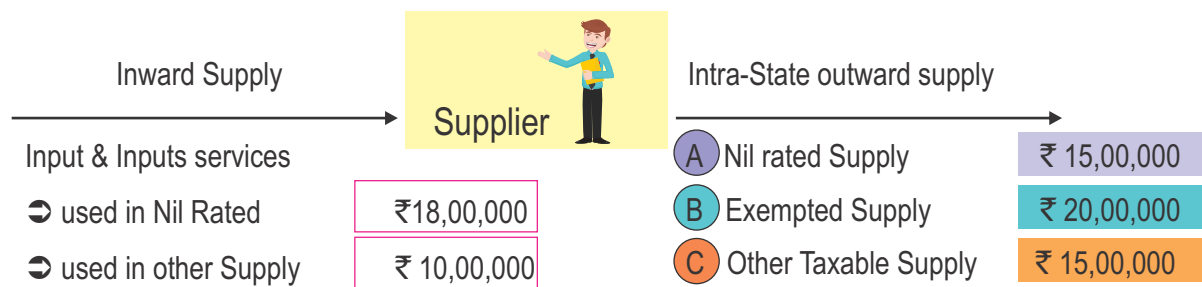
Sr.No	Categories of registered person	Central Rate	State/UT GST Rate	Total Rate	Basis of Calculation
1	Manufacturers other than manufacturers of such goods as may be notified by the government	0.5% <small>Amended</small>	0.5%	1%	Turnover in State
2	Suppliers making supplies referred to in Clause (b) of para 6 of schedule II Example - Restaurant, Catering, Mess or any other service contract where goods as food or drink is supplied for human consumption	2.50%	2.50%	5%	Turnover in State
3	Other Suppliers	0.50%	0.50%	1%	Turnover of taxable supplies of goods in State <small>Amended</small>

Impact of the above amendment:-

- The composition rate for manufacturer is reduced from 2% to 1% - This will reduce the cost of manufacturer as the amount of tax was to be borne and paid by him out of his own funds.
- The tax to be levied will be only on 'Taxable supplies' made by a Trader – By this clarification specific levy is created on only taxable supplies and exclusion of exempt supply from the turnover will reduce cost for a trader dealing in supply of both taxable and exempt goods.

Following is an example wherein we have assumed that aggregate turnover of Previous financial year does not exceeds ₹ 1 Cr. and Impact of above amendment as on manufacturer and trader

Example : If supplier being a manufacturer and a trader opts for composition



Calculate net tax payable. If Input Tax rate of GST is 12% & Composite Rate is 1%

Solution: -

Particulars	Manufacturer	Trader
➡ Nil Rated Supply	15,00,000	-
➡ Exempted Supply	20,00,000	-
➡ Other Taxable	15,00,000	15,00,000
Turnover	50,00,000	15,00,000
GST @ 1%	50,000	15,000

Note: Composition scheme not available to Interest supply & non-taxable supply

Time limit for filing details of stock etc. by a person filing an intimation for paying tax under composition levy increased from 60 days to 90 days

Rule 3(4) of the CGST Rules provides that any person who files an intimation for paying tax under composition levy shall electronically 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 composition levy

within a period of ~~60 days~~ **(90 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.

Rule 3(4) has been amended to **increase the said time period of 60 days to 90 days.** [Notification No. 22/2017 CT dated 17.08.2017]

Amendment

Amendments and Clarification

- Time of Supply
- Value of Supply



Section 12 : Time of Supply of Goods

2.	The time of supply of goods shall be the earlier of the following dates , namely
(a)	the date of issue of invoice by the supplier or the last date on which he is required to issue the invoice with respect to the supply (Sec 31(1))
OR	
(b)	the date on which the supplier receives the payment with respect to the supply:

Notification No. 66/2017 - C.T- Time of Supply is only on invoice basis

N/n - 40/2017 C.T. dated 13 Oct. 2017 Superseded by N/n 66.2017 dated 15 Nov.2017

Registered person whose aggregate turnover ~~in the preceding financial year~~ did not exceed ₹1.5 Cr.

or

the registered person whose aggregate turnover in the year in which such person has obtained registration is likely to be less than ₹1.5 Cr.

and

Any registered person who **did not opt for the composition levy** under section 10 of the said Act as the class of persons

who shall pay the central tax

on the **outward supply of goods** at the time of supply as specified in **clause (a) of sub-section (2) of section 12** of the said Act. Only for Goods i.e. on Invoice Basis only & Not Receipt Basis.

including in the situations attracting the provisions of section 14 of the said Act, and shall accordingly furnish the **details and returns** as mentioned in Chapter IX of the said Act and the rules made thereunder and the period prescribed for the **payment of tax** by such class of registered persons shall be such as specified in the said Act.

Analysis:

For payment of GST on advances received for supply of goods. Initially N/N 40/2017 - CT Dated 13/10/2017 was issued to remove the requirement of payment of GST on advance receipts towards supply of goods for specific category of registered persons based on their turnover. Further again this notification has been suspended by N/N 66/2017 dated 15/11/2017 this relocation has been extended to all persons, **except composition dealer**.

Note: This notification applicability is only on the advances received post 15/11/2017 & for supply of goods only not for services.

Example :Determine the Time of Supply in the following cases-

- M/s. ABC Ltd. removed the goods valuing ₹ 10 lakh on 15.6.2018 & issued invoice thereof on 12.6.2018. The payment is received on 1.8.2018 (book entry and bank realization is on same date).
- M/s. A Ltd. removed the goods valuing ₹ 12 lakh on 15.6.2018 & issued invoice thereof on 15.6.2018. The payment is received on 28.5.2018 (book entry and bank realization is on same date).
- M/s. AB HUF removed the goods valuing ₹ 12 lakh on 19.6.2018 & part payment ₹ 4,00,000 received on 21.6.2018 & balance payment received on 2.7.2018 (book entry and bank realization is on same date). The invoice thereof is issued on 19.6.2018.

Students has to follow this in Exam

Solution:

Assessee	Date of removal of goods 1	Date of Invoice 2	Last Date of Invoice 3	Date of receipt of Payment		Date of TOS as per Prov. Sec12 6	Time of Supply read with N/No. 66/2017
				Book entry 4	Credit in Bank 5		
ABC Ltd.	15/6/18	12/6/18	15/6/18	1/8/18	1/8/18	12/6/18	12/6/18
A. Ltd.	15/6/18	15/6/18	15/6/18	25/8/18	25/8/18	28/5/18	15/6/18
AB HUF	19/6/18	19/6/18	19/6/18	21/6/18	21/6/18	19/6/18	19/6/18
				2/7/18	2/7/18	19/6/18	19/6/18

Note : Here when we are applying N/N 66/2017 to determine the time of supply the columns relevant shall be only 2 & 3 as per sec 12(2) (a) of CGST Act.

Liability to pay GST in case of TDR in lieu of construction service and on construction service in lieu of TDR has been deferred till possession/ right in the property is transferred to the land owner by entering into a conveyance deed/ similar instrument [Notification No. 4/2018 CT (R) dated 25.01.2018] & Notification No. 4/2018 IT (R) dated 25.01.2018.

Accordingly, in exercise of the powers conferred by section 148, the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely-

- (a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and
- (b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

Clarification:-

Sr. No	Classes of Registered Person	Time of supply
a)	(a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and	Time when the possession or right in the property is transferred to the land owner by entering into a conveyance deed or similar instrument (eg. allotment letter).
b)	(b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights	

Example :

Mr Raj is the owner of a land area of 1500 sq ft & for the construction of residential complex consisting of 20 units on this land, He enters into an agreement with Nirmitee builders. Mr Raj will transfer his development rights to Nirmitee builders & in lieu of this TDR's , Nirmitee builders will handover full constructed 10 residential units to Mr Raj. Nirmitee builders shall own the remaining 10 residential units for sale in the market (Flats are sold before issuance of completion certificate). Determine the TOS in respect of the given case

Ans:-

Legal Provision:- As per sec 148 of CGST act read with N/n 4/2018 CT(R) dated 25.01.2018

Person	Analysis	Time of supply
Mr Raj (land owner)	10 residential units in lieu of TDR's given to Nirmitee builders. This will fall under the ambit of supply of service as sold before construction & GST shall be levied	Date when conveyance deed is entered into or Date when allotment letter is issued to Mr Raj
Nirmitee builders	<p>➤ For 10 Units sold to Mr Raj in lieu of development rights will fall under the ambit of supply of service as sold before construction & GST shall be levied</p> <p>➤ For remaining 10 units sold in open market against which consideration is received in money shall also fall under the ambit of supply of service as sold before construction & GST shall be levied</p>	<p>Date when conveyance deed is entered into or Date when allotment letter is issued to Mr Raj</p> <p>As per sec 13(2) of CGST act</p>

Value of Supply

Following Rules is newly inserted

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)	Valuation in case of Lottery.	
	Lottery run by	Value
(a)	The value of supply of lottery run by State Governments	Value shall be deemed to be ➔ face value of ticket or 100/112 of the ➔ price as notified in the Official Gazette by the organising State, whichever is higher.
(b)	The value of supply of lottery authorised by State Governments	➔ face value of ticket or 100/128 of the ➔ price as notified in the Official Gazette by the organising State, whichever is higher.
(c)	“Organising State” has the same meaning as assigned to it in clause (f) of sub-rule (1) of rule 2 of the Lotteries (Regulation) Rules, 2010.	
(3)	The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.	

Case Study :

Govt. of Maharashtra State has organized a lottery & sold 1,00,000 lottery tickets to a registered lottery distributor located in Mumbai.

- ➔ The face value of such lottery ticket is ₹ 100/- per ticket &
- ➔ The price as notified in official gazette by an organizing state is ₹ 95 per ticket
- ➔ The actual price of lottery ticket sold is for ₹ 80

Solution : In the given case above, supply of lottery ticket is deemed to be supply of goods. Value of lottery to be computed by applying Rule 31A as here specific rule will prevail over general i.e. transaction value not to be accepted.

Value of lottery run by State shall be = 100/112 of [face value i.e. ₹ 100 or price as notified by official gazette i.e. ₹ 95 (whichever is higher)]

$$\text{Value} = 100/112 \times 100 \times 1,00,000 = ₹ 89,28,571/-$$

Place of Supply IGST Act

SEC 12 (14) : PLACE OF SUPPLY OF ADVERTISEMENT SERVICE TO GOVERNMENT

Description	Place of supply
Advertisement service to the Central Government/ State Government/ Statutory body/ Local authority meant for the State or Union Territory identified in contract or agreement	Each of such States or Union territories where the advertisement is broadcasted/ run /played

The value of such supplies is in proportion to the 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.

Provisions introduced for computing proportionate value of advertisement services attributable to different States or Union territories in the absence of any contract between the supplier of service and recipient of services [Notification No. 12/2017 IT dated 15.11.2017]

A new rule 3 has been inserted in IGST Rules to provide a mechanism to compute the proportionate value of advertisement services attributable to different States or Union territories in the absence of any contract between the supplier of service and recipient of services.

The new rule provides as under:-

IGST Rules

Provisions introduced for computing proportionate value of advertisement services attributable to different States or Union territories in the absence of any contract between the supplier of service and recipient of services [Notification No. 12/2017 IT dated 15.11.2017]


As per section 12(14) of the IGST Act, 2017,

➤ **Place of supply of advertisement services** provided to the Central Government/ State Government/ Statutory body/ Local authority meant for the State or Union Territory identified in contract or agreement is taken as being in each of such States or Union territories.

➤ **The value of such supplies** is in proportion to the 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.

A new rule 3 has been inserted in IGST Rules to provide a mechanism to compute the proportionate value of advertisement services attributable to different States or Union territories in the absence of any contract between the supplier of service and recipient of services.


Rule 3(1) of IGST rules:-

Means of Advertisement	Mode of Payment & basis of apportionment	Value of supply	
Newspapers and publications	The amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in a State or Union territory, as the case may be	The value of advertisement service attributable to the dissemination in such State or Union territory.	

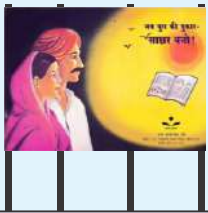
Example

Fact of the case	ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities. These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi) for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur. The release order will have details of the newspaper like the periodicity, language, size of the advertisement and the amount to be paid to such a newspaper.
Place of Supply	The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan.
Value of Supply	The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the state of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise, the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively.
Invoice	DEF should issue separate State-wise and Union territory-wise invoices based on the editions.


Rule 3(2) of IGST rules:-

Means of Advertisement		Mode of Payment & basis of apportionment	Value of supply	
Printed material like pamphlets, leaflets, diaries, calendars, T-shirts		The amount payable for the distribution of a specific number of such material in a particular State or Union territory	The value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.	
Example	Fact of the case	As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of 1,00,000 pamphlets (at a total cost of ₹ 1,00,000) to be distributed in the States of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States i.e., Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order. Let us assume that this breakup is 20,000, 50,000 and 30,000 respectively. This breakup should be indicated in the print order.		
	Place of Supply	The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan.		
	Value of Supply	The ratio of this breakup i.e., 2:5:3 will form the basis of value attributable to the dissemination in each of the three States.		
	Invoice	Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e., ₹ 20,000 - Haryana, ₹ 50,000 - Uttar Pradesh and ₹ 30,000 - Rajasthan.		


