#### **PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]**

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act. No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

#### **AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS [SECTION 33]**

Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

#### **SOME CLARIFICATIONS ISSUED BY ICAI FOR MAY/ NOV 2020**

1. services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket

Rule 54(4A) A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice even if such ticket does not contain the de tails of the recipient of service but contains the other information as mentioned under Rule 46.



2. Clarification in respect of goods sent/ taken out of India for exhibition or on consignment basis for export promotion

The specified goods sent/taken out of India are required to be either sold or brought back within the stipulated period of 6 months from the date of removal as per the provisions contained in section 31(7) of the CGST Act.

The supply would be deemed to have taken place, on the expiry of 6 months from the date of removal, if the specified goods are neither sold abroad nor brought back within the said period.

If the specified goods are sold abroad, fully or partially, within the specified period of 6 months, the supply is effected, in respect of quantity so sold, on the date of such sale. Further, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

When the specified goods sent / taken out of India have neither been sold nor brought back, either fully or partially, within the stipulated period of 6 months, as laid down in section 31(7) of the CGST Act, the sender shall issue a tax invoice on the date of expiry of 6 months from the date of removal, in respect of such quantity of specified goods which have neither been sold nor brought back in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules.

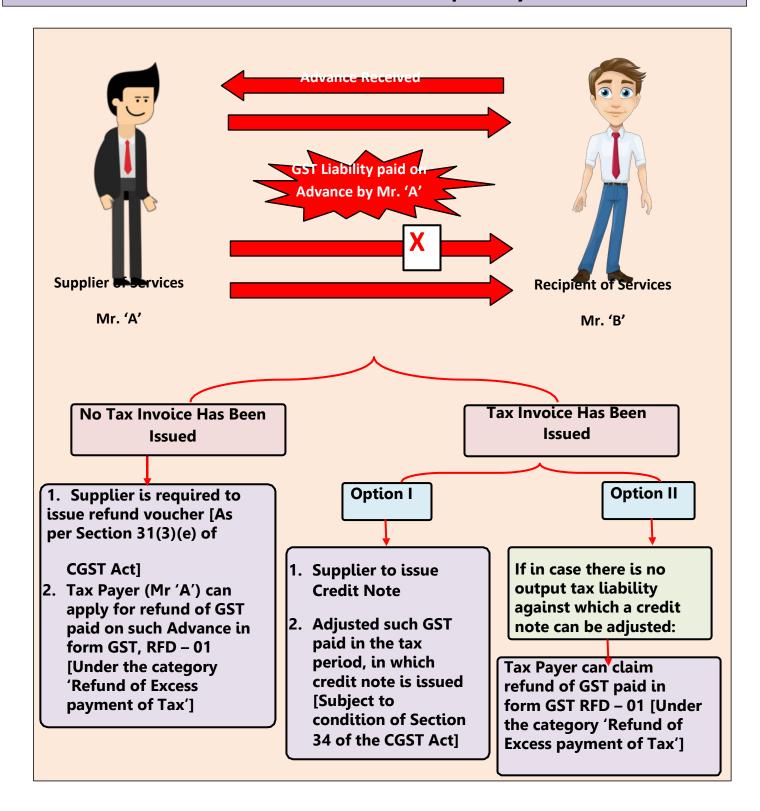
#### The above position is explained by way of illustration below:

M/s. ABC sends 100 units of specified goods out of India. The activity of merely sending/ taking such specified goods out of India is not a supply. No tax invoice is required to be issued in this case but the specified goods shall be accompanied with a delivery challan issued in accordance with the provisions contained in rule 55 of the CGST Rules.

