

# GST AMENDMENTS

## RELEVANT FOR :

- CS – EXECUTIVE (DEC 2020)
- CS – PROFESSIONAL (DEC 2020)
- CA & CMA INTER (NOV & DEC 20)
- CA & CA FINAL (NOV & DEC 20)

## SOURCE :

*Finance Act, 2019 & Notification/Circular etc. upto 30<sup>th</sup> June,2020 (most relevant)*

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# TOPIC – I

## INPUT TAX CREDIT (AMENDMENT)

### Rule 36 : Documentary requirements and CONDITIONS for claiming input tax credit

(4) *Input tax credit to be availed* by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, *shall not exceed [20 10 per cent]* of the eligible credit available in respect of *invoices or debit notes the details of which have been uploaded* by the suppliers under sub-section (1) of section 37.

### EXAMPLES OF AMENDMENT:

#### **EXAMPLE – I:**

A taxpayer “R” receives 100 invoices (for inward supply of goods or services) involving ITC of Rs. 15 lakhs, from various suppliers during the month of May, 2020 and has to claim ITC in his FORM GSTR-3B of May to be filed by 20th June, 2020.

**Case-I:** Suppliers have furnished in FORM GSTR-1 70 invoices involving ITC of Rs. 10 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.

*Case-2: Suppliers have furnished in FORM GSTR-1 75 invoices involving ITC of Rs. 14,10,000 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.*

**Rule 43 : Manner of determination of ITC in respect of capital goods and reversal thereof in certain cases (ONLY FOR CS – PROFESSIONAL & CA FINAL)**

- (1) *Subject to the provisions of of section 16 (3), the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being ,partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-*
- (a) *the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and Form GSTR-3B and shall not be credited to his electronic credit ledger ;*
  - (b) *the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero-rated supplies shall be indicated in FORM GSTR-2 and Form GSTR-3B and shall be credited to the electronic credit ledger;*
  - (c) *the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A' being the amount of tax as reflected on the invoice, shall be credited to the electronic credit ledger and the validity of useful life of such goods shall extend upto as five years from the date of invoice for such goods:*  
  
*Provided that, where any capital goods earlier covered under clause (a) (i.e., exclusive exempt supply) is subsequently covered under this clause (i.e., common usage), input tax in respect of such capital goods denoted as "A" shall be credited to the electronic credit ledger Subject to the condition that , the ineligible credit attributable to the period during which such capital goods were covered by clause (a), denoted as 'Tie', shall be calculated at the rate of 5% points for every quarter or part thereof and added to the OUTPUT TAX LIABILITY of the tax period in which such credit is claimed;*

**Provided further that** the amount "Tie" shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR-3B.

- (d) **"the aggregate of the amounts of "A"** credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as "Tc", shall be the common credit in respect of such capital goods:

**Provided that** where any capital goods earlier covered under clause (b) (i.e., exclusive non-exempt supply) are subsequently covered under clause (c) (i.e., common usage) the input tax credit claimed in respect of such capital good(s) shall be added to arrive at the aggregate value "Tc";

- (e) the amount of ITC attributable to a tax period on COMMON CAPITAL GOODS during their useful life , be denoted as 'Tm' and calculated as:-  $Tm = Tc \div 60$

**Explanation.** For the removal of doubt, it is clarified that useful life of ANY CAPITAL GOODS shall be considered as five years from the date of invoice and - the said formula shall be applicable during the useful life of the said capital goods .

- ~~(f) the amount of ITC, at the beginning of a tax period, on all common capital goods whose useful life remains during the tax period , be denoted as 'Tr' and shall be the aggregate of 'Tm' for all such capital goods~~

- (g) the amount of common credit attributable towards exempted supplies, be denoted as 'Te', and calculated as:  $Te = (E \div F) \times Tr$  where, -- 'E' is the aggregate value of exempt supplies, made, during the tax period, and 'F' is the total turnover in the State/UT of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

*Explanation: For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under Entry 84 [Central ED] and Entry 92-A [CST] of List I of the Seventh Schedule to the Constitution and Entry 51 [State ED] and Entry 54 [VAT] of List II of the said Schedule*