Rule 3(3) of IGST rules:-

Means of Advertisement		Mode of Payment & basis of apportionment	Value of supply	
Hoardings other than those on trains		the amount payable for the hoardings located in each State or Union territory, as the case may be	the value of advertisement service attributable to the dissemination in each such State or Union territory, as the case may be.	
Example	Fact of the case	ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the four metros, i.e., Delhi, Mumbai, Chennai and Kolkata. The release order issued by ABC to IJ will have the city-wise, location-wise breakup of the amount payable for such hoardings.		
	Place of Supply	The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal.		
	Value of Supply	the amount actually paid to IJ for the hoardings in each of the four metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively.		
	Invoice	Separate invoices will have to be issued State-wise and Union territory-wise by IJ to ABC indicating the value pertaining to that State or Union territory		


Rule 3(4) of IGST rules:-

Means of Advertisement	Mode of Payment & basis of apportionment	Value of supply	
Hoarding , ads placed on trains	The breakup, calculated on the basis of the ratio of the length of the railway track in each State for that train, of the amount payable for such advertisements	the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.	
Example	Fact of the case	ABC places an order on KL for advertisements to be placed on a train with regard to the 'Janani Suraksha Yojana'. The length of a track in a State will vary from train to train. Thus, for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www.indianrail.gov.in .	
	Place of Supply	The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa.	
	Value of Supply	The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5:2:2:3:3:1, and the amount to be paid to KL is ₹ 1,20,000, then KL will have to calculate the State- wise and Union territory-wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory.	
	Invoice	In the given example, the State-wise and Union territory-wise breakup works out to Delhi (₹ 5,000), Haryana (₹ 5,000), Uttar Pradesh (₹ 20,000), Madhya Pradesh (₹ 20,000), Maharashtra (₹ 30,000), Karnataka (₹ 30,000) and Goa (₹ 10,000). Separate invoices will have to be issued State-wise and Union territory- wise by KL to ABC indicating the value pertaining to that State or Union territory.	

Rule 3(5) of IGST rules:-


Means of Advertisement	Mode of Payment & basis of apportionment	Value of supply	
On back of utility bills of oil & gas companies etc..	the amount payable for the advertisements on bills pertaining to consumers having billing addresses in such States or Union territory as the case may be	the value of advertisement service attributable to dissemination in such State or Union territory.	

Rule 3(6) of IGST rules:-


Means of Advertisement	Mode of Payment & basis of apportionment	Value of supply	
Ads on Railway tickets	the breakup, calculated on the basis of the ratio of the number of Railway Stations in each State or Union territory, when applied to the amount payable for such advertisements	the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.	

Example	Fact of the case	ABC has issued a release order to MN for display of advertisements relating to the 'Ujjwala' scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh.
	Place of Supply	The place of supply of this service is in Madhya Pradesh and Chattisgarh.
	Value of Supply	The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website www.indianrail.gov.in . Let us assume that this ratio is 713:251 and the total bill is ₹ 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to ₹ 7,130 and ₹ 2,510 respectively.
	Invoice	Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that State.

Rule 3(7) of IGST rules:-


Means of Advertisement	Mode of Payment & basis of apportionment	Value of supply	((()))
Radio stations	the amount payable to such radio station, which by virtue of its name is part of a State or Union territory, as the case may be	the value of advertisement service attributable to dissemination in such State or Union territory, as the case may be.	
Example	Fact of the case	For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations.	
	Place of Supply	The place of supply of this service is in West Bengal, Odisha, Bihar, Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another State	
	Invoice	Separate invoices will have to be issued State- wise and Union territory-wise by MN to ABC based on the value pertaining to each State or Union territory.	

Rule 3(8) of IGST rules:-

Means of Advertisement	Basis of Apportionment & Value of supply	
Television channels	<p>the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the given manner</p> <ul style="list-style-type: none"> ➤ the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council; ➤ the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter; ➤ where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures; ➤ the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory. 	

Example	Fact of the case	ABC issues a release order with QR channel for telecasting an advertisement relating to the 'Pradhan Mantri Kaushal Vikas Yojana' in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand.
	Place of Supply	<p>The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under —</p> <ol style="list-style-type: none"> QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is 1,00,000 for Delhi and 2,00,000 for the region comprising of Uttar Pradesh and Uttarakhand and 1,00,000 for the region comprising of Bihar and Jharkhand. Since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh, Uttarakhand, Bihar and Jharkhand from the latest census. By applying the ratio of the populations of Uttar Pradesh and Uttarakhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9:1. When this ratio is applied to the viewership figures of 2,00,000 for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to 1,80,000 and 20,000 respectively. In a similar manner, the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of 1,00,000 for this region, the viewership figure for Bihar and Jharkhand works out to 80,000 and 20,000 respectively. The viewership figure for each State works out to Delhi (1,00,000), Uttar Pradesh (1,80,000), Uttarakhand (20,000), Bihar (80,000) and Jharkhand (20,000). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification). This ratio has to be applied when indicating the breakup of the amount pertaining to each State. Thus, if the total amount payable to QR by ABC is ₹ 20,00,000, the State-wise breakup is ₹ 5,00,000 (Delhi), ₹ 9,00,000 (Uttar Pradesh) ₹ 1,00,000 (Uttarakhand), ₹ 4,00,000 (Bihar) and ₹ 1,00,000 (Jharkhand).
	Invoice	Separate invoices will have to be issued State-wise and Union territory-wise by QR to ABC indicating the value pertaining to that State or Union territory.

Rule 3(9) of IGST rules:-

Means of Advertisement	Mode of Payment & basis of apportionment	Value of supply	
At cinema halls	the amount payable to a cinema hall or screens in a multiplex, in a State or Union territory, as the case may be	the value of advertisement service attributable to dissemination in such State or Union territory, as the case may be..	
Example	Fact of the case	ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad.	
	Place of Supply	The place of supply of this service is in the states of Tamil Nadu and Telangana.	
	Value of Supply	The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively.	
	Invoice	Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State.	

Rule 3(10) of IGST rules:-

Means of Advertisement	Basis of Apportionment & Value of supply
Over Internet	<p>the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of the internet subscribers in such State or Union territory, which in turn, shall be calculated in the following manner, namely:-</p> <ul style="list-style-type: none"> (i) the internet subscriber figures for a State shall be taken from the figures published in this regard by the Telecom Regulatory Authority of India; (ii) the figures published for the last quarter of a given financial year shall be used for calculating the number of internet subscribers for the succeeding financial year; (iii) where such internet subscriber figures relate to a region comprising of more than one State or Union territory, the subscriber figures for a State or Union territory of that region shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest census, to such subscriber figures; <p>the ratio of the subscriber figures for each State or Union territory as so calculated, when applied to the amount payable for this service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.</p>

Example

Fact of the case	ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites. In order to ascertain the state-wise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the Telecom Regulatory Authority of India figures for quarter ending March, 2017, as indicated on their website www.trai.gov.in .
Value of Supply	<p>In order to calculate the State-wise breakup, first the State-wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census.)</p> <p>Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State-wise ratio of internet subscribers. Let us assume that this works out to 8:1:2... and so on for Andhra Pradesh, Arunachal Pradesh, Assam... and so on.</p> <p>The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State.</p>
Invoice	Separate invoices will have to be issued State-wise and Union territory-wise by WX to ABC indicating the value pertaining to that State or Union territory.

Rule 3(11) of IGST rules:-

Means of Advertisement	Basis of Apportionment & Value of supply
Short Message	<p>the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of the telecommunication (hereinafter referred to as telecom) subscribers in such State or Union territory, which in turn, shall be calculated in the following manner, namely:-</p> <ul style="list-style-type: none"> (a) the number of telecom subscribers in a telecom circle shall be ascertained from the figures published by the Telecom Regulatory Authority of India on its website www.trai.gov.in; (b) the figures published for a given quarter, shall be used for calculating subscribers for the succeeding quarter; (c) where such figures relate to a telecom circle comprising of more than one State, or Union territory, the subscriber figures for that State or Union territory shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest census, to such subscriber figures. (d) the ratio of the subscriber figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Example

Illustration 1	In the case of the telecom circle of Assam, the amount attributed to the telecom circle of Assam is the value of advertisement service in Assam.
Illustration 2	<p>The telecom circle of North East covers the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. The ratio of populations of each of these States in the latest census will have to be determined and this ratio applied to the total number of subscribers for this telecom circle so as to arrive at the State-wise figures of telecom subscribers.</p> <p>Separate invoices will have to be issued State-wise by the service provider to ABC indicating the value pertaining to that State.</p>
Illustration 3	<p>ABC commissions UV to send short messaging service to voters asking them to exercise their franchise in elections to be held in Maharashtra and Goa. The place of supply of this service is in Maharashtra and Goa. The telecom circle of Maharashtra consists of the area of the State of Maharashtra (excluding the areas covered by Mumbai which forms another circle) and the State of Goa. When calculating the number of subscribers pertaining to Maharashtra and Goa, UV has to</p> <ol style="list-style-type: none"> obtain the subscriber figures for Maharashtra circle and Mumbai circle and add them to obtain a combined figure of subscribers; obtain the figures of the population of Maharashtra and Goa from the latest census and derive the ratio of these two populations; this ratio will then have to be applied to the combined figure of subscribers so as to arrive at the separate figures of subscribers pertaining to Maharashtra and Goa; the ratio of these subscribers when applied to the amount payable for the short messaging service in Maharashtra circle and Mumbai circle, will give breakup of the amount pertaining to Maharashtra and Goa. Separate invoices will have to be issued State-wise by UV to ABC indicating the value pertaining to that State.
Illustration 4	The telecom circle of Andhra Pradesh consists of the areas of the States of Andhra Pradesh, Telangana and Yanam, an area of the Union territory of Puducherry. The subscribers attributable to Telangana and Yanam will have to be excluded when calculating the subscribers pertaining to Andhra Pradesh.

Amendments and Clarification

-Exemption from GST



Clarification on existing exemptions

Exemption Related to Health Care

		HEALTH CARE SERVICES		
		MEANS	INCLUDES	BUT SHALL NOT INCLUDE
Sl.No. 74	Health Care Services by ▶ ac linical establishment, ▶ an authorized medical practitioner or paramedics.	Mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and (Eg. Allopathy, Yoga, Naturopathy, Ayurveda, Homeopathy, Siddha, Unani)	by way of transportation of the patient to and from a clinical establishment	hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.
Sl. No. 73	Preservation of Stem Cell by Cord blood banks			
Sl.No. 75	Treatment of disposal of bio-medical waste of clinical establishment by operators			
Sl.No. 46	Health Care or Animal or Birds Service by Veterinary Clinic			
		Important Comments: Taxable Services: Hair Transplant or Cosmetic or Plastic Surgery,		

Clarifications on certain issue related to Health Care via Circulars

Issue

Whether rent on rooms provided to in patients is exempted ? [Circular no. 27/01/2018 dt 04/01/2018]

Clarification

Room rent in hospitals is exempted

Clarification regarding GST in respect of following issues via circular no 32/06/2018 dt 12/02/2018

Issue

Hospitals hire senior doctors/ consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?

Clarification

Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of notification No. 12/2017- CT(Rate) dated 28.06.2017 as amended refers].

(1) Services provided by senior doctors/ consultants/ technicians hired by the hospitals, whether employees or not, are healthcare services which are exempt.

Issue

Retention money: Hospitals charge the patients, say, Rs.10000/- and pay to the consultants/ technicians only Rs. 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure

Clarification

Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India[para 2(zg) of notification No. 12/2017- CT(Rate)]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.

Issue

Food supplied to the patients: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.

Clarification

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

Question:

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

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

Further, Shiva Medical Centre has its own canteen – Annapurna Bhawan - which supplies food to the in-patients as advised by the doctor/nutritionists as also to other patients (who are not admitted) or their attendants or visitors.

The Department took a stand that senior doctors and consultants are providing services to Shiva Medical Centre and not to the patients. Hence, their services are not the health care services and must be subject to GST. Further, GST is applicable on the retention money kept by Shiva Medical Centre as well as on the services provided by its canteen - Annapurna Bhawan alleging that such services are not the health care services.

You are required to examine whether the stand taken by the Department is correct provided the services provided by Shiva Medical Centre are intra-State services. (RTP – Nov 2018)

Answer:

Legal Provision:- As per **Notification No. 12/2017 CT (R) dated 28.06.2017**, services by way of health care services by a clinical establishment, an authorised medical practitioner or para-medics are exempt from GST.

Health care services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Circular No. 32/06/2018 GST dated 12.02.2018 has clarified that in view of the above definition, it can be inferred that hospitals also provide healthcare services.

Clarification:- On basis of the above provisions & circular the following analysis is derived

On the retention money kept by Medical Centre.	The entire amount charged by them from the patients including the retention money kept by Shiva Medical Centre and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt from GST.
Senior doctors/ Consultants/ Technicians hired by the hospitals, whether employees or not	Services provided by the senior doctors and consultants hired by Shiva Medical Centre, being healthcare services, are also exempt from GST.
Food supplied by the hospital canteen to the in -patients as advised by the doctor/nutritionists	Is a part of composite supply of healthcare services and is not separately taxable. Thus, it is exempt from GST. However other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable. In view of the same, GST is not applicable on the food supplied by Annapurna Bhawan to in-patients as advised by doctors/nutritionists while other supplies of food by it to patients (not admitted) or their attendants/visitors are taxable.

