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**INDIRECT TAXATION**  
**MAY 2019**

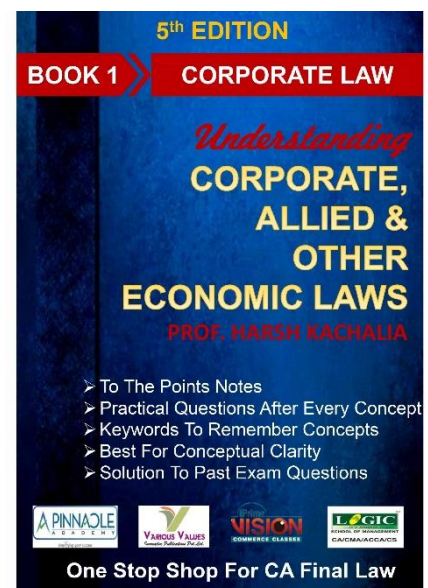
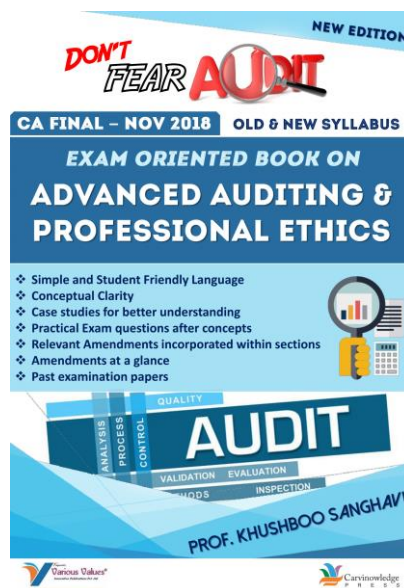
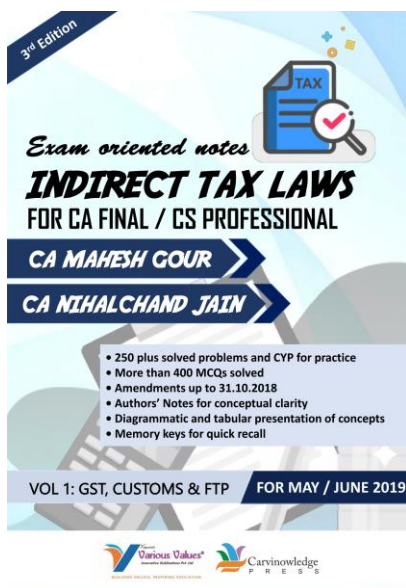
**AMENDMENTS &**  
**STATUTORY UPDATES**

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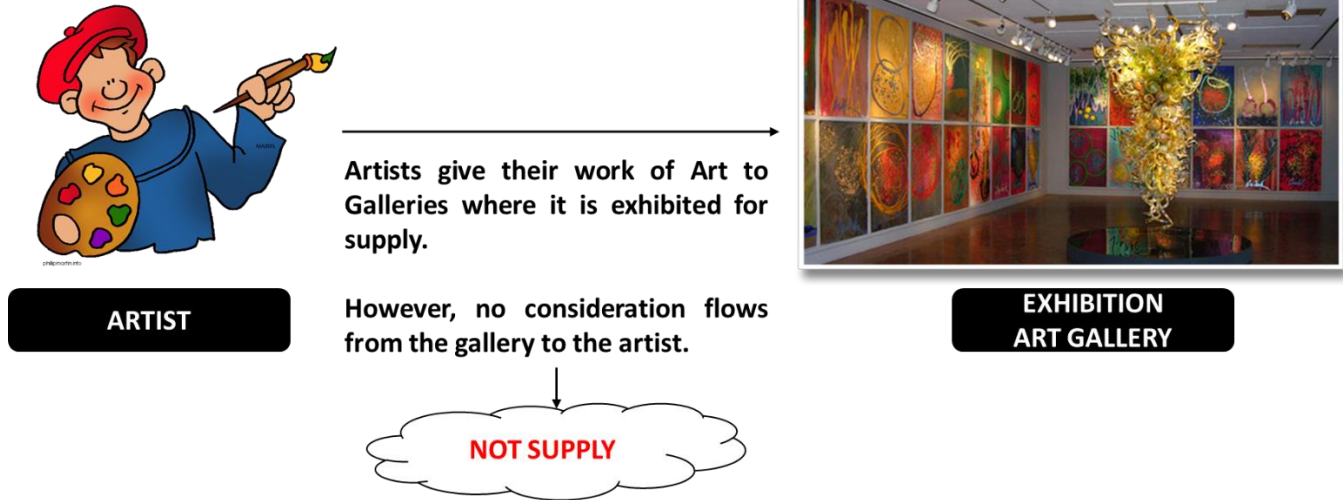
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## 1. **CONCEPT OF SUPPLY [SEC 7 of CGST ACT, 2017].**

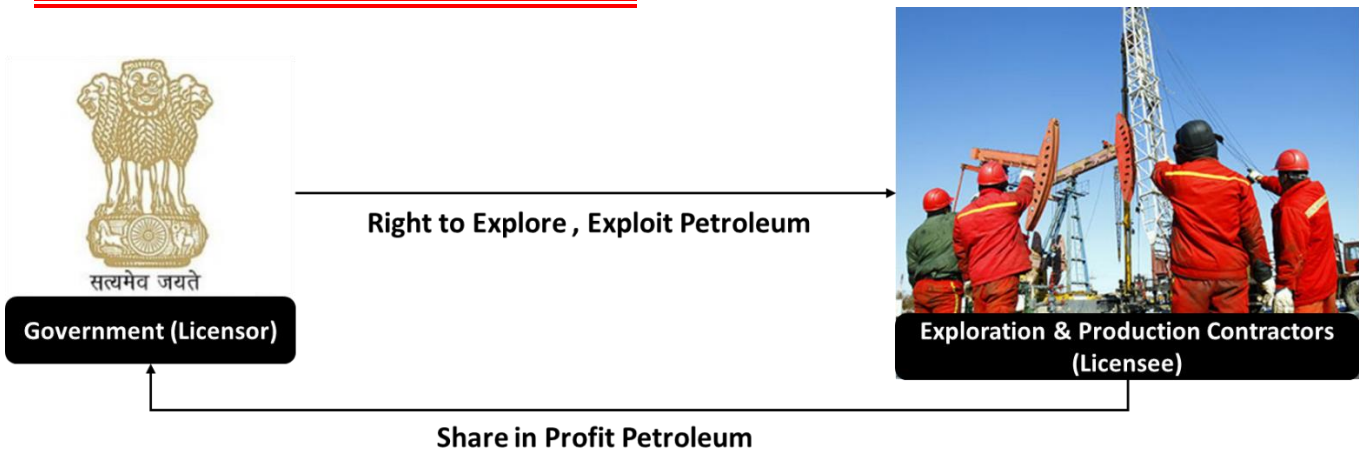
Sec 7(1A): Where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

## 2. **ART WORKS SENT BY ARTISTS TO GALLERIES FOR EXHIBITION IS NOT A SUPPLY.**



Note: If buyer selects a particular art work displayed at the Gallery → **SUPPLY**

## 3. **TAXABILITY OF COST PETROLEUM**



- ✚ The contractors are entitled to recover from the Sale proceeds. All expenses incurred in exploration, development, production and payment of royalty (Cost Petroleum).
- ✚ The contractors conduct all petroleum operation at their sole risk, cost and expense. Hence cost of petroleum is not a consideration for service to Government of India and thus not taxable.

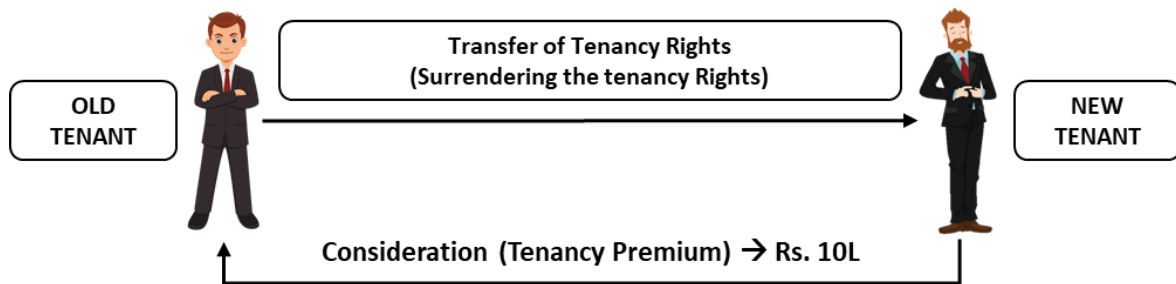
## 4. **STOCK TRANSFERS OR BRANCH TRANSFERS QUALIFY AS SUPPLY**

Moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer (the two not being related persons or distinct persons) does not constitute a supply as there is no consideration involved [Circular No. 47/21/2018 GST dated 08.06.2018].

## 5. ACTIVITIES/TRANSACTIONS TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES.

### **TENANCY RIGHTS / PAGADI**

- The activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST.
- It is a form of lease or renting of property.



- **STAMP DUTY REGISTRATION CHARGES - ✓**
- **GST ON RS. 10L → ✓**
- **THE TRANSFER OF TENANCY RIGHTS TREATED AS SALE OF LAND/BUILDING → X**

### **PRIORITY SECTOR LENDING CERTIFICATES (PSLCs)**

- RBI's FAQ on PSLCs have construed PSLCs to be in the nature of goods,
- PSLC are akin to freely tradeable duty scrips, Renewable Energy Certificates, REP license or replenishment license, which earlier attracted VAT.
- In GST, there is no exemption to trading in PSLCs. Thus, PSLCs are taxable as goods. GST payable on the certificates would be available as ITC to the bank buying the certificates [Circular No. 34/08/2018 GST dated 01.03.2018].

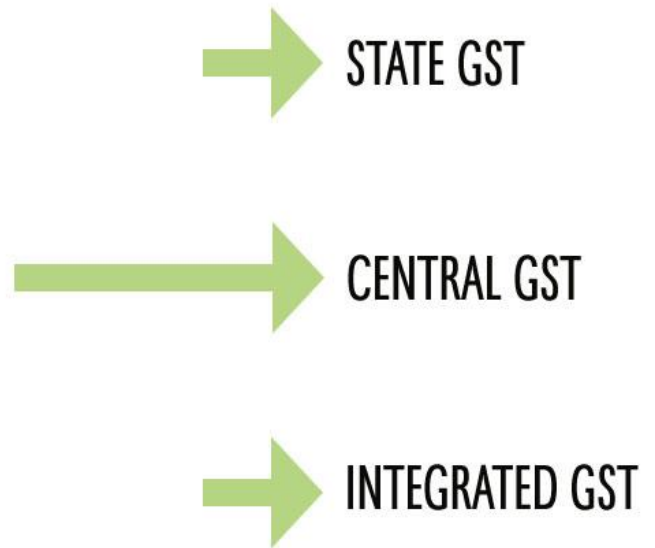
## 6. **LEVABILITY OF GST ON AMOUNTS/FEEES CHARGED BY CONSUMER DISPUTES REDRESSAL COMMISSION**

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

Consequently, fee paid by litigants while registering complaints to said Commissions are not leviable to GST. Any penalty in cash imposed by or amount paid to these Commissions will also not attract GST.