- (h) the amount  $T_e$  along with applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.*
- (i) The amount  $T_e$  shall be computed separately for central tax, State tax, Union territory tax and integrated tax and shall be declared in Form GSTR-3B*

**EXAMPLES OF AMENDMENT:**







## TOPIC – 2

# REVERSE CHARGE (AMENDMENT)

### LIST OF SERVICES COVERED UNDER RCM

Entry No. 15	SUPPLIER OF SERVICES	SERVICE	RECIPIENT OF SERVICES
OLD LAW	<del>by way of renting of a motor vehicle to a body corporate, paying CGST@ 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business</del>	<del>Services provided by way of renting of a motor vehicle to a body corporate</del>	<del>Any body corporate (located in TT)</del>
NEW LAW	Any person other than a body corporate, who supplies the service to a body corporate and does not issue an invoice charging GST@ 12% (CGST- 6% + SGST/UTST- 6%) to the service recipient	Renting of motor vehicle designed to carrying passengers where the cost of fuel is included in the consideration charged from the service recipient	Any body corporate (located in TT)

**EXAMPLE OF AMENDMENT:**

# TOPIC – 3

## VALUATION (AMENDMENT)

**Rule 31A : Value of supply in case of Lottery, Betting, Gambling And Horse Racing**

TYPES OF LOTTERY	VALUE OF SUPPLY
<del>(a) The value of supply of lottery RUN by State Governments shall be deemed to be</del>	<del>100/112 of the higher of following, face value of ticket or the price as notified in the Official Gazette by the organizing State.</del>
<del>(b) The value of supply of lottery AUTHORIZED by State Governments shall be deemed to be</del>	<del>100/128 of the higher of following face value of ticket or the price as notified in the Official Gazette by the organizing State.</del>

~~Explanation:— For the purposes of this sub-rule, the expressions—~~

~~(a) “lottery run by State Governments” means a lottery not allowed to be sold in any State other than the organizing State ;~~

~~(b) “lottery authorised by State Governments ” means a lottery which is authorized to be sold in State(s) other than the organizing State also ; and~~

~~(c) “Organizing State” has the same meaning as assigned to it in rule 2 (1)(f) of the Lotteries (Regulation) Rules, 2010. [i.e, the SG which conducts the lottery in his own territory or sells its tickets in the territory of any other state.]~~

TYPES OF LOTTERY	VALUE OF SUPPLY
The value of supply of lottery shall be deemed to be	<b>100/28 of the higher of following</b> <ul style="list-style-type: none"> <li>face value of ticket or</li> <li>the price as notified in the Official Gazette by The Organizing State.</li> </ul>

**Explanation:-** For the purposes of this sub-rule, the expression- “Organizing State ” has the same meaning as assigned to it in rule 2 (1)(f) of the Lotteries (Regulation) Rules, 2010. [i.e, the SG which conducts the lottery in his own-territory or sells its tickets in the territory of any other state.]

#### EXAMPLE OF AMENDMENT:

## TOPIC – 4

# PAYMENT OF GST (AMENDMENT)

### Sec 49 PAYMENT OF GST

49(10) A registered person **may**, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, **to the electronic cash ledger for integrated tax, central tax, State tax, Union territory tax or cess**, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act. **[Rule 87 (13) inserted in CGST Rules, 2017]**

49(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same **shall be deemed** to be deposited in the said ledger as provided in sub-section (1).

### Rule 87 : Electronic Cash Ledger

87(13) **E-cash ledger:** Inter-head adjustment (major / minor) allowed A registered person may, on the common portal , transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act □ **to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09**

**EXAMPLE OF AMENDMENT:**

## SECTION 50 INTEREST ON DELAYED PAYMENT OF TAX.

- (1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed\*, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding 18% p.a., as may be notified by the Government on the recommendations of the Council.

**[NOTIFIED RATE = 18% P.A.]**

*Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger. **[PROVSIO INSERTED]***

- (2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed\*, from the day succeeding the day on which such tax was due to be paid.