Charitable Activities

Sl.No. 1
of notification

Charitable Activities (Chapter 99)

Service by an entity registered under section 12AA of the Income tax Act, 1961 by way of **charitable activities**

Clarification on certain issues related to Charitable & religious sector via circulars

Issue

Is hostel accommodation provided by Trusts to students covered within the definition of Charitable Activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate). [circular no 32/06/2018 dt 12/02/2018]

Clarification

Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017-CT(Rate) refers]

Agriculture Services

Sl. No.54 - Exemption in Agriculture Sector

- Agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;
- Supply of farm labour;
- Processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market;
- Renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- Loading, unloading, packing, storage or warehousing of agricultural produce;
- Agricultural extension services;
- Services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

h) Services by way of fumigation in a warehouse of agricultural produce Newly Inserted

Agriculture:

- cultivation of plants and
- Rearing of all life-forms of animals, except the rearing of horses

for
⇒ food,
⇒ fibre,
⇒ fuel,
⇒ rawmaterial
or
⇒ other similar products,

Agricultural Produce: means any produce of agriculture on which

- ⇒ either no processing is done or
- ⇒ such processing is done as is **usually done by a cultivator or producer** which does not alter its essential characteristics but makes it marketable for primary market.

Sl. No.53A
of notification

Fumigation in Warehouse Newly Inserted

Services by way of fumigation in a warehouse of agricultural produce.

Clarification on issues related to Agriculture Services via Circulars

Issue

Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.? (Circular no. 16/16/2017 dt 15/11/2017)

Legal Provision:

As per GST notification No. 11/2017-Central Tax (Rate), S.No. 24 and notification No. 12/2017-Central Tax (Rate), S.No. 54, dated 28th June 2017, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil.

Clarification:

Product	Clarification	Conclusion
Tea	Is used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same.	Such black tea, green tea, white tea etc. is not an agriculture produce.
Jaggery	Similarly, processing of sugarcane into jaggery changes its essential characteristics	Thus, jaggery is also not an agricultural Produce.
Pulses	Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of de-husking or splitting is usually not carried out by farmers or at farm level but by the pulse millers.	Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

Thus to conclude on overall analysis given above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in **notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate)** and

Corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that **any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.**

Clarification on taxability of custom milling of paddy

Issue

whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017. (Circular no. 19/19/2017 dt 20/11/2017)

Legal Provision:

1. As per **S. No 55 of Notification 12/2017- Central Tax (Rate)** exempts carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.
2. Agricultural produce has been defined in the notification to mean, any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.
3. As per section 2 (68) of the CGST Act, Jobwork has been defined to mean any treatment or process undertaken by a person on goods belonging to another registered person. Further, under Schedule II (para 3) of the CGST Act, any treatment or process which is applied to another person's goods is a supply of service.

Clarification:

Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics.

Conclusion:

1. Therefore, milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.
2. In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under **S. No 55 of Notification 12/2017 - Central Tax (Rate) dated 28th June 2017** and corresponding notifications issued under IGST and UTGST Acts.
3. Therefore, it is hereby clarified that milling of paddy into **rice on job work basis, is liable to GST at the rate of 5%, on the processing charges (and not on the entire value of rice).**

RENTING OF IMMOVABLE PROPERTY	
Sl.No. 12	Renting of residential dwelling for use of residence
Sl.No. 14	Renting of hotel, inn, guest house, club or composite for residential or lodging purpose having declared tariff below ₹ 1000/- per day or equivalent

Clarification related to Accommodation services i.e. Renting of Hotels, Inn via Circular No.27/01/2018 dt 04/01/2018

Issue

Will GST be charged on actual tariff or declared tariff for accommodation services?

Clarification:

Declared or published tariff is relevant only for determination of the tax rate slab. GST will be payable on the actual amount charged (transaction value).

Issue

What will be GST rate if cost goes up (more than declared tariff) owing to additional bed.

Clarification:

GST rate would be determined according to declared tariff for the room, and GST at the rate so determined would be levied on the entire amount charged from the customer. For example, if the declared tariff is Rs. 7000 per unit per day but the amount charged from the customer on account of extra bed is Rs. 8000, GST shall be charged at 18% on Rs. 8000.

Issue

Where will the declared tariff be published?

Clarification:

Tariff declared anywhere, say on the website through which business is being procured or printed on tariff card or displayed at the reception will be the declared tariff. In case different tariff is declared at different places, highest of such declared tariffs shall be the declared tariff for the purpose of levy of GST.

Issue

Same room may have different tariff at different times depending on season or flow of tourists as per dynamic pricing. Which rate to be used then?

Clarification:

In case different tariff is declared for different seasons or periods of the year, the tariff declared for the season in which the service of accommodation is provided shall apply.

Issue

If tariff changes between booking and actual usage, which rate will be used?

Clarification:

Declared tariff at the time of supply would apply.

Issue :-

GST at what rate would be levied if an upgrade is provided to the customer at a lower rate?

Clarification:

If declared tariff of the accommodation provided by way of upgrade is Rs 10000, but amount charged is Rs 7000, then GST would be levied @ 28% on Rs 7000/-.

Issue :-

Whether for the purpose of entries at cinema and accommodation in hotels, inns ,etc of N/N 11/2017 - CT price or declared tariff includes tax component or not?

Clarification:

Price or declared tariff does not include taxes

Clarification related to GST in respect of recreational activities via Circular

Issue:

Whether the services of elephant or camel ride, rickshaw ride and boat ride should be classified under heading 9964 (as passenger transport service) in which case, the rate of tax on such services will be 18% or under the heading 9996 (recreational, cultural and sporting services) treating them as joy rides, leviable to GST@28%? [Circular no. 32/6/2018 dt 12/02/2018]

Clarification:

Elephant/ camel joy rides cannot be classified as transportation services. These services will attract GST @ 18% with threshold exemption being available to small service providers. [SI. No 34(iii) of notification No. 11/2017-CT(Rate) dated 28.06.2017 as amended by notification No. 1/2018-CT(Rate) dated 25.01.2018 refers]

Clarification on certain issues related to Insurance Services provided to the Govt. via Circulars

Issue : -

Is GST leviable on General Insurance policies provided by a State Government to employees of the State government/ Police personnel, employees of Electricity Department or students of colleges/ private schools etc.

(a) where premium is paid by State Government and

(b) where premium is paid by employees, students etc.? (Circular no. 16/16/2017 dt 15/11/2017)

Clarification:

It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under **Sl. No. 40 of notification No. 12/2017-Central Tax (Rate)**.

Further, services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt via **Entry 6 of notification No. 12/2017- CT(R)** which exempts Services by Central Government, State Government, Union territory or local authority to individuals

Newly inserted Exemptions

Sl. No.65A
of notification

Right to Information Act, 2005 (Heading 9991)

Newly Inserted



Services by way of providing information under the Right to Information Act, 2005

Sl. No.79 A
of notification

Protected Monuments under Ancient Monuments Act, 1958 (chapter 9996)

Newly Inserted

Services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Site and Remains Act 1958 or any of the State Acts, for the time being in force

Sl. No.19B
of notification

Transportation of Goods by a Vessels



Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India. **Newly Inserted**

Note : Nothing contained in this serial number shall apply after the 30th day of September, 2018.

Goods Transport Service by Vessels/ Aircraft from outside/into India



Sl. No.19B
of notification

Transportation of Goods by an Aircraft



Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India. **Newly Inserted**

Note : Nothing contained in this serial number shall apply after the 30th day of September, 2018.

Services Provided to Government

Sl. No.11A
of notification

Services provided by Fair Price Shop **Newly Inserted**

Service provided by Fair Price Shops to Central Government by way of sale of food grains, Kerosin, Sugar, Edible Oil etc. under Public Distribution System(PDS) against consideration in the form of commission or margin.

Impact of the amendment: - With effect from 15.11.2017, the exemptions under serial nos.11A and 11B [as given in points (2) & (3)] have been merged under serial no. 11A which now exempts service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin. Consequently, **serial no. 11B has been omitted [Notification No. 47/2017 CT (R) dated 14.11.2017].**

Sl. No.3
of notification

Service to Govt. of article 243G

Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a **Government Entity** **by way of any activity in relation to any function entrusted to a Panchayat**

Newly Inserted

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

Sl. No.9C
of notification

Service Provided by Govt. Entity

Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants, has been exempted from CGST.

Further, the term "Government Entity" has also been defined in the notification as under:

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

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

(ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority. [Notification No. 32/2017 CT (R) dated 13.10.2017].

Sl. No.3A
of notification

Service to Govt. by way of any Activity in relation to article 243G or 243W(chapter 99)

Newly Inserted

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

➔ provided to the Central Government, State Government or Union territory or local authority or

➔ a Government or Union territory or local authority or a Governmental authority or a Government Entity

by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.

Sl. No.22
of notification

Services by way of Hire by road

Services by way of giving on hire –

(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or

(b) to a goods transport agency, a means of transportation of goods

(c) Motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.

Newly Inserted

Sl. No.29A
of notification

Services of Life Insurance Business

Newly Inserted

Services of life insurance provided or agreed to provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government.

Sl. No.36A
of notification

Re Insurance Services

Newly Inserted

Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36

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

Explanation - For the purposes of this entry, the intermediary of financial services in IFSC is a person-

- (i) who is permitted or recognized as such by the Government of India or any Regulator appointed for regulation of IFSC or
- (ii) who is treated as a person resident outside India under the Foreign Exchange management (International Financial Services Center) Regulations, 2015.
- (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Center) Guidelines, 2015 as IFSC Insurance Officer.
- (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015

Supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees.

Intellectual Property Services - N/N 6/2018-IT

Newly Inserted

Importation of Intellectual Property Rights -

Supply of Services temporary transfer of Intellectual property Service imported into territory of India.

- ➔ To the extent it is included in transaction value as royalties & Licences under Rule 10(1)(c) of custom valuations (Determination of value of imported goods) Rules, 2007
- ➔ on which ACD 3(7) paid under custom Tariff Act, 1975.

Central Government's share of profit petroleum exempted from CGST [Notification No. 5/2018 CT (R) dated 25.01.2018] & Notification No. 5/2018 IT (R) dated 25.01.2018.

Newly Inserted

The intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

Royalty and license fee exempted from IGST to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under Rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007. [Notification No. 6/2018 IT (R) dated 25.01.2018]

Newly Inserted

IGST leviable on import of services in relation to temporary transfer or permitting the use or enjoyment of any intellectual property right has been exempted to the extent of the aggregate of the duties of customs leviable under section 3(7) of the Customs Tariff Act, 1975, on the consideration declared under section 14(1) of the Customs Act, 1962 towards royalties and license fees included in the transaction value as specified under rule 10 (1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of customs have been paid

Amendments in Existing Exemption

Exemption in Legal Sector

Sl.No. 45
of notification

Legal Services (Heading 9982 or 9991)



a) Services provided by an *arbitral tribunal* to -

- i) Any person other than a business entity; or
- ii) A business entity with an aggregate turnover up to 20 lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year

iii) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity. Newly Inserted

Service by Advocate or firm of Advocate



(b) a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to-

- (i) an advocate or partnership firm of advocates providing legal services;
- (ii) any person other than a business entity; or
- (iii) A business entity with an aggregate turnover up to 20 lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year

iv) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity. Newly Inserted

Individual
Advocates



Partnership
Firm



Service by Senior Advocate or firm of Advocate



(c) a senior advocate by way of legal services to -

- (i) Any person other than a business entity or
- (ii) A business entity with an aggregate turnover up to 20 lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year

(iii) The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity. Newly Inserted

Amendment to Existing Exemptions

Sl. No.81
of notification

Admission to Entertainment Event

Existing

Services by way of right to admission to-

- (a) circus, dance, or theatrical performance including drama or ballet;
 - (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event
 - (c) recognised sporting event,
- where the consideration for admission is not more than ₹250 per person as referred to in (a), (b) and (c) above.

Amended

Services by way of right to admission to-

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

where the consideration for admission is not more than ₹500 per person as referred to in (a), (b) (c) or (d) above.

Amendment

Sl. No.77
of notification

Service by an unincorporated Body or a Non-Profit Entity

Existing

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

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

Amended

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

- (a) as a trade union;
- (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or
- (c) up to an amount of seven thousand five hundred rupees per month per member for sourcing of goods or

services from a third person for the common use of its members in a housing society or a residential complex.

Sl. No.16
of notification

Transport by Air to Central Government

Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding, are exempt from CGST. The exemption was not available on or after the expiry of a period of one year (3 Years) from the date of commencement of operations of the regional connectivity scheme airport as notified

Amendment

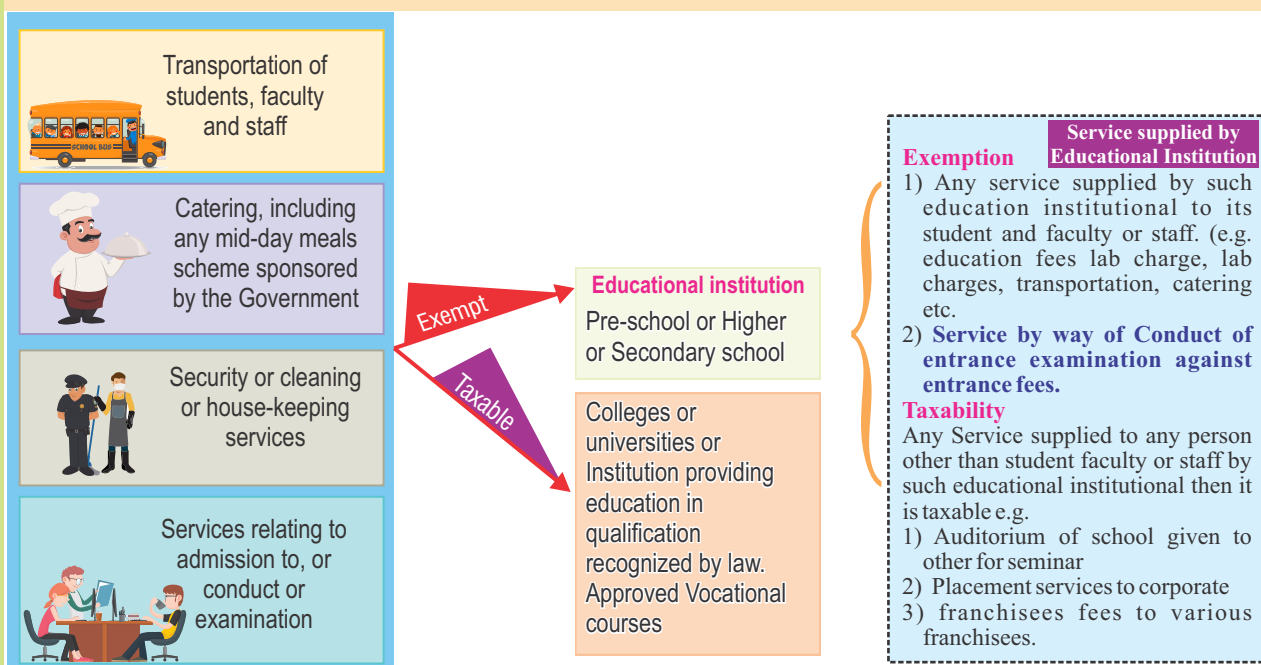
by the Ministry of Civil Aviation.