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## CHARGES OF GST





## 1. LIST OF SERVICES TAXABLE UNDER REVERSE CHARGE, I.E. THE SERVICES WHERE TAX (CGST) IS PAYABLE BY THE RECIPIENT:

Sr. No.	CATEGORY OF SUPPLY OF GST	SUPPLIER OF SERVICE	RECIPIENT OF SERVICE
5A.	Services supplied by the Central Government, State Government, Union Territory or Local Authority by way of renting of immovable property to a person registered under GST	Central Government, State Government, Union Territory or Local Authority	Any person registered under GST
10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI)	Members of Overseeing Committee constituted by the Reserve Bank of India (RBI)	Reserve Bank of India (RBI)
<p>The diagram illustrates the flow of services. On the left, three stylized human figures in business suits represent the 'MEMBERS OF OVERSEEING COMMITTEE TO RESERVE BANK OF INDIA (RBI)'. A large black arrow labeled 'PROVIDES SERVICES' points from these members to the right. On the right, there is an image of the Reserve Bank of India building with its logo, labeled 'RESERVE BANK OF INDIA (RBI)'.</p>			
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership (LLP) firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm	A banking company or a NBFC, located in the taxable territory

## 2. PERSON PROVIDING EXEMPTED SERVICE IS ELIGIBLE FOR COMPOSITION SCHEME:

- (i) 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 subject to the fulfillment of all other conditions specified therein.
- (ii) Further, while computing aggregate turnover of such person 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 [Order No. 01/2017 CT dated 13.10.2017].

### 3. **CLASSIFICATION OF CUT PIECES OF FABRICS UNDER GST (UNSTITCHED SALWAR SUITS)**

- 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. 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.
- 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 [Circular No. 13/13/2017 GST dated 27.10.2017]

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EXEMPTION OF GST

## LIST OF SERVICES

**EXEMPT**

UNDER



### 1. ENTRY 4. SERVICE BY ANY **GOVERNMENT / UT / LA / GA** IN RELATION TO MUNICIPALITY FUNCTIONS

Services by a ~~Government, a local authority or a~~ governmental authority by way of any activity in relation to any function entrusted to a Municipality under article 243W of the Constitution.

### 2. ENTRY 5. SERVICES BY GOVERNMENTAL AUTHORITY / **CENTRAL GOVERNMENT/ STATE GOVERNMENT / LOCAL AUTHORITY / UNION TERRITORY** IN RELATION TO PANCHAYAT FUNCTIONS

Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution.



Service Provider



Panchayat

### 3. ENTRY 9D. SERVICES BY AN OLD AGE HOME RUN BY :

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

### 4. ENTRY 10A. SERVICES SUPPLIED BY ELECTRICITY DISTRIBUTION UTILITIES BY WAY OF CONSTRUCTION, ERECTION, COMMISSIONING, OR INSTALLATION OF INFRASTRUCTURE FOR EXTENDING ELECTRICITY DISTRIBUTION NETWORK UPTO THE TUBE WELL OF THE FARMER OR AGRICULTURALIST FOR AGRICULTURAL USE.

### 5. ENTRY 14. RENTING OF HOTEL, GUEST HOUSE, INN, CLUB, CAMPSITE, ETC.

Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having **declared Actual** tariff of a unit of accommodation below Rs. 1,000 per day or equivalent.

**EXAMPLE:** If Declared Tariff Value is Rs. 1,200. Actual rent charged is Rs. 800

→ **EXEMPTION AVAILABLE. GST will not be charged.**

**NOTE:** Hostel accommodation provided by trusts

- (1) Hostel accommodation services provided by trusts to students do not fall within the ambit of charitable activities as defined above.
- (2) However, accommodation service in hostels including such services provided by trusts having **Declared tariff** below Rs. 1,000 per day is exempt under Entry 14 of the Notification [Circular No. 32/06/2018-GST dated 12.02.2018].

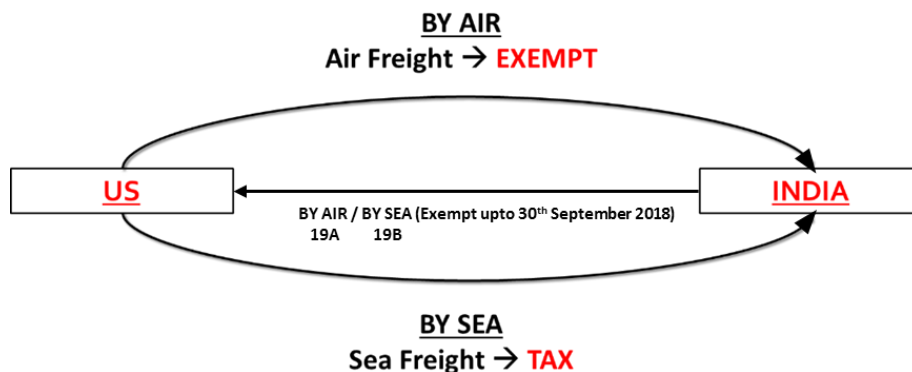
#### 6. **19A. TRANSPORTATION OF GOODS BY AN AIRCRAFT FROM INDIA TO OUTSIDE INDIA**

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

#### 7. **19B. TRANSPORTATION OF GOODS BY VESSELS FROM INDIA TO OUTSIDE INDIA.**

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

**COMMON NOTE FOR 19A & 19B:** Nothing contained in this Serial numbers shall apply after the 30<sup>th</sup> day of September, 2018.



#### 8. **ENTRY 24A. SERVICES BY WAY OF WAREHOUSING OF MINOR FOREST PRODUCE.**

#### 9. **ENTRY 29A. LIFE INSURANCE SERVICES TO COAST GUARD**

Service of Life Insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Scheme of the Central Government.

#### 10. **ENTRY 31A. SERVICES BY COAL MINES PROVIDENT FUND ORGANISATION TO PERSONS GOVERNED BY THE COAL MINES PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT, 1948.**

#### 11. **ENTRY 31B. SERVICES BY NATIONAL PENSION SYSTEM (NPS) TRUST TO ITS MEMBERS AGAINST CONSIDERATION IN THE FORM OF ADMINISTRATIVE FEE.**

#### 12. **ENTRY 34A. SERVICES SUPPLIED BY CENTRAL GOVERNMENT, STATE GOVERNMENT, UNION TERRITORY TO THEIR UNDERTAKINGS OR PUBLIC SECTOR UNDERTAKINGS(PSUS) BY WAY OF GUARANTEEING THE LOANS TAKEN BY SUCH UNDERTAKINGS OR PSUS FROM THE FINANCIAL INSTITUTIONS.**

#### 13. **GENERAL INSURANCE SERVICES**

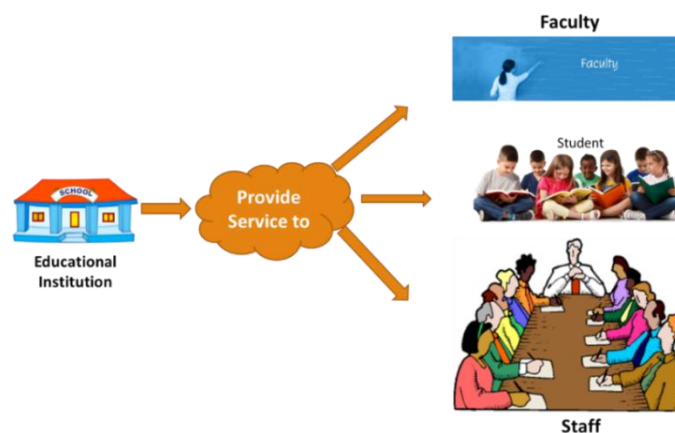
(a) **Restructured Weather Based Crop Insurance Scheme (RWICIS),**

**(b) Pradhan Mantri Fasal Bima Yojana (PMFBY)**

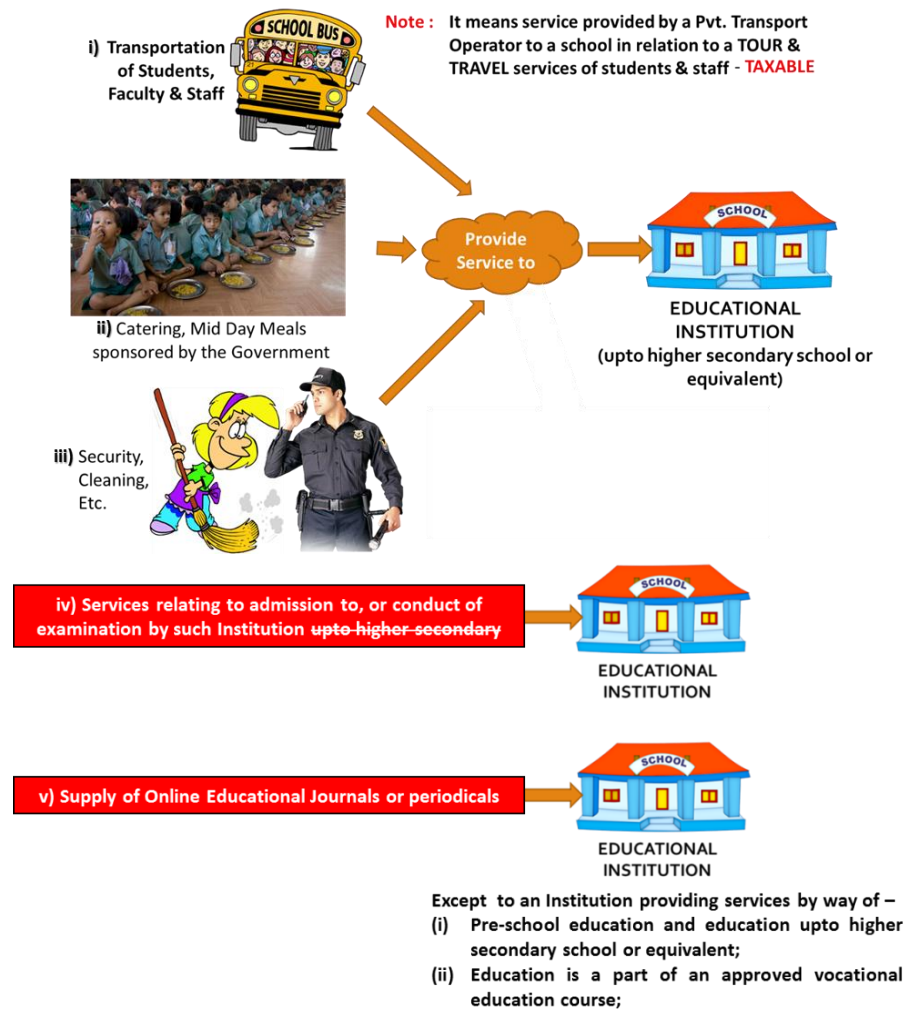
14. **ENTRY 47A. SERVICES BY WAY OF LICENSING, REGISTRATION AND ANALYSIS OR TESTING OF FOOD SAMPLES SUPPLIED BY THE FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA (FSSAI) TO FOOD BUSINESS OPERATORS.**
15. **ENTRY 53A. FUMIGATION IN AWARE HOUSE OF AGRICULTURAL PRODUCE**
16. **ENTRY 55A. SERVICES BY WAY OF ARTIFICIAL INSEMINATION OF LIVESTOCK (OTHER THAN HORSES).**
17. **ENTRY 65B. SERVICES SUPPLIED BY A STATE GOVERNMENT TO EXCESS ROYALTY COLLECTION CONTRACTOR (ERCC) BY WAY OF ASSIGNING THE RIGHT TO COLLECT ROYALTY ON BEHALF OF THE STATE GOVERNMENT ON THE MINERAL DISPATCHED BY THE MINING LEASE HOLDERS.**

However, at the end of the contract period, ERCC shall submit an account to the State Government and certify that amount of GST deposited by mining lease holders on royalty is more than GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of GST paid by mining lease holders is less than the amount of GST exempted, the exemption shall be restricted to such amount as is equal to the amount of GST paid by the mining lease holders and the ERCC shall pay the difference between GST exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and GST paid by the mining lease holders on royalty.