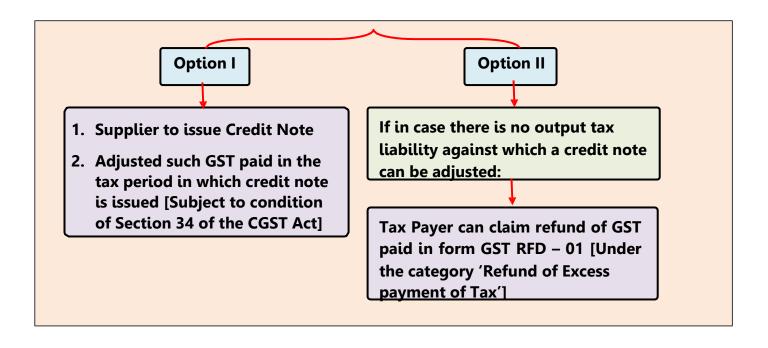
In case the entire quantity of specified goods is brought back within the stipulated period of 6 months from the date of removal, no tax invoice is required to be issued as no supply has taken place in such a case.

In case, however, the entire quantity of specified goods is neither sold nor brought back within 6 months from the date of removal, a tax invoice would be required to be issued for entire 100 units of specified goods in accordance with the provisions contained in section 12 and section 31 of the CGST Act read with rule 46 of the CGST Rules within the time period stipulated under section 31(7) of the CGST Act.

# 3. Advance Received by a Supplier of Services for a Service Contract Which Got Cancelled Subsequently



# 4. Goods supplied by a supplier under a Cover of Tax Invoice are returned by the recipient



#### SOME EXAM ORIENTED MCQ's

- 1. Kutch Refineries supplies LPG to XYZ Ltd. by a pipeline under a contract. The terms of contract are:
  - (i) Monthly payment of Rs. 2 lakh to be made by the recipient on fifth day of the month.
  - (ii) A quarterly statement of the goods dispatched and payments made will be issued by seventh day of the month succeeding the relevant quarter.

August 5, September 5, October 5	Payments of ₹ 2 lakh made in each month
October 7,	Statement of accounts issued by supplier for the quarter July – September
October 17,	Differential payment of ₹ 56,000 received by supplier for the quarter July – September as per statement of accounts

#### Which of the following statements is true?

- (a) Invoice will be issued on August 5, September 5, October 5 and October 7.
- (b) Invoice will be issued on August 5, September 5 and October 5.
- (c) Invoice will be issued on August 5, September 5, October 7, October 7 and October 17
- (d) None of the above



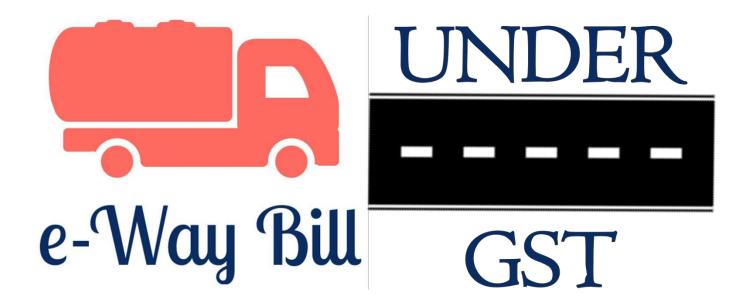
- 2. Which documents are required to send goods from branch office in one State to head office in another State?
  - (a) Tax invoice and e way bill
  - (b) Receipt Voucher and e way bill
  - (c) Payment Voucher and e way bill
  - (d) All of the above.
- 3. Which of the following statements is correct while issuing a tax invoice?
  - (i) Place of supply in case of inter-State supply is not required to be mentioned
  - (ii) The power of attorney holder can sign the tax invoice in case the taxpayer or his authorized representative has been travelling abroad
  - (iii) Quantity is not required to be mentioned in case of goods when goods are sold on "as is where is basis"
  - (iv) Description of goods is not required to be given in case of mixed supply of goods
  - (a) (ii), (iii)
  - (b) (i), (ii), (iii)
  - (c) None of the above
  - (d) All of the above
- 4. ASC, a registered person supplied goods amounting to Rs. 1,18,000/- (inclusive of GST, taxable @ 18%) to BSC, a registered person on 30-9-2018. BSC further sold such goods to CSC, a consumer who came to his shop on 30-10-2018 in cash for Rs. 2,36,000/- (inclusive of GST, taxable @ 18%). ASC, issued a credit note of Rs.11,800/- (10000+1800/-GST) for rate difference on 2-11-2018 to BSC. BSC, then entered a credit note in its books for the same amount in the name of CSC, without intimating CSC on 2-11-2018 and reduced its output tax liability accordingly.