**EXAMPLE OF AMENDMENT:**



**RULE 86A. Conditions of use of amount available in electronic credit ledger.****[ INSERTED RULE, CGST RULES, 2017]**

- (1) The **Commissioner or an officer authorised** by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as
- a) the credit of input tax **has been availed** on the strength of tax invoices or debit notes or any other document prescribed under rule 36
    - i. issued by a registered person **who has been found non-existent** or not to be conducting any business from any place for which registration has been obtained;
    - ii. **without receipt of goods** or services or both; or
  - b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the **tax charged in respect of which has not been paid** to the Government; or
  - c) the registered person availing the credit of **input tax has been found non-existent** or not to be conducting any business from any place for which registration has been obtained; or
  - d) the registered person availing any credit of **input tax is not in possession of a tax invoice or debit note** or any other document prescribed under rule 36,
- may, for reasons to be recorded in writing, **not allow debit** of an amount equivalent to such credit in electronic credit ledger for

*discharge of any liability under section 49 or for claim of any refund of any unutilised amount.*

- (2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.*
- (3) Such restriction shall cease to have effect **after the expiry of a period of one year** from the date of imposing such restriction.*

# TOPIC – 5

## REGISTRATION (AMENDMENT)

### Section 22: Liable For Registration

In section 22 of the Central Goods and Services Tax Act, in sub-section (1), after the **second proviso**, the following **shall be inserted, namely:--**

**“Provided also that** the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount **not exceeding forty lakh rupees** in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

**NOTE:** No notification issued in exercise of powers now available u/Sec 22(1)

**Explanation.--**For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”

**CRUX:** Sec 22 has been amended by FA, 2019 wherein threshold limit can be enhanced to 40 lakhs for exclusive supplier of goods via issuance of notification. But till date there is no such notification has been issued.

*Presently, enhanced threshold is applicable through Sec 23(2) notification only.*

### **EXAMPLE OF AMENMENT**

## Section 25: Procedure For Registration

*In section 25 of the Central Goods and Services Tax Act, after sub-section (6), the following sub-sections shall be inserted, namely:—*

*25(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:*

*Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe:*

*Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration*

*25(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:*

*Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such*

manner as the Government may, on the recommendations of the Council, specify in the said notification.

25(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

25(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.

**Explanation.**—For the purposes of this section, the expression “Aadhaar number” shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.”

**EXAMPLE OF AMENDMENT:**





## TOPIC – 6

# TAX INVOICE, D/N & C/N (AMENDMENT)

*Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws-*

*The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under*

ISSUE	Issue	Clarification
1	An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ?	In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file

		<p>a separate refund claim</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.</p>
2	<p>An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?</p>	<p>In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a "refund voucher" in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules. The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax".</p>
3	<p>Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in</p>	<p>In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a</p>

	his returns ?	<p>“credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01</p>
4	<p>While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i.e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?</p>	<p>As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for</p>

		furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.
5	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.

### SECTION 31A Facility of digital payment to recipient

The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give

*option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.”.*

**EXAMPLE & NOTES:**



# TOPIC – 7

## RETURN UNDER GST (AMENDMENT)

### RETURN FILING DUE DATE [ GSTR 3B]

#### Normal supplier

Upto 31st Dec, 2019

- 20th of following month (ALL STATES & ALL CASES)

Jan to Sep, 2020

- RP Those having the aggregate annual turnover TO (PY) *more than 5 crores* – *20<sup>th</sup> of the following month ( All Cases & All States )*
- RP Those having the aggregate annual turnover TO (PY) *upto than 5 crores* –  
RP in specified states/UTs – *22<sup>nd</sup> of the following month\**  
RP in other states/UTs – *24<sup>th</sup> of the following month\*\**

\* Chhattisgarh, Madhya Pradesh, Gujarat, Daman and Diu, Dadra and Nagar Haveli, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh -

\*\* Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha

**Composition supplier**

<b>Period</b>	<b>Frequency</b>	<b>Statement/ Return over portal</b>	<b>Due date</b>
Tax payment	Quarterly	Statement in Form GST CMP-08	18 <sup>th</sup> of following month
Return filing	Annual	Statement in Form GSTR-4	30 <sup>th</sup> April of subsequent year

**SECTION – 44 ANNUAL RETURN**

(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed **on or before the thirty-first day of December following the end of such financial year.**