Explanation- Mining lease holder means a person who has been granted mining lease, quarry lease or license or other mineral concession under the Mines and Minerals (Development and Regulation) Act, 1957 the rules made thereunder or the rules made by a State Government under section 15(1) of the Act.

**18. SERVICES TO & BY EDUCATIONAL INSTITUTION****a. Services Provided BY Educational Institution****aa. Conduct of Entrance Examination against Consideration in the form of Exam Fee.****b. Services Provided TO Educational Institution**

## AMENDMENT NOTES - CHAPTER 4 – EXEMPTION OF GST

**MEANING OF EDUCATIONAL INSTITUTION [Para 2(y) of Notification No. 12/2017-CT (Rate)]:**

“Educational Institution” means an institution providing services by way of –

- (i) Pre-school education and education up to higher secondary school or equivalent;
- (ii) Education as a part of curriculum for obtaining a qualification recognised by any law for the time being in force.
- (iii) Education as a part of an approved vocational education course.

are exempt.

**MEANING OF APPROVED VOCATIONAL EDUCATION COURSE [Para 2(h) of Notification No. 12/2017-CT (Rate)]:** “Approved Vocational Education Course” means-

- (i) A course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or
- (ii) A Modular Employable Soft Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship.

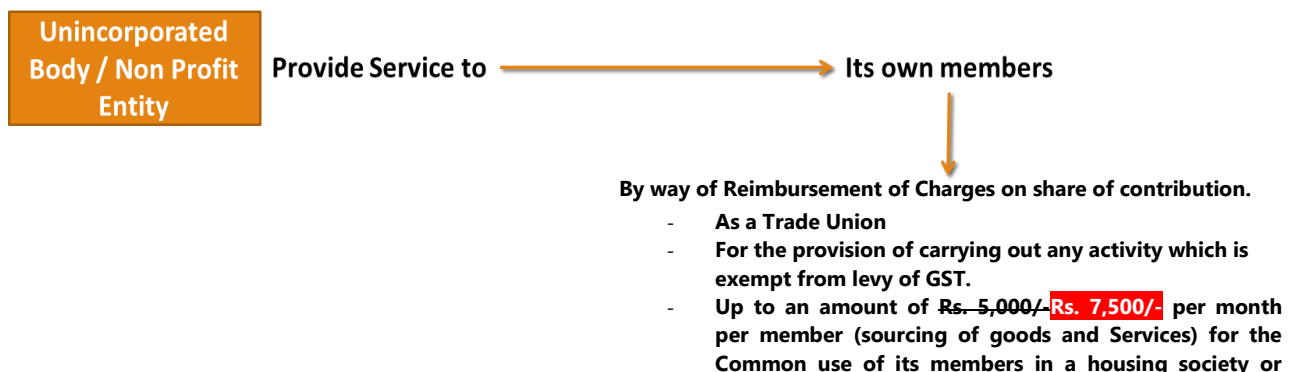
**DO YOU KNOW ?**

- (1) Activities of a school, college or an institution run by a trust which do not come within the ambit of charitable activities will not be exempt under Entry 1 of the Notification. However, such activities may be exempt under Entry 66 of the Notification provided the school, college or institution qualifies as an 'educational institution.

- (2) A course in a college leads to dual qualification only one of which is recognized by law. Would service provided by the college by way of such education be covered by the exemption notification? Provision of dual qualifications is in the nature of two separate services as the curriculum and fees for each of such qualifications are prescribed separately. Service in respect of each qualification would, therefore, be assessed separately.
- (3) If an artificial bundle of service is created by clubbing two courses together, only one of which leads to a qualification recognized by law, then by application of the rule of determination of taxability of a supply which is not bundled in the ordinary course of business, it shall be treated as a mixed supply as per provisions contained in section 2(74) read with section 8 of the CGST Act, 2017. The taxability will be determined by the supply which attracts highest rate of GST.
- (4) If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt. [covered under item (a) of entry 66 of the Notification].
- (5) If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, i.e. the institution outsources the activity to an outside contractor, then it is a supply of service to the concerned educational institution and attracts GST\*\*.

**NOTE:**

- (1) This would mean that private coaching centres or other unrecognized institutions, though self-styled as educational institutions, would not be treated as educational institutions under GST and thus cannot avail exemptions available to an educational institution.
- (2) Private ITIs qualify as an educational institution if the education provided by these ITIs is approved as vocational educational course as defined above.
- (3) Services provided by a Government ITI to individual trainees/students, is exempt under Entry 6 as these are in the nature of services provided by the Central or State Government to individuals.

**19. SERVICES BY UNINCORPORATED BODY OR NON PROFIT ENTITY TO ITS OWN MEMBERS****NOTE:****Monthly limit of Rs. 7,500 referred in Entry 77**

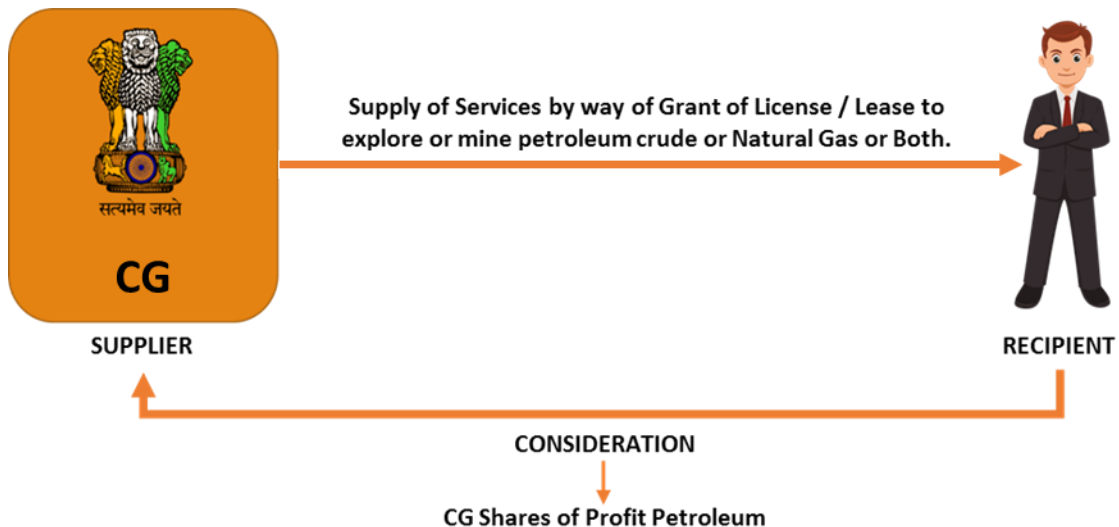
- Statutory dues such as property tax, electricity charges etc. forming part of the monthly maintenance bill raised by the society on its members would be excluded while computing the aforesaid monthly limit of Rs. 7,500
- If the monthly bill is say Rs. 8,000/- (and the same is on account of services for common use of its members), exemption is available up to an amount of Rs. 7,500/- and GST would be applicable on the amount in excess of Rs. 7,500/- (viz. Rs. 500 in this case).



- 20. ENTRY 77A. SERVICES PROVIDED BY AN UNINCORPORATED BODY OR A NON-PROFIT ENTITY REGISTERED UNDER ANY LAW FOR THE TIME BEING IN FORCE, ENGAGED IN,-**
- (1) ACTIVITIES RELATING TO THE WELFARE OF INDUSTRIAL OR AGRICULTURAL LABOUR OR FARMERS; OR**
  - (2) PROMOTION OF TRADE, COMMERCE, INDUSTRY, AGRICULTURE, ART, SCIENCE, LITERATURE, CULTURE, SPORTS, EDUCATION, SOCIAL WELFARE, CHARITABLE ACTIVITIES AND PROTECTION OF ENVIRONMENT,**
- TO ITS OWN MEMBERS AGAINST CONSIDERATION IN THE FORM OF MEMBERSHIP FEE UPTO AN AMOUNT OF ` 1000/- PER MEMBER PER YEAR.**
- 21. ENTRY 79A. SERVICES BY WAY OF ADMISSION TO A PROTECTED MONUMENT SO DECLARED UNDER THE ANCIENT MONUMENTS & ARCHAEOLOGICAL SITES & REMAINS ACT, 1958 OR ANY STATE ARCHAEOLOGICAL & REMAINS ACT 1958, OR ANY STATE ACTS FOR THE TIME BEING IN FORCE**

### SOME OTHER EXEMPTION NOTIFICATION

- 22. GRANT OF LICENSE OR LEASE TO EXPLORE OR MINE PETROLEUM CRUDE OR NATURAL GAS OR BOTH**



- 23. ROYALTY AND LICENCE FEE INCLUDED IN TRANSACTION VALUE UNDER RULE 10(1)(C) OF CUSTOMS VALUATION RULES – EXEMPTION FROM ICGST [NOTIFICATION NO.6/2018-IT (RATE) DATED 25-01-2018]**
- 24. REVERSE CHARGE ON PROCUREMENTS MADE FROM UNREGISTERED PERSONS DEFERRED TILL SEPTEMBER 30, 2019**

## SERVICES EXEMPT SPECIFICALLY FROM IGST

### 25. SERVICES RECEIVED FROM A PROVIDER OF SERVICE LOCATED IN A NON- TAXABLE TERRITORY

Services received from a provider of service located in a non- taxable territory by –

- a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
- b) an entity registered under section 12AA of the Income-tax Act, 1961 for the purposes of providing charitable activities; or
  - (ba) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of-
    - (i) pre-school education and education up to higher secondary school or equivalent; or
    - (ii) education as a part of an approved vocational education course;
- c) a person located in a non-taxable territory.

**EXCEPTIONS:** However, the exemption shall not apply to –

- (i) online information and database access or retrieval services received by persons specified in entry (a) or entry (b);\* or
- (ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry.

### 26. SUPPLY OF SERVICES HAVING PLACE OF SUPPLY IN NEPAL OR BHUTAN, AGAINST PAYMENT IN INDIAN RUPEES

### 27. SERVICES SUPPLIED BY AN ESTABLISHMENT OF A PERSON IN INDIA TO ANY ESTABLISHMENT OF THAT PERSON OUTSIDE INDIA, WHICH ARE TREATED AS ESTABLISHMENTS OF DISTINCT PERSONS [IN ACCORDANCE WITH EXPLANATION 1 IN SECTION 8 OF THE IGST ACT] PROVIDED THE PLACE OF SUPPLY OF THE SERVICE IS OUTSIDE INDIA [IN ACCORDANCE WITH SECTION 13 OF IGST ACT].

### 28. IMPORT OF SERVICES BY UNITED NATIONS OR A SPECIFIED INTERNATIONAL ORGANISATION FOR OFFICIAL USE OF THE UNITED NATIONS OR THE SPECIFIED INTERNATIONAL ORGANISATION.