As per the provisions of GST law, which of the above mentioned suppliers are allowed to reduce their output tax liability?

- (a) ASC
- (b) BSC
- (c) Both ASC and BSC
- (d) None of the above, since incidence of tax has been passed on to other person.
- 5. What will be the rate of tax and nature of supply of a service, if the same is not determinable at the time of receipt of advance?
  - (a) 12%, Inter-State supply
  - (b) 12%, Intra-State supply
  - (c) 18%, Inter-State supply
  - (b) 18%, Intra-State supply



E-Way Bill



#### **CHAPTER OUTLINES**

- [Sec. 68] Inspection of Goods in movement.
- [Rule 138] Information to be furnished prior to commencement to movement of Goods and generation of e-Way Bill.
- [Rule 138A] Documents and Devices to be carried by a person-in-charge of a conveyance.
- [Rule 138B] verification of Documents and conveyances.
- [Rule 138C] inspection and verification of goods.
- [Rule 138D] facility for uploading information regarding definition of vehicle.



#### WHAT IS E-WAY BILL?

A waybill is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route. Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, E-way bill is an electronic document generated on the GST portal evidencing movement of goods.

#### **RULE 138(1): WHEN IS E-WAY BILL REQUIRED TO BE GENERATED?**

Whenever there is a movement of goods of consignment value exceeding Rs. 50,000:

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 before commencement of such movement.

It is important to note that "information is to be furnished prior to the commencement of movement of goods" and "is to be issued whether the movement is in relation to a supply or for reasons other than supply".

In many cases, goods transit through another State while moving from one area in a State to another area in the same State. It is important to note that E-way bill generation is not dependent on whether a supply is inter-State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated [Circular No. 47/21/2018 GST dated 08.06.2018].

#### **MEANING OF CONSIGNMENT VALUE OF GOODS**

Consignment value of goods shall be the value:

- determined in accordance with the provisions of section 15,
  - declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
  - also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document
- shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

As discussed earlier in this chapter, in case of movement of goods for reasons other than supply, the movement is occasioned by means of a delivery challan which has to necessarily contain the value of goods. The value given in the delivery challan should be adopted in the e-way bill.

## SPECIAL SITUATIONS WHERE E-WAY BILL NEEDS TO BE ISSUED EVEN IF THE VALUE OF THE CONSIGNMENT IS LESS THAN RS. 50,000

#### (i) Inter-State transfer of goods by principal to job-worker

Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment [Third proviso to rule 138(1)].

#### (ii) Inter-State transfer of handicraft goods by a person exempted from obtaining registration

Where handicraft goods\* are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration [under clauses (i) and (ii) of section 24], the e-way bill shall be generated by the said person irrespective of the value of the consignment [Fourth proviso to rule 138].



\*Handicraft goods are the goods specified in Notification No. 32/2017 CT dated 15.09.2017 which exempts the casual taxable persons making inter-State taxable supplies of such handicraft goods from obtaining registration [Refer Chapter 9 – Registration].

#### E-WAY BILL IN CASE OF 'BILL TO SHIP TO' MODEL

In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely:

- ♣ 'A' is the person who has ordered 'B' to send goods directly to 'C'.
- ♣ 'B' is the person who is sending goods directly to 'C' on behalf of 'A'.
- 'C' is the recipient of goods.