Existing

Service provided-

- (a) **BY** an **educational institution** to its students, faculty and staff
- (b) **TO** an **educational institution**, by way of
- transportation of students, faculty and staff
 - Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union Territory
 - Security or cleaning or house-keeping services performed in such educational institution
 - Services relating to admission to, or conduct of examination by such institution; upto higher secondary

Provided that nothing contained in clause (b) of this entry shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.



Amended



Service provided-

- (a) **BY** an **educational institution** to its students, faculty and staff
- (aa) **BY** an **educational institution** by way of conduct of entrance examination against consideration in the form of entrance fee
- (b) **TO** an **educational institution**, by way of
- transportation of students, faculty and staff
 - Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union Territory
 - Security or cleaning or house-keeping services performed in such educational institution
 - Services relating to admission to, or conduct of examination by such institution.
 - Supply of online educational journals or periodicals

Provided that nothing contained in sub-items (i), (ii) & (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

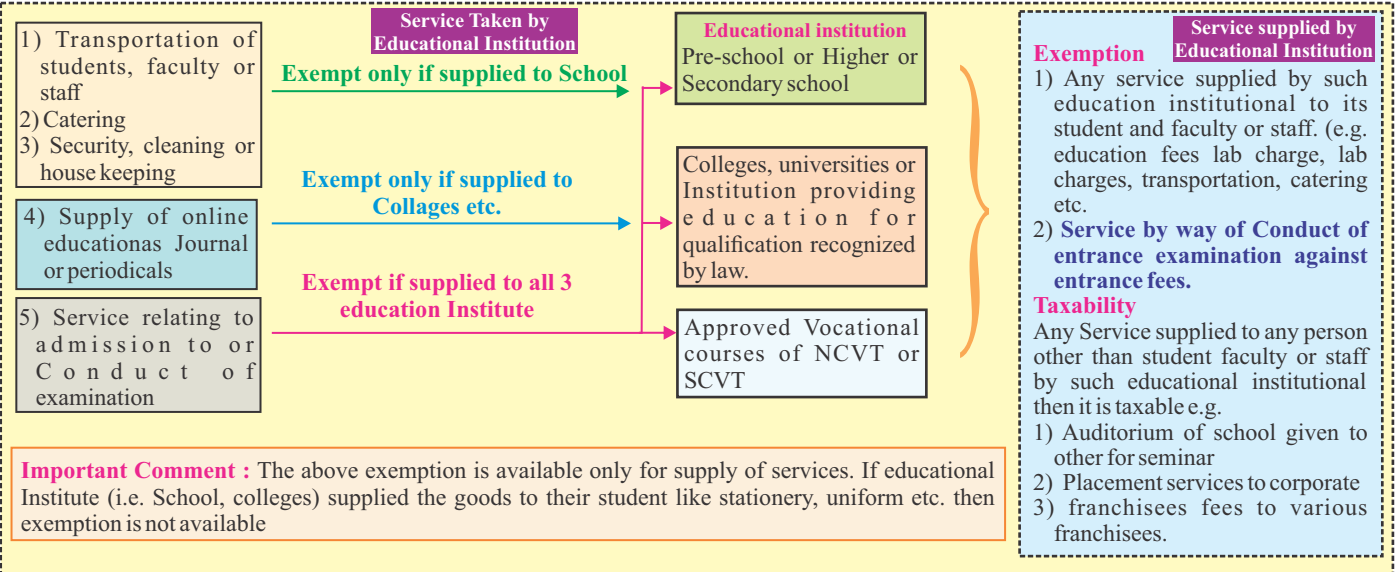
Provided further that nothing contained in sub-item(v) of items(b) shall apply to an institution providing services by way of-

- Pre-school education and education up to higher secondary school or equivalent
- Education as a part of an approved vocational education course.



Lets summarize the above provisions in form of chart as given below:-

Exemptions in Education Sector



Clarification on certain issues related to Education Services via Circular No. 28/02/2018 - GST dated 18/01/2018 [N/N]

Issue

If catering Services provided by educational institution to its students, faculty & Staff , whether these are exempt?

Clarification

Yes, it shall be exempt provided the said education institution is covered by the definition given under the para 2(y) of notification no. 12.2017 - CT

Issue

If catering services are provided by a mess or canteen other than the education institution, then also will it be exempted ?

Clarification

NO, it will be treated as supply service chargeable to GST 5% provided no input tax credit has been taken on supply of such services

Sl. No.36
of notification

Life Insurance Services (Heading 9971 OR 9991)

Existing

Services of life insurance business provided under following schemes-

- Janashree Bima Yojana;
- Aam Aadmi Bima Yojana;
- Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having **maximum amount of cover of fifty thousand rupees;**
- Varishtha Pension Bima Yojana;
- Pradhan Mantri Jeevan Jyoti Bima Yojana;
- Pradhan Mantri Jan Dhan Yojana;
- Pradhan Mantri Vaya Vandan Yojana.

Amended

Services of life insurance business provided under following schemes-

- Janashree Bima Yojana;
- Aam Aadmi Bima Yojana;
- Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having **maximum amount of cover of ₹ 2 Lacs** **Amendment**
- Varishtha Pension Bima Yojana;
- Pradhan Mantri Jeevan Jyoti Bima Yojana;
- Pradhan Mantri Jan Dhan Yojana;
- Pradhan Mantri Vaya Vandan Yojana.

Specified General Insurance Scheme (Heading 9971 OR 9991)

Existing

Services of general insurance business provided under following schemes –

- (a) Hut Insurance Scheme;
- (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
- (c) Scheme for Insurance of Tribals;
- (d) Janata Personal Accident Policy and Gramin Accident Policy;
- (e) Group Personal Accident Policy for Self-Employed Women;
- (f) Agricultural Pumpset and Failed Well Insurance;
- (g) premia collected on export credit insurance;
- (h) ~~Weather Based crop Insurance scheme approved by the Government of India and implemented by the Ministry of Agriculture;~~
- (i) Jan Arogya Bima Policy;
- (j) ~~National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana)~~
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana;
- (o) Coconut Palm Insurance Scheme;
- (p) Pradhan Mantri Suraksha Bima Yojna;
- (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).

Amended

Services of general insurance business provided under following schemes –

- (a) Hut Insurance Scheme;
- (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme);
- (c) Scheme for Insurance of Tribals;
- (d) Janata Personal Accident Policy and Gramin Accident Policy;
- (e) Group Personal Accident Policy for Self-Employed Women;
- (f) Agricultural Pumpset and Failed Well Insurance;
- (g) premia collected on export credit insurance;
- (h) **Restructured Weather based Crop Insurance Scheme (RWCIS)** **Amendment**
- (i) Jan Arogya Bima Policy;
- (j) **Pradhan Mantri Fasal Bima Yojana (PMFBY)** **Amendment**
- (k) Pilot Scheme on Seed Crop Insurance;
- (l) Central Sector Scheme on Cattle Insurance;
- (m) Universal Health Insurance Scheme;
- (n) Rashtriya Swasthya Bima Yojana;
- (o) Coconut Palm Insurance Scheme;
- (p) Pradhan Mantri Suraksha Bima Yojna;
- (q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).

Amendments & Clarification

- REGISTRATION
- INPUT TAX CREDIT
- JOB WORK
- INVOICE
- RETURN



Registration

Sec 23(2) of CGST Act:- Exempt suppliers of services through an e-commerce platform from obtaining compulsory registration [Notification No. 65/2017 dt 15/11/2017 CT]

Person making supplies of services other than supplies specified u/s 9(5) of CGST Act through an ECO who is required to collect tax at source u/s 52 of CGST Act & has an aggregate T/O, to be computed on all India not exceeding ₹20 lakhs F.Y. (₹10 lakh in special category state except state of J & K) are notified as category of exempted persons from registration.

Impact of this amendment:-

Through this notification Government has exempted category of e-commerce operator to take compulsory registration, if turnover not exceed 20 Lakh (10 Lakh in case of Special Category State other than state of Jammu & Kashmir). Earlier as per section 24 of CGST Act, compulsory registration requires to e-commerce operator, who is required to collect tax at source under section 52 of CGST Act. A major relief to the small scale service providers who are providing services through ecommerce operator, as they need not register themselves if their turnover is below the threshold limit.

Clarification regarding levy of GST on homestays [Circular No. 27/01/2018 dt 04/01/2018]

Issue :

Whether homestays providing accommodation through an Electronic Commerce Operator, below threshold limit are exempt from taking registration?

accommodation through an Electronic Commerce Operator, below threshold limit are exempt from taking registration?

Clarification:

Notification No. 17/2017-Central Tax (Rate), has been issued making ECOs liable for payment of GST in case of accommodation services provided in hotels, inns guest houses or other commercial places meant for residential or lodging purposes provided by a person having turnover below Rs. 20 lakhs (Rs. 10 lakhs in special category states) per annum and thus not required to take registration under section 22(1) of CGST Act. Such persons, even though they provide services through ECO, are not required to take registration in view of section 24(ix) of CGST Act, 2017.

Below is an analysis of person who are required to take compulsory Registration. However exemption is given by Govt.

Category of Person	Type of Supply	Threshold Limit	Notification No.
● Casual Taxable Person	Interstate Supply of handicraft goods	Upto T/o of 20 lakh or 10 lakh	N/N 32/2017-CT MN 8/2017-IT
● Jobworker	Interstate Supply of Services	Upto T/o of 20 lakh or 10 lakh	N/N 7/2017-IT
● Any Person	Interstate Supply of Services	Upto T/o of 20 lakh or 10 lakh	N/N 10/2017-IT
● Small Scale business providers Through E-Co.	Supply of Services through Eco who is liable to TCS U/s 52	Upto T/o of 20 lakh or 10 lakh	N/N 65/2017-CT
● Any Person	If all Supplier of Goods or services or both are under RCM	-	N/N 5/2017-CT

***T/O = Turnover, E-CO. - E- Commerce Operator, RCM - Reverse charge Mechanism**

Rule 17 – Assignment of UIN to certain Special entities sub rule as given below is inserted via N/N 75/2017 – CT dt 29.12.2017

(1A) The Unique Identity Number granted under sub-rule (1) to a person under sec 25(9)(a) of CGST Act shall be applicable to the territory of India.

Impact of above amendment

Option of centralized registration given to entities having UIN & the Central Government will be responsible for all compliance in respect of such entities.

Rule 20 – Application for cancellation of registration

~~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.~~

Impact of above amendment

The above proviso given in the aforesaid rule has been removed & thus by this exclusion its clarified that a person who has voluntarily registered can now apply for cancellation of registration without any prescribed time limit.

Foreign Diplomatic Mission / UN Organization to be granted centralized UIN [Notification No. 75/2017 CT dated 29.12.2017]

Rule 17 of the CGST Rules has been amended to provide that the Unique Identity Number granted to any specialised agency of the UN or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall be applicable to the territory of India. Such centralized UIN will lessen the compliance burden on Foreign Diplomatic Missions / UN Organizations.

Effective date of amendment in registration details can be earlier than the date of submission of the application for amendment only when the Commissioner orders the same for reasons to be recorded in writing [Notification No. 75/2017 CT dated 29.12.2017]

Rule 19 of the CGST Rules, 2017 prescribes the provisions for amendment of particulars furnished in application for registration. The said rule has been amended to provide that 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 for amendment 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.

Input Tax Credit

Explanation inserted to Rule 42 & Rule 43 of CGST rules 2017 via N/n 55/2017 – CT dt 15/11/2017

N/n 3/2018 C.T. dated 23-1-2018 (vide N/n 55/2017 dated 15-11-2017 substituted via N/n 3/2018 C.T. dated 23-1-2018)

Explanation : For the purposes of rule 42 and this rule, it is hereby clarified that the **aggregate value of exempt supplies shall exclude :**

- (a) The value of supply of services specified in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 42/2017-Integrated Tax (Rate), dated the 27th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3(i), vide number GSR 1338 (E) dated the 27th October, 2017. i.e. supply of services having place of supply in Nepal or Bhutan against payment in Indian Rs. is exempted from payment of IGST.
- (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.