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.

### 29. IMPORT OF SERVICES BY FOREIGN DIPLOMATIC MISSION OR CONSULAR POST IN INDIA, OR DIPLOMATIC AGENTS OR CAREER CONSULAR OFFICERS POSTED THEREIN SHALL BE EXEMPT FROM IGST, SUBJECT TO THE CONDITIONS, -

I) THAT THE FOREIGN DIPLOMATIC MISSION OR CONSULAR POST IN INDIA, OR DIPLOMATIC AGENTS OR CAREER CONSULAR OFFICERS POSTED THEREIN, ARE

**ENTITLED TO EXEMPTION FROM INTEGRATED TAX, AS STIPULATED IN THE CERTIFICATE ISSUED BY THE PROTOCOL DIVISION OF THE MINISTRY OF EXTERNAL AFFAIRS, BASED ON THE PRINCIPLE OF RECIPROCITY:**

**II) THAT THE SERVICES IMPORTED 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 OR HER FAMILY.**

**III) THAT IN CASE THE PROTOCOL DIVISION OF THE MINISTRY OF EXTERNAL AFFAIRS, 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:**

**IV) THAT THE EXEMPTION FROM THE WHOLE OF THE INTEGRATED TAX 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.**

**PLACE OF SUPPLY**

# PLACE OF SUPPLY



**UNDER GST**

## 1. PASSENGER TRANSPORTATION SERVICE [SECTION 12(9)]

NATURE OF SUPPLY	PLACE OF SUPPLY	
	RECIPIENT IS REGISTERED	RECIPIENT IS UNREGISTERED
Passenger transportation	Location of the recipient	Location where the passenger embarks on the conveyance for a continuous journey [See definition]
Issue of right to passage for future use-point of boarding not known at the time of issue of right		a) If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person. b) In other cases, the location of the supplier of services

The return journey is treated as a separate journey, even if the tickets for onward and return journey are issued at the same time.

## 2. ADVERTISEMENT SERVICE TO THE GOVERNMENT [SECTION 12(14)]

NATURE OF SUPPLY	PLACE OF SUPPLY
Advertisement service to the Central Government / State Government / Statutory body / Local authority meant for the State / Union Territory identified in contract or agreement	Each of such States/ Union territories where the advertisement is broadcasted / run / played / dissemination.

The value of such supplies is in proportion to the services provided by way of dissemination in the respective States/Union territories determined in terms of the contract or agreement entered into in this regard. **However, in the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of advertisement services attributable to different States/Union territories will be computed in accordance with rule 3 of IGST Rules, 2017. The provisions of the said rule are tabulated below:**

SR. NO.	TYPE OF ADVERTISEMENT	FACTOR WHICH DETERMINES THE PROPORTIONATE VALUE OF SERVICE ATTRIBUTABLE TO THE DISSEMINATION IN EACH STATE/UNION TERRITORY
1.	Advertisements in newspapers and publications	Amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are

		published in each State/Union territory. (Refer Example 1)
2.	Advertisements through printed material like pamphlets, leaflets, diaries, calendars, T-shirts, etc.	Amount payable for the distribution of a specific number of such material in each State/Union territory (Refer Example 2)
3.	Advertisements in hoardings (other than those on trains)	Amount payable for the hoardings located in each State/ Union territory (Refer Example 3)
4.	Advertisements on trains	Length of the railway track in each State/Union Territory, for that train (Refer Example 4)
5.	Advertisements on the back of utility bills of oil and gas companies, etc	Amount payable for the advertisements on bills pertaining to consumers having billing addresses in each State/Union territory.
6.	Advertisements on railway tickets	Number of Railway Stations in each State/Union territory (Refer Example 5)
7.	Advertisements on radio stations	Amount payable to such radio station, which by virtue of its name is part of each State/Union territory (Refer Example 6)
8.	Advertisement on television channels	<p>Number of viewers of such channel in each State/ union Territory.</p> <p>Viewership can be ascertained from the channel viewership figures published by the Broadcast Audience Research Council. Figures for the last week of a given quarter will be used for calculating viewership for the succeeding quarter.</p> <p>Where the channel viewership figures relate to a region comprising of more than one State/Union territory, the viewership figures for a State/ Union territory of that region, will be calculated in ratio of the populations of that State/Union territory, as determined in the latest Census. (Refer</p>

		Example 7)
<b>9.</b>	Advertisements in cinema halls	Amount payable to a cinema hall or screens in a multiplex in each State/ Union territory. )Refer Example 8)
<b>10</b>	Advertisements on internet	<p>Number of internet subscribers in each State/Union Territory</p> <p>Internet subscribers can be ascertained from the internet subscriber figures published by the Telecom Regulatory Authority of India (TRAI). Figures for the last quarter of a given financial year will be used for calculating the number of internet subscribers for the succeeding financial year.</p> <p>Where the internet subscriber figures relate to a region comprising of more than one State/Union territory, the subscriber figures for a State/Union territory of that region shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census. (Refer Example 9)</p>
<b>11.</b>	. Advertisements through SMS	<p>Number of telecom subscribers in each State/Union Territory</p> <p>Telecom subscribers in a telecom circle can be ascertained from the telecom subscribers figures published by the TRAI. Figures for a given quarter will be used for calculating the subscribers for the succeeding quarter.</p> <p>Where such figures relate to a telecom circle comprising of more than one State/Union territory, the subscriber figures for that State/Union territory shall be calculated in the ratio of the populations of that State/Union territory, as determined in the latest census. (Refer Examples 10-13)</p>

**EXAMPLE 1**

ABC is a government agency which deals with 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.

The place of supply of this service shall be in the Union territory of Delhi, and the States of Maharashtra, Uttar Pradesh and Rajasthan. 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. DEF should issue separate State-wise and Union territory-wise invoices based on the editions.

**EXAMPLE 2**

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 Rs. 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.

The place of supply of this service is in Haryana, Uttar Pradesh and Rajasthan. 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. Separate invoices will have to be issued State-wise by GH to ABC indicating the value pertaining to that State, i.e., Rs. 20,000 - Haryana, Rs. 50,000 - Uttar Pradesh and Rs. 30,000 - Rajasthan.

**EXAMPLE 3**

ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the 4 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.

The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the 4 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. 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.

#### **EXAMPLE 4**

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](http://www.indianrail.gov.in). 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. 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 Rs. 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.

In the given example, the State-wise and Union territory-wise breakup works out to Delhi (Rs. 5,000), Haryana (Rs. 5,000), Uttar Pradesh (Rs. 20,000), Madhya Pradesh (Rs. 20,000), Maharashtra (Rs. 30,000), Karnataka (Rs. 30,000) and Goa (Rs. 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.

#### **EXAMPLE 5**

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.

The place of supply of this service is in Madhya Pradesh and Chattisgarh. 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](http://www.indianrail.gov.in).

Let us assume that this ratio is 713:251 and the total bill is Rs. 9,640. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to Rs.7,130 and Rs. 2,510 respectively. Separate invoices will have to be issued State-wise by MN to ABC indicating the value pertaining to that State.

#### **EXAMPLE 6**

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.

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. 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.

### **EXAMPLE 7**

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.

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 —

I. 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.

II. 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.

III. 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.

IV. 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.

V. 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).

VI. 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 Rs. 20,00,000, the State-wise breakup is Rs. 5,00,000 (Delhi), Rs. 9,00,000 (Uttar Pradesh) Rs. 1,00,000 (Uttarakhand), Rs. 4,00,000 (Bihar) and Rs. 1,00,000 (Jharkhand). 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.

### **EXAMPLE 8**

ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the States of Tamil Nadu and Telangana. 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. Separate invoices will have to be issued State-wise and Union territory-wise by ST to ABC indicating the value pertaining to that State.

### **EXAMPLE 9**

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](http://www.trai.gov.in). These figures show the service area wise internet subscribers. There are 22 service areas. Some relate to individual States some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas.

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.). 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. 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. 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.

### **EXAMPLE 10**

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.

### **EXAMPLE 11**

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. Separate invoices will have to be issued State-wise by the service provider to ABC indicating the value pertaining to that State.

**EXAMPLE 12**

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 -

- I. obtain the subscriber figures for Maharashtra circle and Mumbai circle and add them to obtain a combined figure of subscribers;
- II. obtain the figures of the population of Maharashtra and Goa from the latest census and derive the ratio of these two populations
- III. 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;
- IV. 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.

**EXAMPLE 13**

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.

**3. TAXABILITY OF SATELLITE LAUNCH SERVICES**

Circular No. 2/1/2017 IGST dated 27.09.2017 has clarified that place of supply of satellite launch services supplied by ANTRIX Corporation Limited, a wholly owned Government of India Company, to international customers would be outside India in terms of section 13(9) and such supply which meets the requirements of section 2(6), will constitute export of service and shall be zero rated in accordance with section 16.1

Where satellite launch service is provided to a person located in India, the place of supply of satellite launch service would be governed by section 12(8)2 and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

6

## Time of Supply

**TIME OF  
SUPPLY  
UNDER GST**



## 1. **EXEMPTION FROM PAYMENT OF TAX ON ADVANCES RECEIVED FOR SUPPLY OF GOODS –**

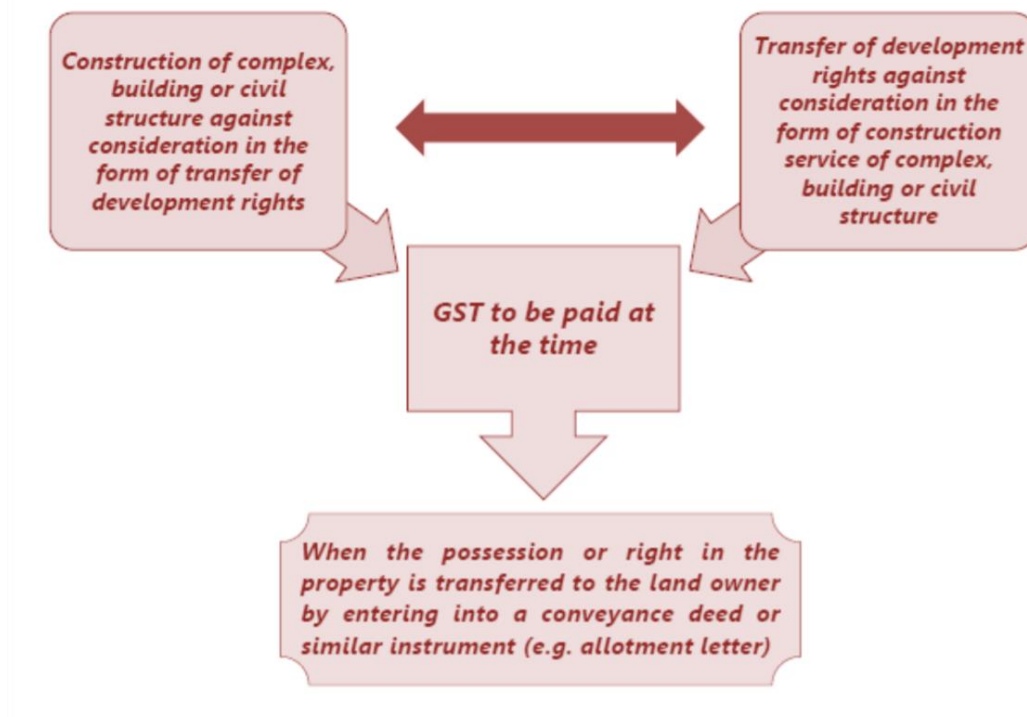
Time of supply is linked with payment of tax. Liability to pay tax arises at the time of supply and the same can be paid by the prescribed due date.