In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued:

**Invoice 1:** which would be issued by 'B' to 'A'. **Invoice 2:** which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, 2017, either A or B can generate the e-Way Bill but it may be noted that **only one e-Way Bill is required to be generated** [Press Release dated 23.04.2018]

#### **INFORMATION TO BE FURNISHED IN E-WAY BILL**

An e-way bill Form GST EWB-01 contains two parts:

- (I) Part A [comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.]: to be furnished by the registered person\*\* who is causing movement of goods of consignment value exceeding Rs. 50,000/- and
- (II) <u>Part B</u> (transport details) [Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road]: to be furnished by the person who is transporting the goods.
- \*\*However, information in Part-A may be furnished:
- ♣ by the transporter, on an authorization received from such registered person [First proviso to rule 138(1)] or
- by the e-commerce operator or courier agency, where the goods to be transported are supplied through an such e-commerce operator or a courier agency, on an authorization received from the consignor [Second proviso to rule 138(1)].

#### WHO IS MANDATORILY REQUIRED TO GENERATE E-WAY BILL?

- Where the goods are transported by a registered person whether as consignor or recipient as the consignee (whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) [Rule 138(2)].
- Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road, the registered person shall furnish the information relating to the transporter in Part B on the common portal and the eway bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B [viz transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number)] on the common portal [Rule 138(2A)]

#### **OTHER IMPORTANT POINTS**

- Where the goods are transported by railways: there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply as the case may be along with goods. Further, e-way bill generated for the movement is required to be produced at the time of delivery of the goods. Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery [Proviso to rule 138(2A)].
- The registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than Rs. 50,000 [First proviso to rule 138(3)].
- Where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill [Second proviso to rule 138(3)].
- ▶ Where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods [Explanation 1 to rule 138(3)].

#### WHEN IS IT NOT MANDATORY TO FURNISH THE DETAILS OF CONVEYANCE IN PART-B?

Explanation 2 to rule 138(3) stipulates that e-way bill is valid for movement of goods by road only when the information in Part-B is furnished. However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported for a distance of upto 50 km within the State/Union territory:

- from the place of business of the consignor to the place of business of the transporter for further transportation [Third proviso to rule 138(3)] or
- from the place of business of the transporter finally to the place of business of the consignee [Proviso to rule 138(5)].

#### **UNIQUE E-WAY BILL NUMBER (EBN)**

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal [Rule 138(4)].

#### TRANSFER OF GOODS FROM ONE CONVEYANCE TO ANOTHER

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part A**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in **Part B** of the e-way bill on the common portal [Rule 138(5)]

The consignor/recipient, who has furnished the information in **Part A**, or the transporter, may assign the e-way bill number to another registered/enrolled transporter for updating the information in **Part B** for further movement of the consignment [Rule 138(5A)]. However, once the details of the conveyance have been updated by the transporter in **Part B**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** shall not be allowed to assign the e-way bill number to another transporter [Proviso to rule 138(5A)].

#### **EXAMPLE**

A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y. On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z [Press Release No. 144/2018 dated 31.03.2018].

#### **CONSOLIDATED E-WAY BILL**

After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **Form GST EWB-02** may be generated by him on the said common portal prior to the movement of goods [Rule 138(6)].

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle). That is, the transporter carrying multiple consignments of various consignors and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill instead of carrying separate document for each consignment in a conveyance.

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

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

#### **CANCELLATION OF E-WAY BILL**

Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill [Rule 138(9)].

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [First proviso to rule 138(9)].



Further, unique EWB number generated is valid for a period of 15 days for updation of Part B [Second proviso to rule 138(9)].

#### SEC 138(10): VALIDITY PERIOD OF E-WAY BILL/CONSOLIDATED E-WAY BILL

Validity of e-way bill in case of multimodal shipment in which at least one leg involves transport by ship [Rule 138(10) of the CGST Rules]

Rule 138(10) of CGST Rules provides validity period of e-way bill for over dimensional cargo and for cases other than over dimensional cargo. The sub-rule (10) of rule 138 has been amended to also provide the validity period of e-way bill for multimodal shipment in which at least one leg involves transport by ship.