Rule 45 : - Conditions and restrictions in respect of inputs and capital goods sent to the job worker Amendment

Removal under the cover of Challan : 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, indicated 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, 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 **(inserted via N/n 14/2018 - C.T dated 23-3-2018)**

Commissioner empowered to extend the time period for submission of declaration under rule 40(1)(b) of CGST Rules

Existing	As per rule 40(1)(b) of the CGST Rules , the registered person claiming input tax credit under section 18(1) of CGST Act is required to electronically make a declaration that he is eligible to avail such credit, within 30 days from the date of becoming eligible to avail the said credit.
Amended	Rule 40(1)(b) has been amended with effect from 01.07.2017 to empower CGST/IGST Commissioner to extend the time period for submission of such declaration. Further, any extension of the time limit notified by the SGST Commissioner or UTGST Commissioner shall be deemed to be notified by the CGST/IGST Commissioner. [Notification No. 22/2017 CT dated 17.08.2017]

Commissioner empowered to extend the time period for submission of quarterly details of challans relating to job work under rule 45(3) of CGST Rules. [Notification No. 51/2017 CT dated 28.10.2017]

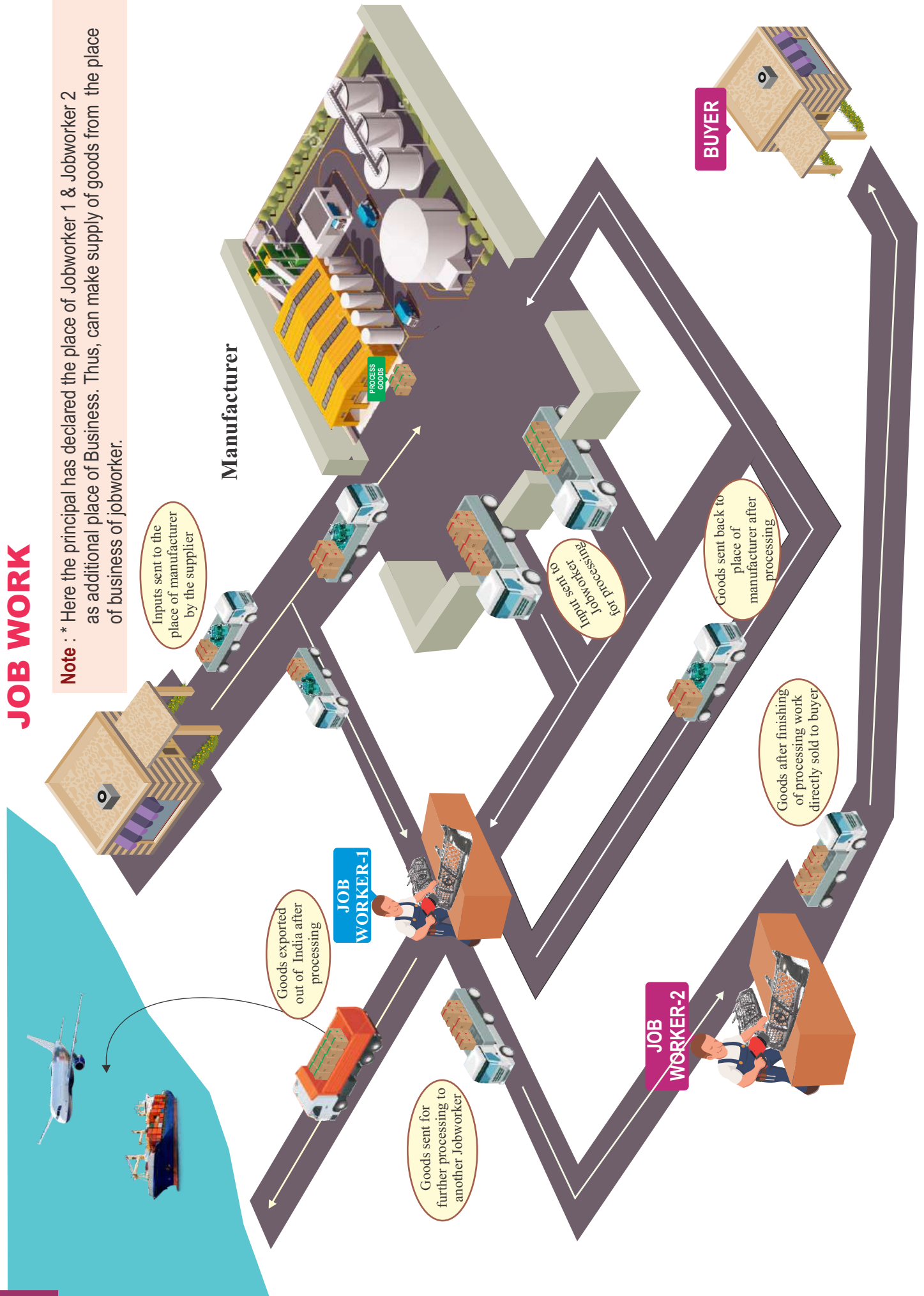
Existing	Rule 45(3) of the CGST Rules lays down that the details of challans in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another during a quarter shall be furnished for that period on or before the 25th day of the month succeeding the said quarter.
Amended	Rule 45(3) has been amended to empower the CGST Commissioner or SGST/UTGST Commissioner to grant extension of time period for furnishing of the said details.

Impact of amendment:- Thus, now the said details may be furnished on or before the 25th 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.



JOB WORK

Note : * Here the principal has declared the place of Jobworker 1 & Jobworker 2 as additional place of Business. Thus, can make supply of goods from the place of business of jobworker.



Job Work

Clarification on issues related to Job Work via Circular no 38/12/2018 dt 26.03.2018

Issues

Is it compulsory to take registration for a principal involved in job work transaction?

Clarifications

It is his choice whether or not to register & avail the benefit of the provisions of section 143 of the CGST Act which are applicable only to a registered person.

Issues

Whether a job worker is required to obtain registration when they are located

- i) In the same State where the principal is located.
- or
- ii) In a State different from that of the principal.

Clarifications

Job worker is required to obtain registration only if his aggregate turnover exceeds the prescribed limit whether or not the principal and the job worker are located in the same states or in different states.

Issues

Whether the principal can supply goods directly from the job worker's place of business / premises to its end customer and if yes, whether the supply will be regarded as having been made by the principal or by the job worker.

Clarifications

Supply of goods by the principal from the place of business/premises of the job worker will be regarded as supply by the principal and not by the job worker (provided it is an additional place to the principal).

Issues

Whether the e-way bill is required to be generated in case of job work?

Clarifications

An e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). However, for interstate movement of goods e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment.

Issues

What are the documents required to be issued for sending the goods

- i) From the principal to the job worker
- ii) From one job worker to another job worker
- iii) From the job worker back to the principal.
- iv) Directly by the supplier to the job worker
- v) Where goods are returned in piecemeal by the job worker to another job worker or principal

Clarifications

The documents required to be issued for sending the goods in the given cases :-

- i) Challan in terms of Rule 55 to be issued by the principal in triplicate. Two copies of the challan are sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods while returning them to

the principal.

- ii) the goods may move under the cover of a challan issued either by the principal or the job worker. In the alternative, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.
- iii) The job worker should send one copy of the challan received by him from the principal after carrying out the job work.
- iv) The goods may move from the supplier to the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee and the Principal shall issue challan as per Rule 45
- v) In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.

Issues - Filing ITC-04 will be considered as a submission of intimation under sec 143 of CGST act, 2017?

Clarifications : Yes, Form GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act and It is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker from one job worker to another and its return there from.

Issues In case of supply of services by the job worker what are the provisions with respect to :

- i) Time, value and place of supply in the hands of principal or job worker
- ii) Issuance of invoices by the principal or job worker

Clarifications : In case of supply by job worker

Invoicing and TOS: Shall issue an invoice at the TOS determined in terms of section 13 of the CGST Act

Value: Determined in terms of section 15 of the [CGST Act](#) and would include not only the service charges but also the value of any goods or services used by job worker for supplying the job work services, if recovered from the principal.

Note: Value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker

Issues Whether ITC can be availed by

- i) Principal in respect of inputs / capital goods that are directly received by the job worker
- ii) Job worker in respect of inputs, etc. used by him in supplying job work services

Clarifications

- ➡ ITC would be available to the principal, irrespective of the fact whether the inputs or capital goods are received by the principal and then sent to the job worker for processing or they are directly received at the job.
- ➡ Job worker is also eligible to avail ITC on inputs, etc. used by him in supplying the job work services if he is registered.

Issues

Explain the provision with respect to Supply of goods by principal from the place of business of job worker

Clarifications : Since the supply is being made by the principal, it is clarified that the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. Further, the invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal.

Illustration :- Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

Tax Invoice

Rule 46A inserted via N/N 45/2017 – Central Tax dt 13.10.2017

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.

Question :-

Jai, a registered supplier, runs a general store in Ludhiana, Punjab. Some of the goods sold by him are exempt whereas some are taxable. You are required to advise him on the following issues:

- (i) Whether Jai is required to issue a tax invoice in all cases, even if he is selling the goods to the end consumers?
- (ii) Jai sells some exempted as well as taxable goods valuing ₹ 5,000 to a school student. Is he mandatorily required to issue two separate GST documents?

Answer

(a) As per section 31(1) of the CGST Act, 2017, every registered person supplying taxable goods is required to issue a tax invoice. Section 31(3)(c) of the CGST Act, 2017 stipulates that every registered person supplying exempted goods is required to issue a bill of supply instead of tax invoice. Further, as per **section 31(3)(b)** of the CGST Act, 2017 read with rule 46 of the CGST Rules, 2017, a registered person may not issue a tax invoice if:

- (i) value of the goods supplied < ₹ 200,
- (ii) the recipient is unregistered; and
- (iii) the recipient does not require such invoice.

Instead such registered person shall issue a Consolidated Tax Invoice for such supplies at the close of each day in respect of all such supplies.

(b) As per **rule 46A** of the CGST Rules, 2017, 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. Thus, there is no need to issue a tax invoice and a bill of supply separately to the school student in respect of supply of the taxable and exempted goods respectively.

Rule 54 – Tax invoice in special cases - changes made for invoice issue pertaining to banking, insurance & NBFCs

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]**, 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.

Effect of amendment:- Specific changes and relaxation for issuance of invoice on consolidated basis for this sector.

Question 1:-

A customer may avail numerous services from the Bank / insurer in a given taxable period. Is it mandatory for Banks to issue a tax invoice for each transaction or can the Bank issue a consolidated invoice for the service rendered during the tax period?

Answer :

As per the provisions contained in the first proviso to **Rule 47 of the CGST Rules, 2017** an insurer, a banking company or a financial institution, including a NBFC may issue invoices within 45 days from the date of supply of service. Further, sub-rule (2) of **rule 54 of CGST Rules, 2017** provides that such entities may issue any other document in lieu of the tax invoice. Accordingly, such entities may issue a consolidated statement/ invoice/ advice to the customer at the end of the month, with the details of all the charges levied during such month and GST payable thereon.

Question 2:-

When a banking company is not required to serially number its invoices / document for supply of its services, how will the service recipient get credit for GST on the services provided by the bank?

Answer :

Under **Rule 54(2) of the CGST Rules, 2017** a banking company or a financial institution including a NBFC or an insurer can

issue an invoice or any other document in lieu thereof whether or not serially numbered and whether or not containing the address of the recipient but containing other information as mentioned under Rule 46.

There is no restriction on the invoice/document being a consolidated invoice/document but it must bear an identification number, which need not necessarily be serially numbered.

The recipient of service will get the credit for GST so long as the bank, etc. uploads the details of the invoice / document under that number with GSTIN of the recipient in its statement if FORM GSTR-1.

Question 3:-

Whether commission paid to insurance agents shall be construed as supplies received under Section 9(3) of CGST Act, 2017? If yes, whether the Life Insurance Company can raise a consolidated invoice for such commission payments?

Answer:-

Sr. No. 7 of notification No. 13/2017-Central Tax (Rate), dated 28th June, 2017 as amended covers supplies received from Insurance Agents and provides for the Insurance Company to pay GST on such supplies under Section 9(3) of the CGST Act, 2017. In such cases, the insurance company may issue agent-wise consolidated invoice at the end of the month for the supply of services received during the month.

INPUT SERVICE DISTRIBUTOR

Rule 54 (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 Services Distributor, which shall contain the following details **Newly inserted**

- (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 services 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.

Rule 55A inserted via N/N 45/2017 – Central Tax dt 13.10.2017

Newly Inserted

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.

Return

N/n 57/2017 - Central Tax (dated 15-11-2017) -

Registered person having aggregate turnover of up to 1.5 Crore rupees in the preceding financial year or the current financial year,

The said person shall furnish the details of outward supply of goods or services or both from July 2017 to March 2018 in FORM GSTR-1 effected **during the quarter**.

Form GSTR 3B extended further and Form GSTR 2 has been postponed

Form GSTR 2 and 3 have been postponed by the Government till 30th June 2018.

Also multiple notifications have been issued for the extension of this form GSTR 3B till June, 2018

GSTR 1 – Quarterly returns for persons having aggregate turnover of less than 1.5 cr (N/N 71 /2017 dt 29/12/2017)

As per powers exercised by sec 148 of CGST Act, 2017 , the Central Govt has notified the registered persons having aggregate turnover of upto 1.5 crore rupees in the preceding financial year or the current financial year , as the class of registered person who shall follow the procedure of filing Quarterly return of GSTR -1 for furnishing the details of outward supply of goods or services.