In exercise of the powers conferred by section 1481, the Central Government, on the recommendation of the GST Council, has issued Notification No. 66/2017 CT dated 15.11.2017 to specify that a registered person (excluding composition supplier) should pay GST on the outward supply of goods at the time of supply as specified in section 12(2)(a) i.e., date of issue of invoice or the last date on which invoice ought to have been issued in terms of section 31.

In simple words, all taxpayers (except composition suppliers) are exempted from paying GST at the time of receipt of advance in relation to supply of goods. The entire GST shall be payable only when the invoice for the supply of such goods is issued or ought to have been issued.

A composition supplier has to pay, in lieu of tax payable by him, an amount calculated at the prescribed rate applied on his 'turnover in the State/Union Territory' for a quarter. Therefore, the composition supplier is not required to pay any tax on advance received as the same does not form part of taxable supplies and, in turn, also does not form part of the 'turnover in a State/Union Territory' at the end of the quarter (tax period).

## 2. **SPECIAL PROCEDURE UNDER SECTION 148 FOR PAYMENT OF TAX IN CASE OF JOINT DEVELOPMENT AGREEMENTS IN REAL ESTATE SECTOR**



Mr. X enters into a joint development agreement with SM Constructions Ltd. on 12th January whereby the development right over the plot of land owned by Mr. X is transferred to SM Constructions to build a residential complex. SM Constructions agrees to transfer 3 flats out of

20 flats to be built in the residential complex to Mr. X as a consideration for transfer of development rights. The other details are:

- + Land development rights are transferred on 31st January
- + Construction begins on 1st April
- + Construction of 3 flats gets completed on 30th June
- + Construction of entire complex gets completed on 30th November
- + Allotment letter for 3 flats issued to Mr. X on 25th December

By virtue of the special procedure notified under section 148, payment of GST on transfer of development rights by Mr. X and supply of construction service by SM Constructions to Mr X is postponed to the date of allotment letter i.e., 25th December.

**INPUT  
TAX**



under



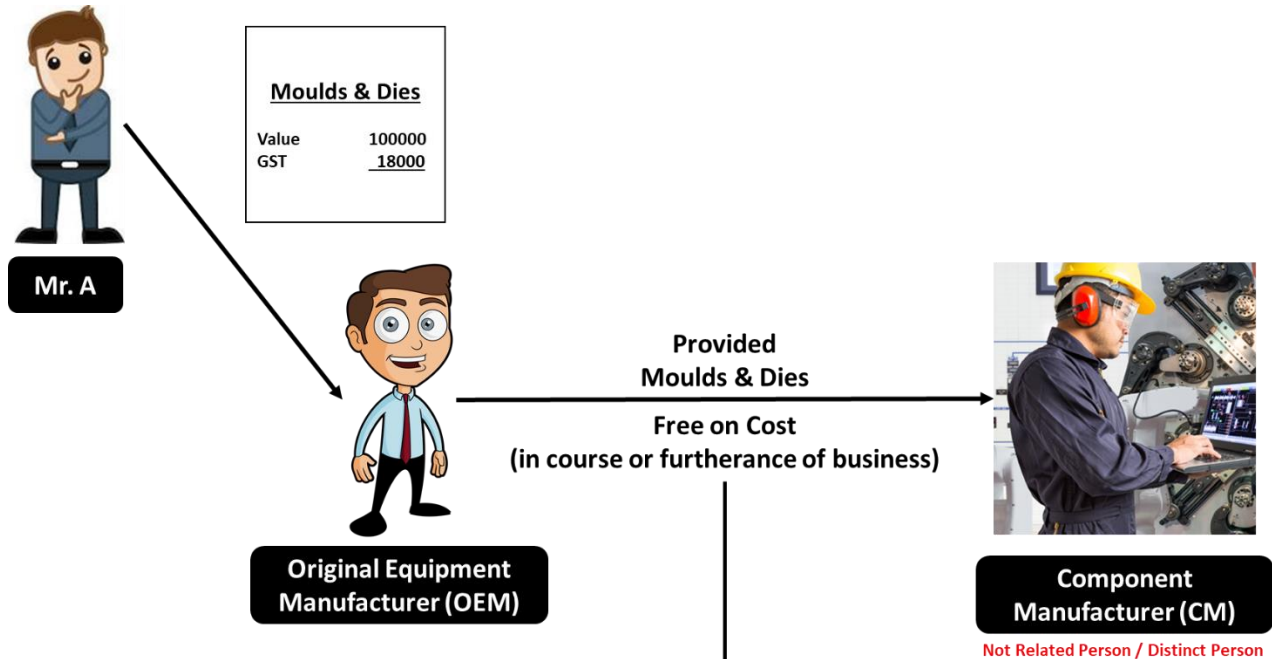


## 1. CONDITIONS FOR AVAILING ITC U/S 16(1)(b)

→ Goods/services to be used for business purposes

### ITC ON MOULDS AND DIES PROVIDED BY THE ORIGINAL EQUIPMENT MANUFACTURER (OEM) TO COMPONENT MANUFACTURER ON FOC BASIS

#### CASE 1



#### IMPACT ON ITC

- NO SUPPLY BECAUSE NO CONSIDERATION
- NO REQUIREMENT OF REVERSAL OF ITC BY OEM

#### IMPACT ON VALUATION

- WHILE CALCULATING THE VALUE OF SUPPLY MADE BY THE COMPONENT MANUFACTURE
- VALUE OF MOULDS AND DIES SHALL NOT BE ADDED TO VALUE PF SUCH SUPPLY
- BECAUSE THE COST OF SUCH MOULD/DIES WAS NOT TO BE INCURRED BY THE COMPONENT MANUFACTURER.

**CASE 2****IF IN THE ABOVE CASE,**

There was a contract between OEM and Component Manufacturer for supply of components made by using moulds/dies belonging to the Component Manufacturer, but the Mould/Dies are provided by OEM to Component Manufacturer on FOC basis.

**IMPACT ON ITC**

- **ITC WILL BE REVERSED BY OEM** BECAUSE THE SUPPLY OF MOULD/DIES BY OEM TO COMPONENT MANUFACTURER ON FOC BASIS WILL NOT BE CONSIDERED AS SUPPLY IN COURSE OR FURTHERANCE OF BUSINESS

**AUTHORS NOTE**

- **IN CASE 2, THE CONTRACT SPECIFIED THAT THE MOULDS / DIES TO BE USED BELONGS TO COMPONENT MANUFACTURER AND HENCE NOT CONSIDERED TO BE SUPPLIED AS IN COURSE OR FURTHERANCE OF BUSINESS.**

**IMPACT ON VALUATION**

- **WHILE CALCULATING THE VALUE OF SUPPLY MADE BY THE COMPONENT MANUFACTURE**
- **AMORTISED COST OF THE MOULD/DIES SHALL BE ADDED TO THE VALUE OF COMPONENT**

## **2. PAYMENT FOR THE INVOICE TO BE MADE WITHIN 180 DAYS [Second Proviso to Section 16(2) read with Rule 37 of CGST Rules]**

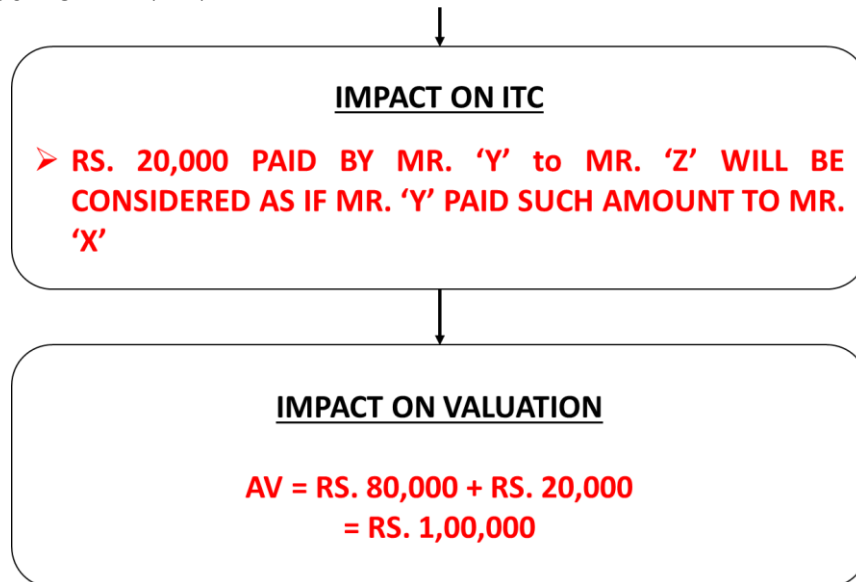
**EXCEPTIONS –**

- a) Supplies on which tax is payable under reverse charge
- b) Deemed supplies without consideration
- c) Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply**

**Under Point b) & c) the Value of Supply is deemed to have been paid.**

**EXAMPLE**

- 1<sup>st</sup> July 2018 → Mr. 'X', a supplier supplies Goods to Mr. 'Y' [Invoice issued on same date]
- Mr. 'X' was a debtor of Mr. 'Z' for Rs. 20,000.
- 10<sup>th</sup> July, 2018 → Mr. 'Y' discharges the liability of Mr. 'X' & paid Rs. 20,000 to Mr. 'Z' on behalf of Mr. 'X'
- Mr. 'X' reduces the amount of Rs. 20,000 from the value of of goods & charged only Rs. 80,000 from Mr. 'Y'.