Thus, amended sub-rule (10) lays down as under-

SI.	Distance within country	Validity period from relevant date	
No.			
1.	Upto <del>100km</del> 200 km [w.e.f	One day in cases other than Over Dimensional	
	01.01.21]	Cargo <b>or</b>	
		multimodal shipment in which at least one leg	
		involves transport by ship	
2.	For every <del>100km</del> 200 km or	One additional day in cases other than Over	
	part thereof thereafter	Dimensional	
		Cargo or multimodal shipment in which at	
		least one leg involves transport by ship	
3.	Upto 20 km	One day in case of Over Dimensional Cargo or	
		multimodal shipment in which at least one leg	
		involves transport by ship	
4.	For every 20 km. or part	One additional day in case of Over Dimensional	
	thereof thereafter	Cargo or multimodal shipment in which at least	
		one leg	
		involves transport by ship	

The sub-rule (10) has been further amended to lay down that the validity of the e-way bill can be extended within eight hours from the time of its expiry.

#### Example:-

A registered person has to transport goods from its warehouse to its depot located at a distance of 500 km. In the given case, if e-way bill was generated before 01.01.2021, it would have been valid for 5 days. However, an e-way bill generated on or after 01.01.2021 would be valid for only 3 days.

\*Relevant date means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.



This can be explained by following examples –

- i. Suppose an e-way bill is generated at 00:04 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.
- ii. Suppose an e-way bill is generated at 23:58 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

The validity of the e-way bill starts when first entry is made in Part-B i.e. vehicle entry is made first time in case of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is the first entry. It may be noted that validity is not re-calculated for subsequent entries in Part-B

#### **EXAMPLE**

A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. The validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday [Press Release No. 144/2018 dated 31.03.2018].

\*\*Over dimensional cargo means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988.

#### **EXTENSION OF VALIDITY PERIOD**

- **↓ Extension by Commissioner for certain categories of goods:** Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.
- Extension by transporter in exceptional circumstances: Where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B, if required. Transporter can extend the validity of the e-way bill, if the consignment is not being reached the destination within the validity period due to exceptional circumstance like natural calamity, law and order issues, trans-shipment delay, accident of conveyance, etc. He needs to explain this reason in details while extending the validity period. This option is available for extension of e-way bill before 8 hours and after 8 hours of expiry of the validity [Rule 138(12)].

#### **ACCEPTANCE OF E-WAY BILL**

The details of the e-way bill generated shall be made available to the –

- a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or
- b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter, on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill [Rule 138(11)].

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details. The time-limit specified for this purpose is:

- (i) 72 hours of the details being made available to him on the common portal; or
- (ii) the time of delivery of goods

whichever is earlier.

#### E-WAY BILL GENERATED IN ONE STATE IS VALID IN ANOTHER STATE

The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory [Rule 138(13)].

#### **SOMETHING TO KNOW**

E-way bill is not valid for movement of goods without vehicle number on it.

Once E-way bill is generated, it cannot be edited for any mistake. However, it can be cancelled within 24 hours of generation.

E- Way Bill may be updated with vehicle number any number of times.

The latest vehicle number should be available on e-way bill and should match with the vehicle carrying it in case checked by the department.

#### **CASES WHERE NO E-WAY BILL REQUIRED TO BE GENERATED**

) Where the goods being transported are specified in Annexure. (Annexure contains a list of items where E-way bill is not required to be generated.)