Clarification issued via Circular no. 26/26/2017 – CT dt 29/12/2017

The above mentioned class of registered person has the option to choose whether to file return GSTR 1 quarterly or monthly. Hence, once he opts to file any of the option he cannot change the return filing periodicity for the entire financial year thereafter.

Also if he wrongly reports his aggregate turnover and opts to file return quarterly, he may be liable for punitive action under CGST Act, 2017.

Amendments and Clarification

- **E-WAY BILL**
- **Accounts & Records**



Accounts, Records & E-Way Bill

Rules pertaining to E-Way Bill were substituted via N/N 12/2018 – CT Dt 07/03/2018

Following are rules applicable on movement of goods of value exceeding specified value for such cases generation of E- way bill shall be mandatory

Rule 138 – Information to be furnished prior to commencement of movement of goods and generation of E-way bill

Rule 138A – Documents and devices to be carried by a person in charge of a conveyance

Rule 138B – Verification of documents & conveyances

Rule 138C – Inspection & Verification of goods

Rule 138D – Facility for uploading information regarding detention of vehicle

Explanation - For the purposes of this Chapter, the expressions 'transported by railways', 'transportation of goods by railways', 'transport of goods by rail' and 'movement of goods by rail' does not include cases where leasing of parcel space by Railways takes place." (Inserted after Rule 138D via N/N 14/2018 – CT dt 23/03/2018)

Sec 68 : E way Bill (Read with Rule 138)

Q. 1: What is an E-way Bill?

Ans:- Electronic Way Bill (E-Way Bill) is basically a compliance mechanism

- ➔ wherein by way of a digital interface
- ➔ the person causing the movement of goods
- ➔ uploads the relevant information prior to the commencement of movement of goods and
- ➔ generates e-way bill on the GST portal

Q. 2: Explain the relevance of E-Way bill in GST?

Ans:- E-way bill is an electronic mechanism to ensure that:-

- ➔ There is a hassle free movement of goods throughout the country
- ➔ Act as an effective tool to track movement of goods &
- ➔ To control tax evasion in the Country.
- ➔ Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts

The e-way bill system is applicable for both interstate transport of goods, & Intra State Supply of Goods. However the applicability of the e-way bills for intra-state movement can be deferred by respective state as per rule 138(14)(d).

Q. 3: What are the details required to be furnished in e-way bill?

Ans:- E-way bill has been bifurcated in two parts as per Form GST EWB – 01

Part - A	Part - B
GSTIN of Supplier	Vehicle Number for Road
Place of Dispatch	Transport Document Number/Defence Vehicle No./ Temporary Vehicle Registration No./Nepal or Bhutan Vehicle Registration No
GSTIN of Recipient	
Place of Delivery	
Document Number	
Document Date	
Value of Goods	
HSN Code	
Reason for Transportation	

Note:-

1. HSN Code in column shall be indicated at minimum two digit level for taxpayers having annual turnover upto five crore rupees in the preceding financial year and at four digit level for taxpayers having annual turnover above five crore rupees in the preceding financial year.
2. Document Number may be of Tax Invoice, Bill of Supply, Delivery Challan or Bill of Entry.
3. Transport Document number indicates Goods Receipt Number or Railway Receipt Number or Forwarding Note number or Parcel way bill number issued by railways or Airway Bill Number or Bill of Lading Number.
4. Place of Delivery shall indicate the PIN Code of place of delivery.
5. Place of dispatch shall indicate the PIN Code of place of dispatch.
6. Reason for Transportation shall be chosen from the table given in the portal.

Q. 4: When & who is required to generate an e-way bill?

Ans:-

- I) As per Rule 138(1) of CGST rules, Every registered person who causes movement of goods of consignment **value exceeding fifty thousand rupees—**
 - (i) in relation to a supply; or
 - (ii) for reasons other than supply; or
 - (iii) due to inward supply from an unregistered person,
- II) **E-Commerce Operator or courier agency:-** A registered person liable to generate e-way bill can authorize the transporter, e-commerce operator or courier agency to furnish the details in Part A (Form GST EWB-01) of e-way bill.
- III) **Job Work:-** As per proviso to the rule 138(1) where goods are being sent by a principal to the job worker located in another state, Principal or the Job worker (if registered) shall generate an e-way bill, irrespective of consignment value.
- IV) **Voluntary generation of e-way bill:-** A registered supplier may voluntarily generate an e-way bill even if consignment value is less than ₹ 50,000.
- V) **Handicraft Goods:-** Where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

Illustration 1:- A truck contains 3 consignments based on 3 invoices, Invoice 1 for ₹ 55,000/-, invoice 2 for ₹ 35,000/- and invoice 3 for ₹ 90,000/-, how many E-Way Bill (EWB) will be generated.

Solution:- E-Way Bill will be generated Bill/ Invoice wise, i.e. when value of invoice exceeds ₹ 50,000/- therefore, in this case E-Way bill will be generated for Invoice no 1 & 3 only.

Illustration 2:- Mr. Rishi sent goods for job work worth ₹ 25,000/- from Delhi to UP, whether EWB needs to generate?

Solution:- In case of inter state movement of goods for job work, it is mandatory to generate EWB irrespective of amount, therefore in this case EWB needs to generate.

Illustration 3:- Mr. Raj an unregistered person sent Handicraft goods worth ₹ 45,000/- from Delhi to Punjab, whether EWB needs to generate?

Solution:- In case of movement of handicraft goods, it is mandatory to generate E-way bill irrespective of amount, therefore in this case EWB needs to be generated even though Mr Raj is an unregistered person he is required to generate an E-way bill.

Q. 5: . Whether E-way bill may be generated if the consignment value is less than ₹ 50,000/-?

Ans:- Yes, the registered person or the transporter, as the case may be may generate E-way bill voluntarily even if the value of consignment is less than ₹ 50,000/.

Q. 6: How will the consignment value of supply for the purpose of e-way bill generation be computed?

Ans:- As per explanation provided to Rule 138(1) of CGST rules, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15,

- ➡ declared in an invoice, a bill of supply or a delivery challan, as the case may be,
- ➡ issued in respect of the said consignment and
- ➡ **also includes** the central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
- ➡ **shall exclude** the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

Problem:- Mr X a registered dealer under GST. He wants to transfer certain stock of goods from his factory located in Pune (MH) to the location of buyer Mr S at Bangalore (Kar). For the goods supplied by Mr X he has raised an invoice in the following manner:-

Sl.No	Items	Value	GST rate	GST amount	Total
1	A	40,000	12%	4,800	44,800
2	B	25,000	Nil (Exempt)	-	25,000
					69,800

Determine whether for the above case E-way bill is required to issued as per Rule 138 ?

Ans:-

Q. 7: . Who is required to generate an E-way bill in the following cases:-

- i. **Goods transported by road**
- ii. **Goods transported by railways**
- iii. **Goods transported by air or vessel**

Ans:-

- i) Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee,
 - ➔ whether in his own conveyance or
 - ➔ a hired one or a public conveyance, by road,
 - ➔ the registered person as a consignor or the recipient of supply as the consignee, shall generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.
- ii) Where the goods are transported **by railways**, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01:
Provided that where the goods are transported by railways, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery.
- iii) Where the goods are transported **by air or vessel**, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01:

Q. 8 : . Explain the provisions relating to generation of E-way bill in case of 'Transshipment'?

Ans:- The consignor or the recipient, who has furnished the information in Part A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B of FORM GST EWB-01 for further movement of the consignment:

Provided that after the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case may be, who has furnished the information in Part A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.

Q. 9 : How to enter invoice and who shall have to enter the details of e-way bills and how distance must be computed in case of “Bill to” and “Ship to” transaction?

Ans:- As per the recent amendments in e-way bill rules and changes on e-way bill portal, now transporter shall not be required to carry two e-way bills to be able to capture the movement of goods from the suppliers to the Ship To party under Bill to Ship To transaction. Following fields have been added in Part-A of the FORM EWB-01 to tackle the issue of raising e-way bill in Bill to-Ship to transactions:

- 1. Place of Dispatch:** This includes the address of the place from where the goods are dispatched for the movement to the recipient.
- 2. Bill To:** This includes the details of the Bill To party on whose options the goods are to be transported at the place of Ship To party.
- 3. Ship To:** This allows the registered person to enter the address of Ship To party i.e. address where goods are destined. Therefore, e-way bill can be generated for Bill To-Ship To transactions easily by providing the above details in Part-A of the Form.

Situation 1 :- Consider a situation where a consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. How would the e-way bill be generated in such situations?

Clarification :- It is clarified that in such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y.

On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.

Situation 2: - Consider a situation where a consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. How would the validity of e-way bill be calculated in such situations?

Clarification :- It is clarified that the validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill the Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday.

Q. 10: . What if the consignment value of goods carried in conveyance is more than Rs 50,000 & no e-way bill is generated either by the consignor or the consignee?

Ans:- Where the consignor or the consignee has not generated the e-way bill in FORM GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees, **the transporter, except in case of transportation of goods by railways, air and vessel**, shall, in respect of inter-State supply, generate the e-way bill in FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods:

Q. 11: . State the case wherein information in Part B of E-way bill is not required to be generated?

Ans:- As per proviso given to rule 138 (3), where the goods are transported for a distance of upto fifty kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Q. 12: Explain the validity of E-way bill?

Ans:- As per rule 138(10), an e-way bill shall be valid for a period as given in table below from the relevant date, for the distance specified in table below

Type of Cargo	Distance	Validity period
Cargo other than Over Dimensional Cargo	Upto 100 km	One day in cases
Cargo other than Over Dimensional Cargo	For every 100 km. or part thereof thereafter	One additional day
Over Dimensional Cargo	Upto 20 km	One day in case
Over Dimensional Cargo	For every 20 km. or part thereof thereafter	One additional day

Note:-

1. For the purposes of this rule, the —"relevant date" shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of eway bill.
2. For the purposes of this rule, the expression —"Over Dimensional Cargo" shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

Illustration 1:- Mr. Raghu generates EWB for transport goods from Delhi to Gujrat (distance 750 km appx) on 5th Feb, 2018, what is the validity of EWB?

Solution:- E-Way bill is valid for 1 day up to 100 km of distance and it will increase 1 day each when distance increased by 100km or part thereof, therefore in this case EWB is valid up to 8 days (For 700 km 7 days and for another 50 km another 1 day).

Q. 13: Specify the cases where E-way is not required to be generated? [Rule 138 (13)]

Ans:-

No e-way bill is required to be generated in the following cases:

- a) where the goods being transported are the ones given below:

S.No.	Description of Goods
	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
	Kerosene oil sold under PDS
	Postal baggage transported by Department of Posts
	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
	Currency
	Used personal and household effects
	Coral, unworked (0508) and worked coral (9601)]

- b) where the goods are being transported by a non-motorised conveyance
- c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
- d) in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
- e) where the goods [other than de-oiled cake], being transported, are exempt from tax vide Notification No. 2/2017 CT(R) dated 28.06.2017
- f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel
- g) where the supply of goods being transported is treated as no supply under Schedule III of the Act
- h) where the goods are being transported -
 - a. under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 - b. under customs supervision or under customs seal
- i) where the goods being transported are transit cargo from or to Nepal or Bhutan
- j) where the goods being transported are exempt from tax under Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]
- k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
- l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
- m) where empty cargo containers are being transported
- n) where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55

Illustration 1:- Mr. Rajesh (supplier) sent goods worth ₹ 1,20,000 from hand Rickshaw from karol bagh to Laxminagar (distance 12km approx), whether EWay Bill needs to be generated?

Solution:- E-Way Bill will be generated only for motorize vehicle only, therefore in this case no need generate EWB because rikshaw is non-motorize vehicle.

Q. 14: What all documents shall be carried by a person-in-charge of a conveyance?

Ans:- The person in charge of a conveyance shall carry—

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner

Provided that nothing contained in clause (b) of this sub-rule shall apply in case of movement of goods by rail or by air or vessel.

Q. 15: How should the e-way bill be generated in case of multiple consignments intended to be transported in one conveyance?

Ans:- As per Rule 138(7) :- Where the consignor/consignee has not generated the e-way bill in Form GST EWB- 01 and the aggregate of the consignment value of goods carried in the conveyance is more than ₹ 50,000, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and **may also generate a consolidated e-way bill in Form GST EWB- 02** on the common portal prior to the movement of goods.

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in **Part A of Form GST EWB-01** may be furnished by such e-commerce operator or courier agency [**Proviso to rule 138(7)**].

After e-way bill has been generated and where multiple consignments are intended to be transported in one conveyance,

- the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and
- a consolidated e-way bill in FORM GST EWB-02 may be generated by him on the said common portal prior to the movement of goods.

Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods. Hence, Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.

Q. 16: Write a short note on - Invoice reference number

Ans:- An IRN is a number which a GST registered taxpayer may generate from the e-way bill portal by uploading an invoice in Form GST INV- 01. This will be valid for a period of 30 days and can be used instead of a physical tax invoice.

Hence, IRN is a boon for transporters who transport multiple consignments, where otherwise the documentation would have been burdensome. IRN tries to ease the process of documentation to a great level. IRN also serves a dual purpose where on generating it, a taxpayer can get Part A of his E-way bill auto-populated.

Q. 17: . Write a brief note on acceptance or rejection of E-way bill?

Ans:-

- As per rule 138(11), The details of e-way bill shall be made available to the supplier or recipient, if registered. Such supplier or recipient should communicate his acceptance or rejection of the consignment.
- Further, as per rule 138(12), in case such supplier or recipient does not communicate his acceptance or rejection within 72 hours or before delivery of goods whichever is earlier, it shall be deemed to be accepted.