**“Provided that** the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

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



**EXAMPLE OF AMENDMENT:**

## TOPIC – 8

# E – WAY BILL (AMENDMENT)

### 138E. Restriction on furnishing of information in PART A of FORM GST EWB-01

*Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who,—*

*(a) being a person paying tax under section 10 or availing the benefit of notification 02/2019— Central Tax (Rate), has not furnished the [statement in FORM GST CMP-08 for two consecutive [quarters] OR*

*(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of two months:*

*Provided that the Commissioner may, [on receipt of an application from a registered person in FORM GST EWB-05,] on sufficient cause being shown and for reasons to be recorded in writing, by order, [in FORM GST EWB-06] allow furnishing of the said information in PART A of FORM GST EWB 01, subject to such conditions and restrictions as may be specified by him:*

*Provided further that no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB 01 under the first proviso shall be*

passed without affording the said person a reasonable opportunity of being heard: Provided also that the permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

**Explanation:-** For the purposes of this rule, the expression —Commissioner shall mean the jurisdictional Commissioner in respect of the persons specified in clauses (a) and (b)

**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.]

(c) being a person other than a person specified in clause (a), has not furnished the statement of outward supplies for any two months or quarters, as the case may be



## TOPIC – 9

# COMPOSITION SCHEME (AMENDMENT)

### 2<sup>nd</sup> Proviso to Section 10(1)

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) **may supply services** (other than those referred to in clause (b) of paragraph 6 of Schedule 11), of value **not exceeding ten per cent.** of turnover in a State or Union territory in the preceding financial year or **five lakh rupees, whichever is higher.**

(a) **In sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:**

**Explanation.**– For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount **shall not be taken into account** for determining the value of turnover in a State or Union territory.”

### Section 10(2)

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

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

**[also mentioned under Rule – 5)**

### Section 10(2A) Composition Scheme For Supplier Of Services

Notwithstanding anything to the contrary contained in this Act, *but subject to the provisions of sub-sections (3) and (4) of section 9*, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose *aggregate turnover in the preceding financial year did not exceed fifty lakh rupees*, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, *but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not--*

(a) engaged in making any supply of *goods or services which are not leviable to tax* under this Act;

(b) engaged in making any *inter-State outward supplies* of goods or services;

(c) engaged in making any supply of goods or services *through an electronic commerce operator* who is required to collect tax at source under section 52;

(d) a *manufacturer* of such goods or supplier of such services as may be *notified by the Government on the recommendations of the Council*; and

(e) a casual taxable person or a non-resident taxable person:

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

## *TWO Explanations inserted under Sec 10 by FA, 2019*

*Explanation 1.--For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.*

*Explanation 2.--For the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies, namely:--*

*(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and*

*(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.’.*

**RULE - 7 Rate of tax of the composition levy**

SR. NO	Category of registered persons	Rate of tax
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	0.5% of the turnover in the State or Union territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	2.5% of the turnover in the State or Union territory
3	Any other supplier eligible for composition levy under sub-sections (1) and (2) of section 10	0.5% of the turnover of taxable supplies of goods and services in the State or Union
4	Registered persons not eligible under the composition levy under sub-sections (1) and (2), but eligible to opt to pay tax under sub-section (2A), of section 10	3% of the turnover of supplies of goods and services in the State or Union territory.

**Note:** Same rate applicable under SGST act hence Total rate will be – 1%, 5%, 1% & 6%.

**EXAMPLE OF AMENDMENT:**





# TOPIC – 10

## ACCOUNTS AND RECORDS (AMENDMENT)

### RULE 80. Annual return

(3) Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

*Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under subsection (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.*

### AMENDMENT 2:

*FOREIGN AIRLINE Companies (which are exempted under Companies Act from requirement of maintaining P&L and Balance Sheet in India) – no w exempted from the requirement of furnishing RECONCILIATION STATEMENT (GSTR-9C) (with the condition to submit STATEMENT OF RECEIPTS AND*

*PAYMENTS for FY (certified by CA) – [Relaxation given by issuance of special procedure notification issued u/Sec 148 – w.e.f. 16th March, 2020]*

**EXAMPLE OF AMENDMENT:**

# TOPIC – 12

## TDS / TCS (AMENDMENT)

### SECTION 52 TAX COLLECTION AT SOURCE

52(4) Every operator who collects the amount specified in sub-section (1) shall furnish A STATEMENT, [FORM GSTR-8] electronically, containing the details of ... outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed\*, (GSTR-8 – Rule 67 of CGST Rules) within ten days after the end of such month.

*Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein;*

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

54(5) Every operator who collects the amount specified in sub-section (1) shall furnish AN ANNUAL STATEMENT[[FORM GSTR-9B], electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section

during the financial year, in such form and manner as may be prescribed\*,  
(GSTR-9B – Rule 80 of CGST Rules) *before the 31st day of December  
following the end of such financial year*

*Provided that the Commissioner may, on the recommendations of the  
Council and for reasons to be recorded in writing, by notification, extend the  
time limit for furnishing the annual statement for such class of registered  
persons as may be specified therein:*

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

## TOPIC – 12

# Miscellaneous (AMENDMENT)

### EXEMPTIONS UNDER GST [ENTRY NO 41] [CS – PROF]

Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease (of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided **by the State Government Industrial Development Corporations or Undertakings or by any OTHER ENTITY\*** having ~~50% or more~~ **20% or more** ownership of CG, SG, Union territory (\*\*refer explanation below) to the industrial units or the developers in any industrial or financial business area.

**Provided that** the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area:

**Provided further that** the State Government concerned shall monitor and enforce the above condition as per the **order issued by the State Government** in this regard:

**Provided also that** in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be **jointly and severally liable to pay such amount of central tax**, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty:

*Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above condition and that the parties to the said agreements undertake to comply with the same.”*

*Explanation.- For the purpose of this exemption, the CG, SG or UT shall have ~~50% or more~~ 20% or more ownership in the entity directly or through an entity which is wholly owned by the CG, SG or UT*

## Section 171 : Anti-profiteering measures [ CS – PROF]

In section 171 of the Central Goods and Services Tax Act, after sub-section (3), the following shall be inserted, namely:--

(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profited under sub-section (1), **such person shall be liable to pay penalty equivalent to 10% of the amount so profited:**

Provided that **no penalty shall be leviable** if the profited amount is deposited within thirty days of the date of passing of the order by the Authority.

**Explanation.**—For the purposes of this section, the expression “**profited**” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.’.



## Refund under GST [CS – PROF]

### Circular No. 135/05/2020-GST

- Now, bunching of refund claims across different Financial Years has been allowed
- The refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in Form GSTR-1 and are reflected in the Form GSTR-2A of the applicant.
- **Issue Arise:** It has been brought to the notice of the Board that some of the applicants are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an illustration. An applicant trading in goods has purchased, say goods “X” attracting 18% GST. However, subsequently, the rate of GST on “X” has been reduced to, say 12%. It is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act
- **Clarification:** It may be noted that refund of accumulated ITC in terms of Section 54(3)(ii) of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, though attracting different tax rates at different points in time, do NOT get covered under the provisions of Section 54(3)(ii) of the CGST Act. *It is hereby*

*clarified that refund of accumulated ITC would NOT be applicable in such cases.*

### **Rule 92 (1A) link with Rule 86 (4A)**

*92(1A) Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger.*

*86(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03*



**Place of supply**

<b>S.no</b>	<b>Service</b>	<b>Place of supply</b>
2	Maintenance, repair or overhaul services in respect of aircrafts, aircraft engines and other aircraft components or parts.	The placed of supply of services shall be location of recipient

## TOPIC – 13

# CUSTOM LAWS (AMENDMENT)

*CBIC issued guidelines as to VALUATION OF SECOND HAND MACHINERY  
[Circular No. 07/2020 — 5th Feb, 2020]*

*The following Guidelines shall be followed:*

- (a) All imports of second hand machinery or used capital goods will be ordinarily accompanied by an inspection or appraisal report issued by an overseas Chartered Engineer or equivalent, prepared upon examination of the goods at the place of sale.*
- (b) The report of the overseas chartered engineer or equivalent should be as per the Form A .*
- (c) In the event of the importer failing to procure an overseas report of inspection or appraisal of the goods, he may have the goods inspected by any one of the chartered Engineers empaneled locally by the respective Custom Houses.*
- (d) In cases where the report is to be prepared by the Chartered Engineers empaneled by Custom Houses, the same will be in the Form B .*
- (e) The value declared by the importer shall be examined with respect to the report of the Chartered Engineer*