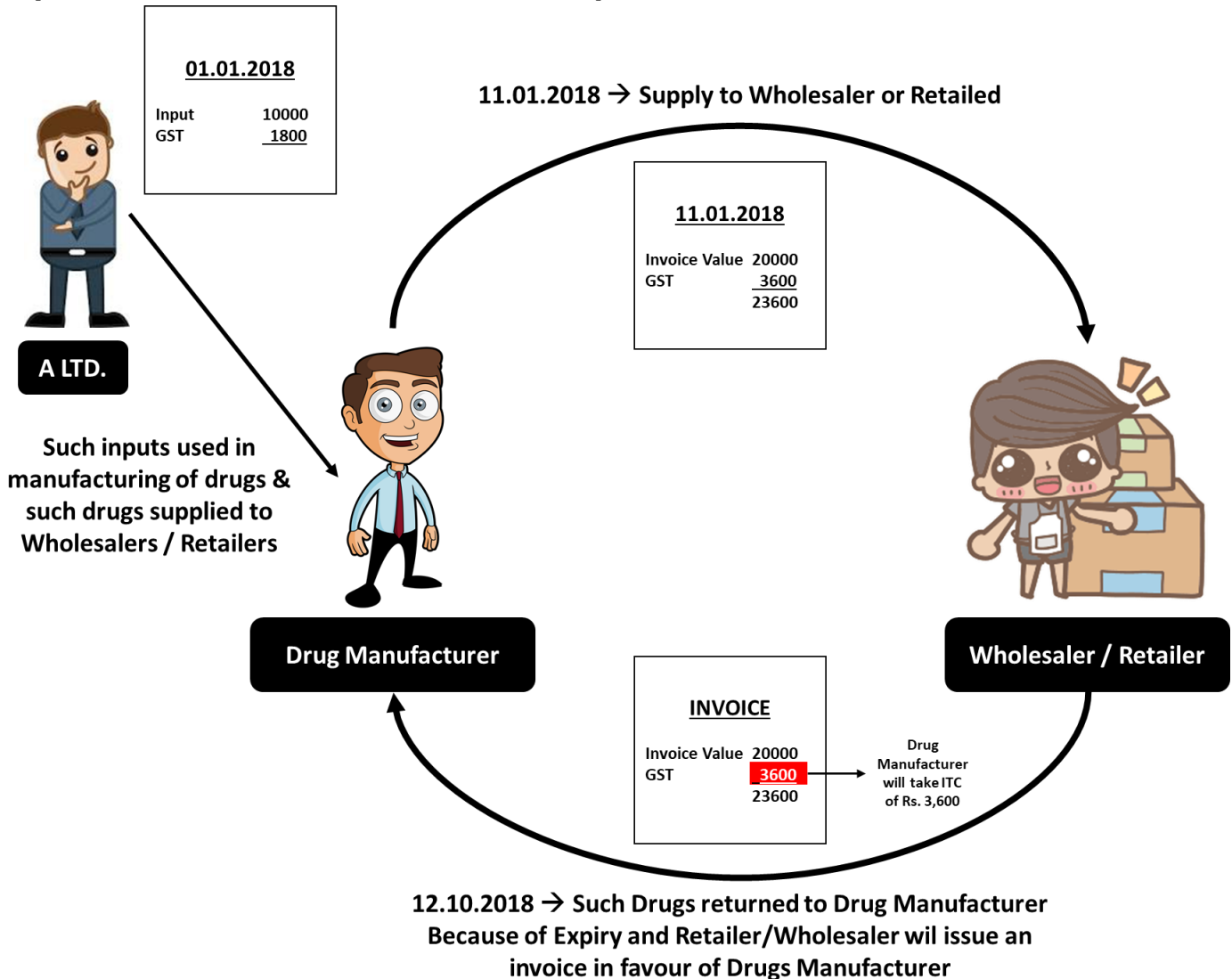


### 3. BLOCKED CREDIT

#### RETURN OF TIME EXPIRED MEDICINES/DRUGS

Where the time expired medicines/drugs (goods) returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h) of the CGST Act. It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

The clarification may also be applicable to return of goods for reasons other than being time expired. [Circular No. 72/46/2018 GST dated 26.10.20184 ].



**On 23.11.2018 → Drugs Manufacturer Destroyed such drugs.**

#### IMPACT ON ITC

**→ Drugs Manufacturer will reverse ITC of Rs. 3,600 not Rs. 1,800**

## IMPACT ON TAX INVOICE, CREDIT NOTE & BILL OF SUPPLY

In case of return of time expired medicines/drugs, either of the following two options can be followed:

### (A) RETURN OF TIME EXPIRED GOODS TO BE TREATED AS FRESH SUPPLY

In case the person returning the time expired goods is:

- (i) **A registered person (other than a composition taxpayer):** he may, at his option, return the said goods by treating it as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler/manufacturer, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfilment of conditions specified in section 16 of the CGST Act.
- (ii) **A composition supplier:** he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. No ITC will be available to recipient of return supply.
- (iii) **An unregistered person:** he may return the said goods by issuing any commercial document without charging any tax on the same.

### (B) RETURN OF TIME EXPIRED GOODS BY ISSUING CREDIT NOTE

The manufacturer/wholesaler who has supplied the goods to the wholesaler/retailer has the option to issue a credit note in relation to the time expired goods returned.

If the credit note is issued within the specified time limit –

- (i) September following the end of the financial year in which such supply was made, or
- (ii) the date of furnishing of the relevant annual return,

whichever is earlier; the tax liability may be adjusted by the supplier, subject to the condition that the person returning the time expired goods has either not availed the ITC or if availed has reversed the ITC so availed against the goods being returned.

However, if said time limit has lapsed, a credit note may still be issued by the supplier for such return of goods but the tax liability cannot be adjusted by him in his hands.

Where such returned time expired goods are destroyed by the manufacturer, he/she is required to reverse the ITC attributable to the manufacture of such goods, in terms of section 17(5)(h) of the CGST Act.

DATE OF SUPPLY*	DATE OF RETURN**	TREATMENT IN TERMS OF TAX LIABILITY & CREDIT.
01.07.2017	20.09.2018	Credit note will be issued by supplier (manufacturer/ wholesaler) and the same to be uploaded by him on the common portal. Subsequently, tax liability can be adjusted by such supplier provided the recipient (wholesaler / retailer) has either not availed the ITC or if availed has reversed the ITC
01.07.2017	20.10.2018	Credit note will be issued by the supplier (manufacturer / wholesaler) but there is no requirement to upload the same on the common portal. Subsequently tax liability cannot be adjusted by such supplier.

\* of goods from manufacturer/ wholesaler to wholesaler/ retailer

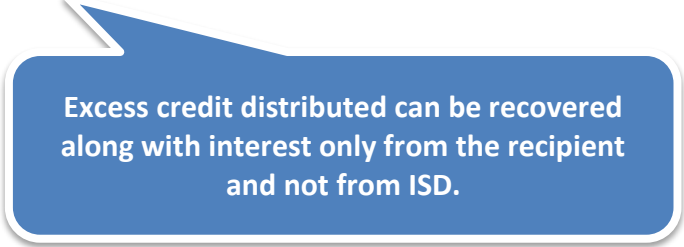
\*\*of time expired goods from retailer/ wholesaler to wholesaler / manufacturer

The clarification may also be applicable to return of goods for reasons other than being time expired.

[Circular No. 72/46/2018 GST dated 26.10.2018].

**4. RECOVERY OF EXCESS CREDIT DISTRIBUTED TO A RECIPIENT [SECTION 21]**

If the ISD has distributed excess credit to any recipient, the excess will be recovered from the recipient with interest as if it was tax not paid by initiating action under section 73 or 74. Penalties may be applicable depending on the circumstances. Circular No. 71/45/2018 GST dated 26.10.2018 has clarified that the ISD would also be liable to a general penalty under section 122(1)(ix).



Excess credit distributed can be recovered along with interest only from the recipient and not from ISD.

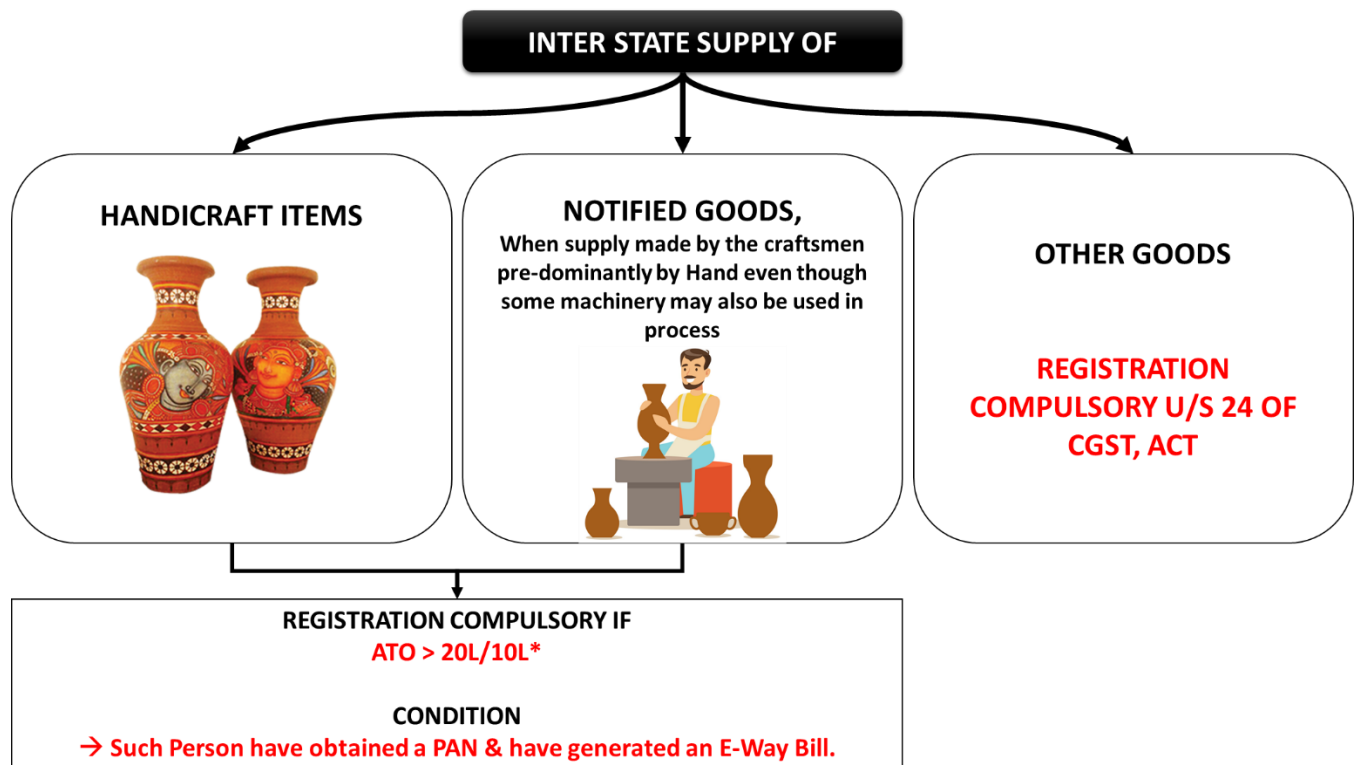
9

Registration

# REGISTRATION UNDER GST



## 1. PERSONS MAKING INTER-STATE TAXABLE SUPPLIES OF NOTIFIED GOODS UP TO RS. 20,00,000



### Meaning of Handicraft Goods:

Handicraft goods means goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility.

## 2. SERVICES PROVIDED BY THE COMMISSION AGENT FOR SALE/ PURCHASE OF AGRICULTURAL PRODUCE - REGISTRATION REQUIREMENTS

Services by any APMC/ board/ services provided by the commission agents for sale or purchase of agricultural produce are exempt from GST, such commission agents (even when they qualify as agent under Schedule I) are not liable to be registered in accordance with provisions of section 23(1)(a)

Further, according to section 24(vii), the requirement of compulsory registration for commission agent, under the said clause shall arise when both the following conditions are satisfied, namely:

- (a) the principal should be a taxable person; and
- (b) the supplies made by the commission agent should be taxable.

Generally, a commission agent under APMC Act makes supplies on behalf of an agriculturist. An agriculturist who supplies produce out of cultivation of land is not liable for registration and therefore does not fall within the ambit of the term 'taxable person'.



Thus, a commission agent who is making supplies on behalf of such an agriculturist - not a taxable person - is not liable for compulsory registration under section 24(vii). However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily under section 24(iii) of the CGST Act.