SR. NO.	DESCRIPTION OF GOODS
1.	Liquefied petroleum gas for supply to household and nondomestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)]

- **ii)** Where the goods are being transported by a non-motorized conveyance.
- **iii)** Where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or container freight station for clearance by Customs;
- iv) In respect of movement of goods within such areas as are notified under Rule 138(14)(d), of the GST Rules of the concerned States or Union Territory.
- **v)** Where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to Notification No. 2/2017-CT (Rate) dated the 28-06-2017 as amended from time to time.
- **vi)** Where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel.
- vii) Where the supply of goods being transported is treated as no supply under Schedule III of the Act;

- **viii.** Where the goods are being transported
  - a. under customs bond from an Inland Container Depot (ICD) or a Container Freight Station (CFS) to a customs port, airport, air cargo complex and land customs station or customs port or
  - b. under customs supervision or under customs seal;
- ix. Where the goods being transported are transit cargo from or to Nepal or Bhutan;
- **x.** Where the goods being transported are exempt from tax under notification No. 7/2017-CT (Rate), dated 28- 06-2017 as amended from time to time and notification No. 26/2017-CT (Rate), dated 21-09-2017 as amended from time to time.
- xi. Any movement of goods caused by defense formation under Ministry of defense as a consigner or consignee;
- **xii.** Where the consigner of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- xiii. Where empty cargo containers are being transported; and
- **xiv.** Where the goods are being transported upto a distance of 20 km from the place of the business of the consigner to a weighbridge for weighment or from weighbridge back to the place of the business of the said consigner subject to the condition that the movement of goods is accompanied by a <u>delivery challan issued</u> in accordance with Rule 55.
  - Explanation: The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be.
- **xv.** where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.

## RULE 138A: DOCUMENTS AND DEVICES TO BE CARRIED BY A PERSON-IN-CHARGE OF A CONVEYANCE

- (a) The person in charge of a conveyance shall carry the invoice or the bill of supply or delivery challan and a copy of the e-way bill or the e-way bill number, either physically or electronically or mapped to a Radio Frequency Identification Device (RFID) embedded on to the conveyance in such manner as may be notified by the Commissioner.
- (b) A registered person may obtain an Invoice Reference Number by uploading tax invoice on the common portal and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of <u>30 days</u> from the date of uploading.
- (c) In case of E-Invoice [Rule 48(4)], the QR code having an Embedded invoice reference number in it, may be produced electronically, for verification by the proper officer in lieu of physical copy of such tax invoice.
- (d) On uploading of invoice, the information shall get autopopulated in e-way bill.
- (e) RFID will be obtained by notified transporters and the said device shall be embedded on to conveyance and map the e-way bill to the RFID prior to the movement of goods.
- (f) The Commissioner may require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill
  - i) tax invoice or bill of supply or bill of entry; or
  - ii) a delivery challan, where the goods are transported for reasons other than by way of supply.

#### **RULE 138B: VERIFICATION OF DOCUMENTS AND CONVEYANCES:**

- (a) The Commissioner or empowered officer may authorize proper officer to intercept any of conveyance for verification of e-way bill.
- (b) The Commissioner shall get RFID readers installed at places where the verification o movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where e-way bill has been mapped with the said device.
- (c) The physical verification of conveyances shall be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in his behalf. However, on receipt of specific information on evasion of tax, physical verification of specific conveyance can also be carried out by any officer after obtaining necessary approval of the Commissioner or an officer authorized by him in this behalf.

#### **RULE 138C: INSPECTION & VERIFICATION OF GOODS:**

- (a) A summary report of every inspection of goods in transit shall be recorded online by the proper officer within 24 hours of the inspection and final report shall be recorded within 3 days of such inspection.
- (b) Where the physical verification of the goods being transported on any conveyance has been done during transit at one place within the State or any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

#### **RULE 138D: FACILITY FOR UPLOADING INFORMATION REGARDING DETENTION OF VEHICLE:**

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload said information in prescribed form on the common portal.