Q. 18: When can an e-way bill be cancelled?

Ans:- Where an e-way bill has been generated however, goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.

It is to be noted that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

Q. 19: How should the verification of the documents and conveyances be done by the Department?

Ans:- As per Rule 138(B) of CGST rules:-

- (1) The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intraState movement of goods.
- (2) The Commissioner shall get Radio Frequency Identification Device readers installed
 - ➔ at places where the verification of movement of goods is required to be carried out and
 - ➔ verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.
- (3) The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf:

Provided that on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

Q. 20: How should the report pertaining to inspection be uploaded by the Department?

Ans:- As per rule 138(C) of CGST rules:-

- (1) A summary report of every inspection of goods in transit shall be recorded online by the proper officer in
 - ➔ Part A of FORM GST EWB-03 within twenty four hours of inspection and
 - ➔ the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.
- (2) Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently.

Q. 21: How should the information pertaining to detained vehicle be uploaded?

Ans:- As per rule 138(D) of CGST rules:-

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.

Q. 22: Explain the legal consequences on Non-compliance of E-way bill

Ans:- i) If e-way bills, wherever required are not issued in accordance with the provisions contained in rule 138 of the CGST rules, the same will be considered as contravention of rules.

➡ As per sec 122 of the CGST act, 2017 a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of ₹ 10,000 or tax sought to be evaded (wherever applicable) whichever is greater.

ii) As per sec 129 of CGST act, 2017, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this act or the rules made there under , all such goods and conveyances used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

Summary of applicable rules for E- way bill

Rule No	Particulars	Relevant forms
138	Information to be furnished prior to commencement of movement of goods and generation of e-way bill	FORM GST EWB-01:
138A	Documents and devices to be carried by a person-in-charge of a conveyance.	FORM GST INV-1
138B	Verification of documents and conveyances	-
138C	Inspection and verification of goods	FORM GST EWB-03
138D	Facility for uploading information regarding detention of vehicle	FORM GST EWB-04

Accounts and Records

Clarification on issues in respect of maintenance of books of accounts relating to additional place of business by a principal or an auctioneer for the purpose of auction of tea, coffee, rubber etc. [Circular No. 23/23/2017 GST dated 21.12.2017]

Issue:

As per the first proviso of section 35(1) of the CGST Act both the principal and the auctioneer are required to maintain the books of accounts relating to their additional place(s) of business in such places. However, principal and auctioneer face difficulties in relation to maintaining books of accounts at each and every additional place of business related to stock of goods like tea, coffee, rubber, etc. meant for supply through an auction.

Whether both the principal as well as the auctioneer can be allowed to maintain the books of accounts relating to the additional place(s) of business at their principal place of business itself?

Clarification:

- (a) The principal and the auctioneer of tea, coffee, rubber etc. are required to declare warehouses where such goods are stored as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses.
- (b) Both the principal and the auctioneer are required to maintain the books of accounts relating to each and every place of business in that place itself as per the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).
- (c) Such principal or auctioneer shall intimate their jurisdictional proper officer in writing about the maintenance of books of accounts relating to additional place(s) of business at their principal place of business.
- (d) Further, the principal or the auctioneer shall be eligible to avail input tax credit (ITC) subject to the fulfilment of other provisions of the Act and the rules made thereunder.

It is further clarified that this Circular is applicable to the supply of tea, coffee, rubber, etc. where the auctioneer claims ITC in respect of the supply made to him by the principal before the auction of such goods and the said goods are supplied only through auction.

Amendments and Clarification

- **DEMAND & RECOVERY**
- **APPEAL, REVIEW & REVISION**
- **REFUND**
- **MISCELLANEOUS PROVISIONS**



DEMANDS AND RECOVERY

Circular specifying proper officers under sections 73 and 74 of the CGST Act and under the IGST Act and fixing monetary limits for issuance of show cause notices by different level of officers

[Circular No. 31/05/2018 GST dated 09.02.2018]

Sl. No.	CGST Officer	Monetary limit of CGST (including cess) not paid or short paid or erroneously refunded or ITC of CGST wrongly availed or utilized for issuance of SCNs and passing of orders under sections 73 and 74 of CGST Act	Monetary limit of IGST (including cess) not paid or short paid or erroneously refunded or ITC of IGST wrongly availed or utilized for issuance of SCNs and passing of orders under sections 73 and 74 of IGST Act made applicable to matters in relation to IGST vide section 20 of the IGST Act	Monetary limit of CGST & IGST (including cess) not paid or short paid or erroneously refunded or ITC of CGST & IGST wrongly availed or utilized for issuance of SCNs and passing of orders under sections 73 and 74 of CGST Act made applicable to matters in relation to IGST vide section 20 of the IGST Act
(1)	(2)	(3)	(4)	(5)
1	Superintendent of Central Tax	Not exceeding ₹ 10 lakh	Not exceeding ₹ 20 lakh	Not exceeding ₹ 20 lakh
2	Deputy or Assistant Commissioner of Central Tax	Above ₹ 10 lakh and not exceeding Rupees 1 crore	Above ₹ 20 lakh and not exceeding Rupees 2 crores	Above ₹ 20 lakh and not exceeding Rupees 2 crores
3	Additional or Joint Commissioner of Central Tax	Above ₹ 1 crore without any limit	Above ₹ 2 crores without any limit	Above ₹ 2 crores without any limit

The central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence hereinafter referred to as "DGGSTI") shall exercise the powers only to issue show cause notices.

A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is registered.

In case show cause notices have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such show cause notices should be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of central tax and/or integrated tax (including cess).

APPEALS AND REVISION

Appointment of Appellate Authority

A new rule 109A has been inserted in CGST Rules to appoint Appellate Authority as under:

If the decision or order against which the appeal is to be filed, is passed by the Additional or Joint Commissioner

Appellate Authority

Commissioner (Appeals)

If the decision or order against which the appeal is to be filed, is passed by the Deputy or Assistant Commissioner or Superintendent

Appellate Authority

Additional Commissioner (Appeals)

[Notification No. 55/2017 CT dated 15.11.2017]

REFUND

Clarification

Q.9 : How to calculate refund of ITC in case of zero rated supply ?

Ans.:

Rule 89(4) stipulates that in the case of zero-rated supply of goods or services or both without payment of tax under bond/LUT in accordance with the provisions of section 16(3) of the IGST Act, 2017, refund of ITC shall be granted as per the following formula:

$$\text{Refund Amount} = \frac{(\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero-rated supply of services})}{\text{Adjusted Total Turnover}} \times \text{Net ITC}$$

where,-

A. **"Refund amount"** means the maximum refund that is admissible;

B. **"Net ITC"** means ITC availed on inputs and input services during the relevant period

other than the input tax credit availed for which refund is claimed under Rules 89 (4A) or 89 (4B) or both. **Amendment**

Rule 89 (4A) = Deemed Export (discussed later on)

Rule 89 (4B) = Penultimate Supply i.e. Supply before Export (discussed later on)

C. **"Turnover of zero-rated supply of goods"** means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond/LUT

other than the turnover of supplies in respect of which refund is claimed under Rules 89(4A) or 89 (4B) or both. **Amendment**

D. **"Turnover of zero-rated supply of services"** means the value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely:-

Turnover of Zero-rated supply of services (ZRSS)	=	p a y m e n t s received during the relevant period for ZRSS	+	ZRSS where supply has been completed for which payment had been received in advance in any period prior to the relevant period	-	advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.
--	---	---	---	--	---	---

E. **"Adjusted Total turnover"** means the turnover in a State or a Union territory, as defined under section 2(112), excluding

(a) the value of exempt supplies other than zero-rated supplies and

(b) *the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any* **Amendment**

during the relevant period.

F. **"Relevant period"** means the period for which the claim has been filed.

Example

M/s XYZ manufactures furnished following into & request you to compute max refund eligible in respect of zero-rated supply

	Particulars	₹
1.	ITC on Input	2,50,000
2.	ITC on Input services	50,000
3.	ITC on capital goods	2,00,000
4.	value of goods under letter of under taking	15,00,000
5.	Value of goods in India	35,00,000
6.	payments received towards service supplied for export (Includes 50,000 of advance) towards service to be supplied after current period	5,50,000
7.	service supplied for export in relevant period for which payment received in prior period	50,000
8.	Taxable value of service in India	5,00,000
9.	Value of exempt supply of Goods	2,00,000

Solution : Computation of refund

Particular	₹
Net ITC	3,00,000
Zero rated supply of goods	15,00,000
Zero rated supply of services (5,50,000 - 50,000 + 50,000)	5,50,000
Adjust total turnover (15,00,000 + 35,00,000 + 5,50,000 + 5,00,000)	60,50,000
Total	1,01,653
$\text{Refund} = \frac{15,00,000 + 5,50,000}{60,50,000} \times 3,00,000 = 1,01,653$	

Inverted duty structure

Rule 89(5) of the CGST Rules, 2017 stipulates that in the case of refund on account of *inverted duty structure*, refund of ITC shall be granted as per the following formula -

Amendment

Maximum
Refund
Amount =

Turnover of inverted rated supply of
goods **or services** x Net ITC
Adjusted Total Turnover

Tax payable on
such inverted rated
supply of goods
or Services

Amendment

Refund amount	means the maximum refund that is admissible
Net ITC	means ITC availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under Rules 89 (4A) or 89 (4B) or both. (Deemed Export or Penultimate supply)
Adjusted Total turnover	means the turnover in a State or a Union territory , excluding (a) the value of exempt supplies other than zero-rated supplies and (b) the turnover of supplies in respect of which refund is claimed under Rules 89(4A) or 89(4B) or both, if any during the relevant period. “ Relevant period ” means the period for which the claim has been filed.

Where the application relates to refund of ITC, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed [Rule 89(3)].

Comment : As per **N/n 5/2017 CT(Rate)** no refund would be allowed for inverted rate for following goods. (a) woven fabrics (b) knitted or crocheted fabrics (c) rail locomotives and railway coaches/ vehicles, etc.

Example : From the following information you are required to determine the maximum amount of refund admissible on account of inverted tax structure.

Particulars	₹
(i) Input tax credit availed on inputs	3,60,000
(ii) Input tax credit availed on input services	36,000
(iii) Turnover of inverted rated supply of goods (taxable @ 5%)	30,00,000
(iv) Turnover of other supplies of goods (includes exempted supplies ₹ 5 lakh)	15,00,000

Solution : Computation of amount of refund

Particular	₹
Net ITC (3,60,000 + 36,000)	3,96,000
turnover of invert rated supply (30,00,000)	30,00,00
Adjusted Turnover (30,00,000 + 15,00,000 - 5,00,000)	40,00,000
Adjust total Turnover	1,47,000
Refund Amount = $\left(\frac{30,00,000}{40,00,000} \right) \times 3,96,000 - (30,00,000 \times 5\%)$	

Rule 89 (4A) - Deemed Export

In the case of supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017 Central Tax.

Refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted.

Notification No. 48/ 2017 Following supply are notified as a deemed export

(a)	Supply of goods by a registered person against Advance Authorisation
(b)	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
(c)	Supply of goods by a registered person to Export Oriented Unit
(d)	Supply of gold by a bank or Public Sector Undertaking specified in the notification No.50/2017- Customs, dated the 30th June, 2017 (as amended) against Advance Authorisation.

Supplier of deemed export also enabled to file application for refund (other than refund of IGST paid on goods exported out of India) [Notification No. 47/2017 CT dated 18.10.2017]

Earlier	Amendment
Only the recipient of deemed exports could file the application for refund under third proviso to rule 89(1) of the CGST Rules	The proviso has been amended to also enable the supplier of deemed export supplies to file application for refund ➔ if the recipient does not avail of input tax credit on such supplies and furnishes an undertaking to the effect that the supplier may claim the refund.

Evidences to be produced by the supplier of deemed exports for claiming refund, notified [Notification No. 49/2017 CT dated 18.10.2017]

Earlier evidences were not notified	Notified Evidence
As per Rule 89 (2)(g) of CGST rules, provides that where refund is on account of deemed exports, the refund application shall be accompanied by a statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, to establish that a refund is due to the applicant.	<p>The Central Government has notified the following evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:-</p> <ul style="list-style-type: none"> i) Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation (AA) holder or Export Promotion Capital Goods (EPCG) Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said AA or EPCG Authorisation holder, or <ul style="list-style-type: none"> ☞ a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient EOU that said deemed export supplies have been received by it. ii) An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him. iii) An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

Rule 89 (4B) - Penultimate Supply

In the case of supplies received on which the supplier has availed the benefit of the notification No. 40/2017-CT (Rate)

refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted.

Comment : As per notification 40/2017 CT Supply of taxable goods by registered Supplier to a registered recipient for export then exemption is available as in excess of amount calculated @ 0.1% (0.05% CGST + 0.05% SGST & 0.1% IGST) subject to prescribed conditions.

Clarification via Circular No. 37/11/2018 GST dated 15.03.2018

Supplies to Merchant Exporters: The exporter receiving goods at concessional rate of tax @ 0.1% (0.05% CGST + 0.05% SGST & 0.1% IGST) will be eligible to take credit of the concessional tax so paid by him. The supplier who supplies goods at the concessional rate will be eligible for refund on account of inverted tax structure as per the provisions of section 54 (3)(ii) of the CGST Act. However, it may be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of integrated tax.