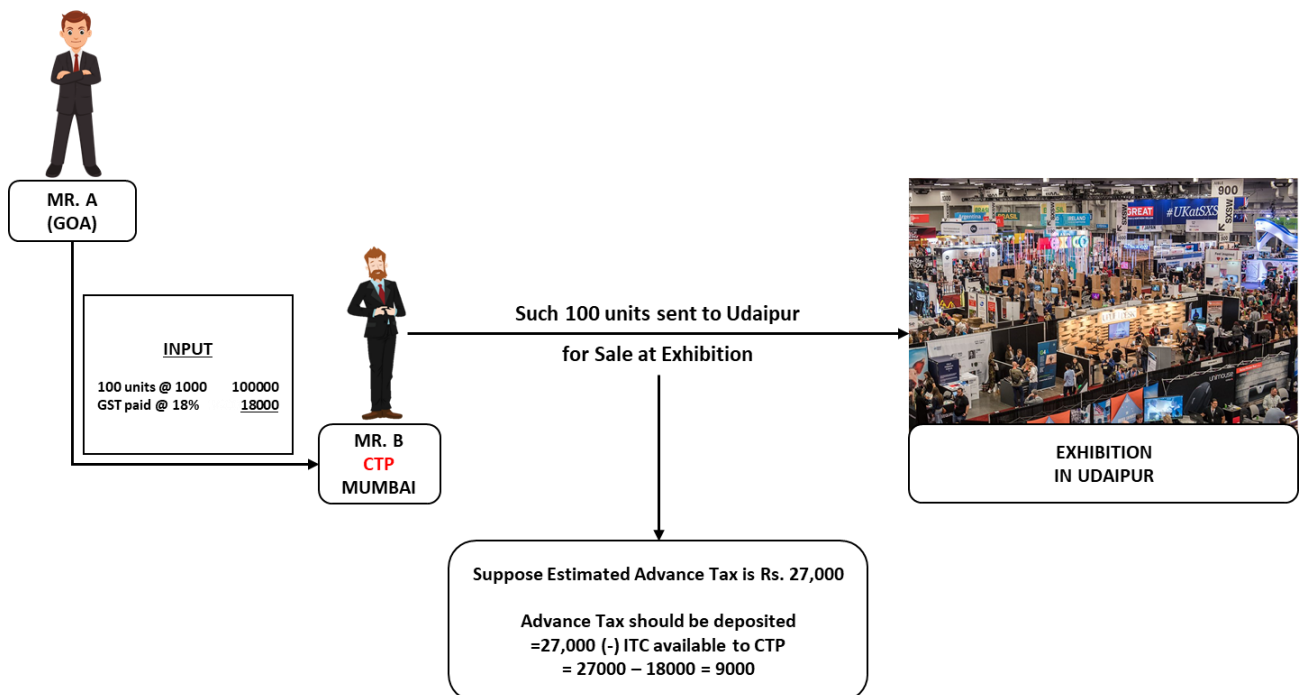
### 3. CASUAL TAXABLE PERSON

#### ADVANCE DEPOSIT OF TAX

At the time of submitting the registration application, CTP/NRTP are required to make an advance deposit of tax\*\* in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.

Such person will get a TRN for making an advance deposit of tax which shall be credited to his electronic cash ledger. An acknowledgement of receipt of application for registration is issued only after said deposit.

**Such advance tax deposit amount should be calculated after considering the due eligible ITC which might be available to such casual taxable person [Circular No. 71/45/2018-GST dated 26.10.2018].**



#### REGISTRATION OF PARTICIPANTS OF LONG RUNNING EXHIBITIONS

In case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.

In such cases, he would not be required to pay advance tax [Refer Point D.] for the purpose of registration. He can surrender such registration once the exhibition is over [Circular No. 71/45/2018-GST dated 26.10.2018]

10A

Tax Invoice, Credit & Debit Notes



***TAX INVOICE***  
***DEBIT NOTE***  
***CREDIT NOTE***

**1. GOODS MOVED WITHIN THE STATE OR FROM THE STATE OF REGISTRATION TO ANOTHER STATE FOR SUPPLY ON APPROVAL BASIS AND ART WORKS SENT BY ARTISTS TO GALLERIES FOR EXHIBITION**

In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified [Circular No. 10/10/2017 GST dated 18.10.2017].

**Note → Same Provisions will be applicable on art works sent by artists to galleries for exhibition.**

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## Accounts and Records

# ACCOUNTS AND RECORDS



## **1. REQUIREMENT OF MAINTAINING THE BOOKS OF ACCOUNTS IN CASE OF AUCTION OF TEA, COFFEE, RUBBER ETC.**

- (a) For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their APoB. The buyer is also required to disclose such warehouse as his APoB if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions.
- (b) 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 in terms of the first proviso to section 35(1) 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 APoB at their PPOB instead of such additional place(s).
- (c) The principal and the auctioneer shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the APoB at their PPOB.

ITC availment: It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail ITC subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.

**Export**

**EXPORT**



## 1. EXPORT

### **EXPORT TO NEPAL AND BHUTAN**

- ✚ **EXPORT OF GOODS:** Export of goods to Nepal or Bhutan fulfils the condition of GST Law regarding taking goods out of India. Hence, export of goods to Nepal and Bhutan will be treated as zero rated and consequently will also qualify for all the benefits available to zero rated supplies under the GST regime.
- ✚ **EXPORT OF SERVICES:** The definition of 'export of services' in the GST Law requires that the payment for such services should have been received by the supplier of services in convertible foreign exchange. Prior to 27.10.2017, if service was supplied to recipient in Nepal/Bhutan, IGST was payable if payment was not received in foreign exchange. **However, w.e.f. 27.10.2017, supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees have been exempted from payment of tax vide Notification No. 9/2017 IT (R) dated 28.06.2017. Further, such services, though exempted, are also not included in the value of exempt supply for the purpose of reversal of ITC under rules 42 and 43 of CGST Rules [Newly inserted Explanation to rule 43(2) of CGST Rules]. Therefore, ITC attributable to such exempt supply of services is not required to be reversed.**

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Refunds

**REFUNDS  
UNDER  
GST**





### 1. **SUPPLY OF SPECIFIED GOODS/SERVICES WHERE REFUND OF UNUTILIZED ITC ON ACCOUNT OF INVERTED DUTY STRUCTURE IS NOT ALLOWED.**

Supply of construction of complex services specified in para 5(b) of Schedule II of the CGST Act, woven fabrics of silk/wool/cotton, knitted or crocheted fabrics, rail locomotives powered from an external source of electricity or by electric accumulators.

However, this restriction will not be applicable to zero rated supplies, i.e. (a) exports of goods or services or both; or (b) supply of goods or services or both to a SEZ developer/unit.

**Accordingly, as regards export of fabrics, it is clarified that subject to the provisions of section 54(10)[discussed subsequently in this chapter], 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 [Circular No. 18/18/2017 GST dated 16.11.2017].**

### 2. **AMOUNT TO BE CLAIMED AS REFUND IN CASE OF ZERO RATED SUPPLY OF GOODS OR SERVICES AND ON ACCOUNT OF INVERTED DUTY STRUCTURE.**

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

#### **Meaning of adjusted total turnover.**

**"Adjusted Total turnover" means the sum total of the value of:**

- (a) the turnover in a State or a Union territory, as defined under section 2(112), excluding turnover of services; &
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

**excluding:**

- (i) the value of exempt supplies other than zero-rated supplies; and
- (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period

### 3. **MINIMUM REFUND CLAIM [SECTION 54(14)]**

No refund shall be paid to an applicant, if the amount is less than Rs. 1,000. **The limit of Rs. 1,000 shall apply for each tax head separately and not cumulatively. Further, the limit would not apply in cases of refund of excess balance in the electronic cash ledger**

#### **4. REFUND TO UN BODIES, EMBASSIES, ETC. [SECTION 55 READ WITH SECTION 54(2) OF CGST ACT]**

In exercise of power granted under section 148, period of '6 months' has been increased to '18 months' 14. Thus, refund claim under section 55 can be made before the expiry of 18 months from the last date of the quarter in which such supply was received.

**Canteen Stores Department (CSD), under the Ministry of Defence, has been notified as a person who shall be entitled to claim a refund of 50% of the applicable CGST/IGST 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.**



**U N D E R G S T**

## 1. **MONETARY LIMITS PRESCRIBED FOR ISSUANCE OF SCNS BY DIFFERENT LEVEL OF OFFICERS.**

Board has assigned the officers mentioned in table below, the functions as the proper officers in relation to issue of SCNs and orders under sections 73 and 74 of the CGST Act , up to the prescribed monetary limits of tax (including cess) not paid/ short paid/ erroneously refunded/ ITC of CGST wrongly availed/utilized for issuance of SCNs and passing of orders under sections 73 and 74 of CGST Act:

CGST OFFICER	MONETARY LIMIT OF CGST	MONETARY LIMIT OF IGST	MONETARY LIMIT OF CGST AND IGST
<b>Superintendent of Central Tax</b>	Not exceeding Rs. 10 lakh	Not exceeding Rs. 20 lakh	Not exceeding Rs. 20 lakh
<b>Deputy or Assistant Commissioner of Central Tax</b>	Above Rs. 10 lakh and not exceeding Rs. 1 crore	Above Rs. 20 lakh and not exceeding Rs. 2 crores	Above Rs. 20 lakh and not exceeding Rs. 2 crores
<b>Additional or Joint Commissioner of Central Tax</b>	Above Rs. 1 crore without any limit	Above Rs. 2 crores without any limit	Above Rs. 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 SCNs. An SCN 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 SCNs have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such SCNs 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) [Circular No. 31/05/2018 GST dated 09.02.2018]

Levy Of And Exemptions from  
Customs Duty

**LEVY OF  
AND  
EXEMPTIONS**

FOR



**CUSTOMS**  
*Duty*

**1. NOTIFICATION PROVIDING EXEMPTION TO RE-IMPORT OF GOODS AND PARTS THEREOF FOR REPAIRS, RECONDITIONING, REPROCESSING, REMAKING OR SIMILAR OTHER PROCESS AMENDED.**

If any loss of imported goods is noticed during such operation, such loss shall be exempted from whole of the custom duties subject to the satisfaction of Assistant/ Deputy Commissioner of Customs.

The exemption is available even if quantity re-imported is short or low in quantity as long as nature and variety of goods is same.

**Importation, Exportation and  
Transportation of Goods**

**IMPORTATION,  
EXPORTATION AND  
TRANSPORTATION OF  
GOODS**



## 1. **CBIC PRESCRIBES CUSTOMS (FINALISATION OF PROVISIONAL ASSESSMENT) REGULATIONS, 2018 TO EASE THE PROCESS OF PROVISIONAL ASSESSMENTS U/S 18.**

The Finance Act, 2011 had introduced the self-assessment under the customs law. Resultantly, the circumstances when the provisional assessment could be resorted also underwent a change and revised Customs (Provisional Duty Assessment) Regulations, 2011 were issued. In 2016, CBIC reviewed the said regulations and rescinded Customs (Provisional Duty Assessment) Regulations, 2011 since section 18 itself lays down the procedure to be followed in the case of provisional assessment.

To further bring the uniformity in the process, CBIC vide Notification No. 73/2018 Cus (NT) dated 14.08.2018 has prescribed Customs (Finalisation of Provisional Assessment) Regulations, 2018.

The significant provisions contained in said regulations are discussed as under:

- **Time-limit and manner for submission of documents or information by importer/exporter for the purpose of finalisation of provisional assessment**

a) Reasons for Provisional Assessment:

- i. the necessary documents have not been produced or information has not been furnished
- ii. the proper officer requires the importer or the exporter to produce any additional documents or information

Such information or documents shall be made available by the importer/exporter within 1 month from the date of such order of provisional assessment or the date of such requisition by the proper officer.