CSD eligible for refund of 50% of GST paid on inward supplies of goods received by them

Section 55 of the CGST Act provides that the Government may, on the recommendations of the Council, by notification, specify:

- (i) any specialized agency of the United Nations Organization; or
- (ii) any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947; or
- (iii) Consulate or Embassy of foreign countries; and
- (iv) any other person or class of persons as may be specified in this behalf,

who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified inward supplies of goods or services or both received by them.

Amendment : In exercise of the said power, the Central Government, vide Notification No. 6/2017 CT (R) dated 28.06.2017 & Notification No. 6/2017 IT (R) dated 28.06.2017, has specified the

Canteen Stores Department (CSD), under the Ministry of Defense, as a person who shall be entitled to claim a refund of 50% of the applicable CGST paid by it on all inward supplies of goods received by it for the purposes. of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD. (Similar refund is also available for IGST)

Specialised agencies entitled to claim refund of GST paid on notified supplies received by them, specified by the Central Government

In exercise of the said power, the Central Government, vide Notification No. 16/2017 CT (R) dated 28.06.2017 has specified -

Category of notified person	Conditions to claim refund of GST paid on the supplies of G/S received as per sec 55
United Nations or a specified international organization;	Certificate from United Nations or that specified international organisation that the goods and services have been used or are intended to be used for official use of the United Nations or the specified international organisation.
Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein	<ul style="list-style-type: none"> i) Amount of refund as stipulated in the certificate issued by the Protocol Division of the Ministry of External Affairs, based on the principle of reciprocity ii) in case of supply of services <ul style="list-style-type: none"> ➔ the head of the foreign diplomatic mission or consular post, or any person of such mission or post authorised by him, ➔ furnish an undertaking in original, signed by him or the authorised person, stating that the supply of services received are for official purpose of the said foreign diplomatic mission or consular post; or for personal use of the said diplomatic agent or career consular officer or members of his/her family iii) that in case of supply of goods, concerned diplomatic mission or consulate or an officer duly authorized by him will produce a certificate that,— <ul style="list-style-type: none"> ➔ the goods have been put to use, or are in the use, as the case may be, of the mission or consulate; ➔ the goods will not be supplied further or otherwise disposed of before the expiry of three years from the date of receipt of the goods; and ➔ in the event of non-compliance of clause (I), the diplomatic or consular mission will pay back the refund amount paid to them;

In case the Protocol Division of the Ministry of External Affairs –

- i) after having issued a certificate to any foreign diplomatic mission or consular post in India, decides to withdraw the same subsequently, it shall communicate the withdrawal of such certificate to the foreign diplomatic mission or consular post;
- ii) the refund of the whole of the CGST granted to the foreign diplomatic mission or consular post in India for official purpose or for the personal use or use of their family members shall not be available from the date of withdrawal of such certificate.

Here, “specified international organisation” means an international organisation declared by the Central Government in pursuance of section 3 of the United Nations (Privileges and Immunities Act) 1947, to which the provisions of the Schedule to the said Act apply

Rule 95:- Refund to UN Bodies & Embassies etc [Notification No. 75/2017 CT dated 29.12.2017]

Rule	Earlier	Amendment
95(1) Manual filing of application	Sub-rule (1) of rule 95 has been substituted with a new sub-rule.	The new sub-rule lays down that any person eligible to claim refund of tax paid by him on his inward supplies shall apply for refund <ul style="list-style-type: none"> ➡ once in every quarter, ➡ electronically on the common portal or otherwise, either directly or through a Facilitation Centre ➡ With a statement of the inward supplies of goods and/or services in Form GSTR-11.
95(3)(a) Threshold monetary limit of price	Refund is available on Tax invoice of R.P. where price of supply under single tax invoice exceed ₹ 5000	The said sub-rule has been amended to omit the words “and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any” . Thus, under the amended provisions, refund of tax paid by the applicant shall be available if the inward supplies of goods and/or services were received from a registered person against a tax invoice.

Rule 96 :- The provisions for refund of IGST paid on goods exported out of India amended to apply the same to refund of IGST paid on services exported out of India too [Notification No. 75/2017 CT dated 29.12.2017]

Rule	Earlier	Amendment
Heading	<i>"Refund of integrated tax paid on goods exported out of India".</i>	<i>"Refund of integrated tax paid on goods or services exported out of India"</i> [Notification No. 75/2017 CT dated 29.12.2017]
96(1)	Laid down that the shipping bill filed by an exporter shall be deemed to be an application for refund of IGST paid on the goods exported out of India.	To provide that the shipping bill filed by an exporter of goods shall be deemed to be an application for refund of IGST paid on the goods exported out of India. [Notification No. 3/2018 CT dated 23.01.2018]
96(2)	laid down that the details of the relevant export invoices contained in GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and <ul style="list-style-type: none"> the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India. 	To provide that the details of the relevant export invoices in respect of export of goods contained in GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and <ul style="list-style-type: none"> the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India. [Notification No. 3/2018 CT dated 23.01.2018] Further, two provisos have been added in the sub-rule <ul style="list-style-type: none"> where the due date for furnishing of GSTR-1 for a tax period has been extended, the supplier shall furnish the information relating to exports as specified in Table 6A of GSTR-1 after the return in GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs. The information in Table 6A so furnished shall be auto-drafted in GSTR-1 for the said tax period. [Notification No. 51/2017 CT dated 28.10.2017]
96(3)	Laid down upon the receipt of the information regarding the furnishing of a valid return in GSTR-3 / GSTR-3B from the common portal, the system designated by the Customs shall process the claim for refund in respect of export of goods.	to provide that upon the receipt of the information regarding the furnishing of a valid return in GSTR-3 / GSTR- 3B from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods. [Notification No. 3/2018 CT dated 23.01.2018]
96(9) & (10)	-	Newly inserted sub rules– <ul style="list-style-type: none"> The new sub-rule (9) - lays down that the application for refund of IGST paid on the services exported out of India shall be filed in Form GST RFD 01 and shall be dealt with in accordance with the provisions of rule 89. The new sub-rule (10) - lays down that the persons claiming refund of IGST paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of Notification No. 48/2017 CT dated 18.10.2017 [deemed exports] or Notification No. 40/2017 CT (R) dated 23.10.2017 / Notification No. 41/2017 IT (R) dated 23.10.2017 . [Notification No. 3/2018 CT dated 23.01.2018]

Rule 96A(1)(a) - Commissioner empowered to extend the time period for payment of tax and interest [Notification No. 47/2017 CT dated 18.10.2017]

The said rule has been amended to provide that the tax due along with the interest should be paid within a period of 15 days after the expiry of 3 months, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India.

Rule 96A(2) - Information relating to export invoices to be furnished after furnishing of GSTR-3B in case of extension of due date for furnishing of GSTR-1. [Notification No. 51/2017 CT dated 28.10.2017]

Two provisos have been added in the said sub-rule to lay down that where the due date for furnishing of GSTR-1 for a tax period has been extended, the supplier shall furnish the information relating to exports as specified in Table 6A of GSTR-1 after the return in GSTR- 3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs. The information in Table 6A so furnished shall be auto-drafted in GSTR-1 for the said tax period.

Rule 96A (5) - Empowers the Board to specify the conditions and safeguards under which an LUT may be furnished in place of a bond, by way of notification. [Notification No. 37/2017 CT dated 04.10.2017]

Sr. No.	In exercise of the said power, CBEC has specified the following conditions and safeguards :-
1.	All registered persons who intend to supply goods or services for export without payment of IGST shall be eligible to furnish a LUT in place of a bond <ul style="list-style-type: none">➤ except those who have been prosecuted for any offence under the CGST Act or the IGST Act or any of the existing laws in force➤ in a case where the amount of tax evaded exceeds ₹ 250 lakh.
2.	LUT shall be furnished on the letter head of the registered person, <ul style="list-style-type: none">➤ in duplicate, for a financial year and➤ it shall be executed by the working partner, the Managing Director or the Company Secretary or the proprietor or by a person duly authorised by such working partner or Board of Directors of such company or proprietor.
3.	On failure to pay tax – If the registered person fails to pay the tax due along with interest as specified under rule 96A(1) of CGST Rules within the period specified thereunder, <ul style="list-style-type: none">➤ the facility of export without payment of IGST will be deemed to have been withdrawn.➤ However, if the said amount is paid, the facility of export without payment of IGST shall be restored.
Note:- The above provisions shall mutatis mutandis apply in respect of zero-rated supply of goods or services or both made by a registered person (including a SEZ developer or SEZ unit) to a SEZ developer or SEZ unit without payment of IGST	

Clarification on issues related to furnishing of Bond/Letter of Undertaking for exports [Circular No. 40/14/2018 GST dated 06.04.2018]

Sr. No.	Earlier	Amendment
1.	What shall be the validity of LUT?	The LUT shall be valid for the whole financial year in which it is tendered. Exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable integrated tax or under bond with bank guarantee
2.	What documents are required for LUT?	No document needs to be physically submitted to the jurisdictional office for acceptance of LUT
3.	What are provisions for acceptance of LUT/Bond?	An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond as per Notification No. 37/2017 CT, then the exporter's LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio.

4.	Is Bank guarantee required for exports?	<p>For LUT- the facility of export under LUT has been extended to all registered persons and for this no Bank Guarantee required,</p> <p>For Bond – It will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding rupees two hundred and fifty lakh.</p> <p>➔ A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.</p>
5.	State the provisions pertaining to 'Running Bond'	<p>The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export.</p> <p>The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount.</p> <p>In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability.</p> <p>The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter.</p> <p>The record of such entries shall be furnished to the Central tax officer as and when required.</p>
6.	Is there any provision for issuance of CT-1 form which enables merchant exporters to purchase goods from a manufacturer without payment of tax?	<p>It is clarified that there is no such provision for issuance of CT – 1 form.</p> <p>The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.</p>
7.	Is Zero rating applicable for transactions with EOUs?	<p>Zero rating is not applicable to supplies to EOUs and there is no special dispensation for them under GST regime.</p> <p>Therefore, supplies to EOUs are taxable like any other taxable supplies. EOUs, to the extent of exports, are eligible for zero rating like any other exporter</p>
8.	Is the condition of Realization of export proceeds in Indian Rupee to be satisfied?	<p>All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.</p> <p>However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan".</p> <p>it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ developer or SEZ unit will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines</p> <p>Supply of services to SEZ developer or SEZ unit under LUT will also be permissible on the same lines.</p> <p>Supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange</p>
9.	State the powers of Jurisdictional officer?	<p>➔ The LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter</p> <p>➔ The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.</p>

Rule 97 - Consumer Welfare Fund [Notification No. 21/2018 CT dated 18.04.2018]

	Rule 97 of CGST Rules prescribing provisions relating to Consumer Welfare Fund has been substituted with a new rule :-
1.	All amounts of duty/CGST/ IGST/ UTGST/ cess and income from investment along with other monies Central Excise Act, 1944, section 57 of the CGST Act, 2017 read with specific sections of the IGST Act, UTGST Act, 2017 & GST (Compensation to States) Act, 2017 shall be credited to the Fund.
2.	An amount equivalent to 50% of the amount of IGST determined under section 54(5) of the CGST Act, 2017, read with section 20 of the IGST Act, 2017, shall be deposited in the Fund [Proviso to sub-rule (1)].
3.	Accounts of the Fund maintained by the Central Government shall be subject to audit by the Comptroller and Auditor General of India
4.	The following applicants can apply for a grant from Consumer Welfare Fund: <ul style="list-style-type: none"> (i) the Central Government or State Government; (ii) regulatory authorities or autonomous bodies constituted under an Act of Parliament or the Legislature of a State or Union Territory; (iii) any agency or organization engaged in consumer welfare activities for a minimum period of three years, registered under the Companies Act, 2013 or under any other law for the time being in force; (iv) village or mandal or samiti or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes; (v) an educational or research institution incorporated by an Act of Parliament or the Legislature of a State or Union Territory in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under section 3 of the University Grants Commission Act, 1956 and which has consumers studies as part of its curriculum for a minimum period of three years; and (vi) a complainant as defined under clause (b) of sub-section (1) of section 2 of the Consumer Protection Act, 1986, who applies for reimbursement of legal expenses incurred by him in a case instituted by him in a consumer dispute redressal agency.

New Rule 97A inserted - For manual filing and processing for refund applications [Notification No. 55/2017 CT dated 15.11.2017]

The rule provides that in respect of any process or procedure prescribed herein, any reference to electronic filing of an application, intimation, reply, declaration, statement or electronic issuance of a notice, order or certificate on the common portal shall, in respect of that process or procedure, include manual filing of the said application, intimation, reply, declaration, statement or issuance of the said notice, order or certificate in prescribed forms.

Clarification on refund of unutilized ITC of GST paid on inputs by exporters of fabrics [Circular No. 18/18/2017 GST dated 16.11.2017].

As regards export of fabrics it is clarified that, subject to the provisions of section 54(10) of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilized ITC of GST paid on inputs [other than the ITC of GST paid on capital goods] in respect of fabrics manufactured and exported by him.

Note: Section 54(3) of the CGST Act, 2017 stipulates that:

Subject to the provisions of section 54(10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period. However, no refund of unutilised input tax credit shall be allowed in cases other than:

- (i) zero rated supplies made without payment of tax;
- (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.



MISCELLANEOUS PROVISIONS

Amendment in provisions relating to order of Anti-Profiteering Authority

A new sub-rule (4) has been inserted in rule 133 of CGST Rules to provide that if the report of the Director General of Safeguards recommends that there is contravention or even non-contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the Director General of Safeguards to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.

[Notification No. 14/2018 CT dated 23.03.2018]