- b) The proper officer shall within 15 days from the date of such order of provisional assessment, inform the importer or the exporter, in writing, the specific details of the information to be furnished or the documents to be produced. If the document/information is not made available within 15 days, this period may, for reasons recorded in writing, be further extended by proper officer for 3 months on his own or at the request of the importer or the exporter.
- c) The Additional Commissioner or Joint Commissioner of Customs, may further extend the time period referred for another 3 months, in case the documents or the information required to be submitted by the importer or the exporter or requisitioned by the proper officer have not been made available within prescribed time limit.
- d) If the aforesaid time limits don't suffice, the Commissioner of Customs, may extend the time period further as deemed fit.
- e) All the requisite information/ documents need to be submitted in one instance by importer/ exporter and importer/exporter themselves or his authorised representative or



Customs Broker shall inform the proper officer in writing that he has submitted all the documents or information to be furnished or requisitioned.

- f) For the purpose of these regulations, each Bill of Entry or Shipping Bill, as the case may be, that has been assessed provisionally shall be treated as a separate case of provisional assessment.

- **Time-limit for finalisation of provisional assessment**

The proper officer shall finalise the provisional assessment within 2 months of receipt of:

- a) an intimation from the importer or the exporter or his authorised representative or Customs Broker under sub-regulation (7) of regulation 4; or
- b) a chemical or other test report, where the provisional assessment was ordered for that reason; or
- c) an enquiry or investigation or verification report, where the provisional assessment was ordered for that reason.

However, where the documents or information required to be furnished by the importer or the exporter or requisitioned by the proper officer are made available intermittently, the time period of 2 months shall be reckoned from the date of last intimation referred to in clause (a) above.

Further, where the documents or information required to be furnished by the importer or exporter, as the case may be, or requisitioned by the proper officer are not made available or made partly available and no further extension of time has been allowed under sub-regulations (3), (4) or (5) of regulation 4, as the case may be, the proper officer shall proceed to finalise the provisional assessment within 2 months of the expiry of the time allowed for submission of the said documents or information.

- d) The Commissioner of Customs concerned may allow, for reasons to be recorded in writing, a further time period of 3 months in case the proper officer is not able to finalise the provisional assessment within the period of 2 months as specified in sub-regulation (1) above.
- e) This regulation shall not apply to such cases of provisional assessments, where Board has issued directions to keep that pending

- **Manner of finalisation of provisional assessment**

- a) The provisional assessment shall be finalised as per the provisions of section 18 of the Act.

However, if the amount so paid at the time of provisional assessment or after adjustment under clause (a) to sub-section (2) of section 18 of the Act, falls short of the duty finally assessed or re-assessed, as the case may be, and the importer or the exporter has not paid the deficiency, the shortfall shall be adjusted from the security, if any, obtained at the time of provisional assessment, under intimation to the importer or the exporter,

However, if the amount so adjusted or paid falls short of the duty finally assessed or re-assessed, as the case may be, the importer or exporter of the goods shall pay the shortfall in terms of the provisions of section 18.

- b) The Bond executed at the time of provisional assessment with security, if any, shall be cancelled after finalisation of provisional assessment and the security shall also be returned, if there are no pending dues.
- c) Where the final assessment is contrary to the provisional assessment, the proper officer shall pass a speaking order following principles of natural justice.
- d) Where the final assessment confirms the provisional assessment, the proper officer shall finalise the same after ascertaining the acceptance of such finalisation from the importer or the exporter on record and inform the importer or exporter in writing of the date of such finalisation.
- e) Where a Bill of Entry or Shipping Bill is presented electronically on the Customs Automated system and is ordered to be provisionally assessed, the proper officer shall finalise the provisional assessment on the system also consequent to the procedure prescribed in these regulations.

- **Penalty**

If any importer or exporter or his authorised representative or Customs Broker contravenes any provision of these regulations or abets such contravention, or fails to comply with any provision of these regulations, he shall be liable to a penalty which may extend to Rs. 50,000/-.

Importation, Exportation and  
Transportation of Goods



**U N D E R   C U S T O M S**

## 1. **CBIC PRESCRIBES PRE-NOTICE CONSULTATION REGULATIONS, 2018.**

The proviso to clause (a) of sub-section (1) of section 28 of the Customs Act, 1962 provides that before issuing a notice for recovery of duty (ies) the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed. In this regard, CBIC vide *Notification No. 29 /2018 Cus (NT) dated 02.04.2018* has prescribed the Pre-notice Consultation Regulations, 2018.

The significant provisions of the said regulations are discussed as under:

- **Meaning of term “Consultation”:** “consultation” means communication of the grounds known to the proper officer for issuance of notice to the person chargeable with duty or interest in order to elicit the response of the person and consideration of the representation of the said person.
- **Manner of conducting pre-notice consultation:** The pre-notice consultation needs to be done in the following manner:
  - (1) Before the notice is issued, the proper officer shall inform, in writing, the person chargeable with duty or interest of the intention to issue the notice specifying the grounds known to the proper officer on which such notice is proposed to be issued and the process of pre-notice consultation shall be initiated as far as possible at least 2 months before the expiry of the time limit mentioned in section 28(3) of the Act.

Section 28 provides that the proper officer shall issue a notice of recovery of duties within 2 years from the relevant date. In case the assessee has already made the payment he must inform the same in writing to the proper officer. However, if proper officer is of the opinion that the amount paid falls short of the amount actually payable he may proceed to issue the notice and the period of 2 years shall be computed from the date of receipt of information. This means, that process of pre-notice consultation shall be initiated at least 2 months before the expiry of the 2 years timeline stated above.

- (2) The person chargeable with duty or interest may, within 15 days from the date of communication referred to in sub regulation (1), make his submissions in writing on the grounds so communicated: However, if no response is received from the person to whom the grounds on which notice is proposed to be issued, is received within the specified time, the proper officer shall proceed to issue the notice to the said person without any further communication: Further, while making the submissions, the person chargeable with duty or interest shall clearly indicate whether he desires to be heard in person by the proper officer.
- (3) The proper officer, may if requested, hear the person within 10 days of receipt of the submissions and subject to the provisions of section 28, decide whether any notice is required to be issued or not.

However, no adjournment for any reason shall be granted in respect of the hearing allowed under this regulation.

- (4) Where the proper officer, after consultation, decides not to proceed with the notice with reference to the grounds communicated under sub-regulation (1), he shall, by a simple letter, intimate the same to the person concerned.
- (5) The consultation process provided in these regulations shall be concluded within 60 days from the date of communication of grounds.
- (6) Where the proposed show cause notice is in respect of a person to whom a notice on the same issue but for a different period or documents has been issued after pre-notice consultation, the proper officer may proceed to issue the show cause notice for subsequent periods without any further consultation.

# Foreign Trade Policy

## NEED OF FOREIGN TRADE



## 1. ENTITLEMENT UNDER MEIS FOR EXPORTS MADE THROUGH COURIER OR FOREIGN POST OFFICE ENHANCED

Presently, export of handicraft items, handloom products, books/periodicals, leather footwear, toys and tailor made fashion garments through courier or foreign post office using e-commerce of FOB value upto Rs. 25000 per consignment are entitled for reward under MEIS.

However, DGFT vide *Notification No. 22/2015-20 dated 26th July 2018* has amended the said provision and provided that for export of aforesaid items through courier or foreign post office of FOB value upto Rs. 5,00,000 per consignment will be entitled for reward under MEIS. If the value of exports is more than Rs. 5,00,000 per consignment then MEIS reward would be calculated on the basis of FOB value of Rs. 5,00,000 only.

With this amendment, the limitation on the port of exports for courier exports for the purpose of incentivisation under MEIS has been done away with.

## 2. REMOVAL OF LIMIT OF RS. 1 CRORE PER YEAR FOR EXPORTS ON FREE OF COST EXPORTS BASIS FOR EXPORT PROMOTION FOR STATUS HOLDERS

Presently, Status holders are entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit of Rupees 1 Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower.

However, DGFT vide *Notification No. 28/2015-20 dated 27th August 2018* has amended the aforesaid provision to provide the following:

Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit as below:

- a) Annual limit of 2% of average annual export realization during preceding three licensing years for all exporters (excluding the exporters of following sectors-(1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector)
- b) Annual limit of Rupees 1 Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower. (for exporters of the following sectors-(1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector).

In nutshell, it means that the limit of Rs 1 Crore per year for exports on free of cost exports basis for export promotion for Status Holders is removed and is made 2% of average annual export realization during preceding three licensing years.

## 3. EXTENSION OF IGST AND COMPENSATION CESS EXEMPTION UNDER ADVANCE AUTHORISATION, EPCG AND EOU SCHEME UPTO 31.03.2019

IGST and Compensation Cess have been exempted upto 01.10.2018 on imports under Advance Authorisation for physical exports, Capital Goods imported under EPCG authorisation and imports made by EOUs.

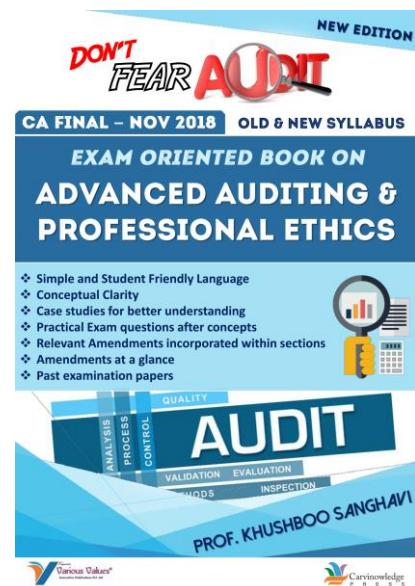
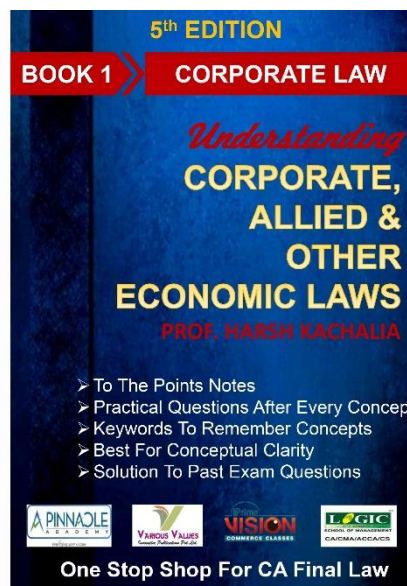
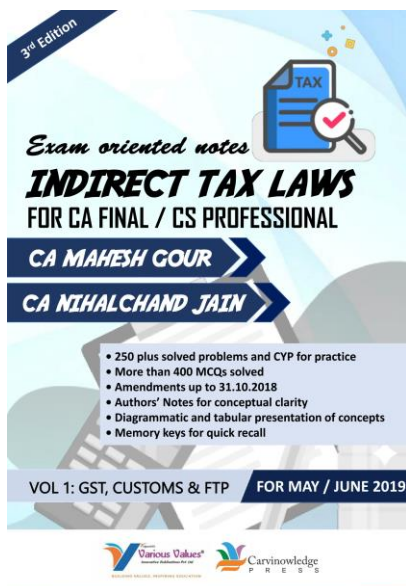
In this regard, DGFT vide Notification No. 35/2015-20 dated 26.09.2018 has extended IGST and Compensation Cess exemption under Advance Authorisation, EPCG and EOU schemes upto 31.03.2019.



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