#### **EXAMPLE**

Where a conveyance carrying 25 consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of 20 consignments, but is unable to

produce the same with respect to the remaining 5 consignments, detention/ confiscation can be made only with respect to the 5 consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

## Rule 138E E-Way Bill Generation is Blocked in respect of Non-filers

Non-Filing of	
a) GSTR-3B (Returns) for a consecutive	
Period of 2 Month	
OR	
b) GSTR-1 for any 2 Months or	
Quarters, as the case may be	
The statement in FORM GST CMP 08	
For 2 Consecutive Quarters	

E.g.: Mr. 'X' (other than composition supplier) fails to furnished GSTR – 3B for month of April 2021(Due date 20th May 2021) & May 2021 (Due Date 20th June 2021)

Portal will automatically block EWB from 21st June 2021

Suppose Mr. 'X' Fails to furnished GSTR – 3B for month of June 2021 (Due Date 20th July) Also

**Generation of EWB remain Blocked** 

Suppose Mr. 'X' furnished GSTR – 3B for month of April 21 & month of May 21 on 25th July

Portal will automatically unblock the on next day [Because default period has been reduced & now it is less than 2 Months]

Do You Know?

1. Unblock the blokege of generation of EWB by Commissioner.



The Commissioner may, on receipt of an application from a registered person in form GST EWB – 05, unblock the blockage of Generation of EWB (Subject to Conditions) by issuing an order in Form GST EWB – 06.

2. Restriction shall not apply during the period from 20.03.2020 Till 15.10.2020.

The said restriction shall not apply during the period from 20.03.2020 Till 15.10.2020 in case where the return in FORM GSTR-3B or the statement of outward supplies in FORM GSTR-1 or the statement in FORM GST CMP-08,as the case may be , Has not been furnishedfor the period February,2020 to August,2020. [Provision inserted by NN 79/2020-CT,dated 15.10.2020]



E-way bill generation facility to be blocked only in respect of outward movement of goods, by the defaulting registered person [Rule 138E]

Rule 138E of the CGST Rules contains provisions pertaining to blocking of e- way bill generation facility, i.e. disabling the generation of e-way bill.

Earlier, a user was not able to generate e-way bill for a GSTIN if the said GSTIN was not eligible for e-way bill generation in terms of rule 138E. It implies that the GSTINs of such blocked taxpayers could not be used to generate the e-way bills neither as supplier (consignor) nor as recipient (consignee).

Said rule has been amended to relax such restriction. Blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN. Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E. E-way bills can be generated in respect of inward supplies of said registered person.

[Notification No. 15/2021 CT dated 18.05.2021]

#### For Example:-

Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A. As per earlier position of law, Mr. B would not have been able to generate e-way bill with Mr. A's GSTIN.

In terms of the amended position of law, there will be no more restriction in generating e-way Bill as Mr. B who is making outward movement of goods is a regular return filer.

Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

Rule 138E (d):- Any person whose registration has been suspended under Rule 21A

(In case Registration cancellation proceeding is pending)

Generation of E-way Bill is Block.[w.e.f 22.12.20]



#### **SOME EXAM ORIENTED MCQ's**

- 1. Is e-way bill mandatory in case of transport of the handicraft goods from one State to another State by a person who has been exempted from the requirement of obtaining registration?
  - (a) E-way Bill is not required as the supplier is exempt from the requirement of obtaining registration.
  - (b) E-way Bill is mandatory only if the value of consignment is more than Rs. 50,000
  - (c) E-way Bill is mandatory even if the value of consignment does not exceed Rs. 50,000
  - (d) None of the above.
- 2. M/s Gyaan Publishing House, registered under GST in Delhi is engaged in printing and selling of books as well as trading of stationery items. He has provided following information of a consignment which is to be supplied to Mumbai: -
  - (i) Taxable value of supplies indicated on tax invoice: Rs. 35,000/- (iii) Value of exempted supplies: Rs. 8,000/-
  - (iv) Value of goods to be sent to job worker on delivery challan: Rs. 15,000/-

Calculate the consignment value for the purpose of generating e-way bill for inter-State supply of goods.

Assume rate of tax on taxable goods to be 18%.

- a) Rs. 35,000/-
- b) Rs. 50,000/-
- c) Rs. 56,300/-
- d) Rs. 64,300/-
- 3. M/s Gyaan Publishing House, registered under GST in Delhi, is engaged in printing and selling of books as well as trading of stationery items. He has provided following information of a consignment which is to be supplied to Mumbai: -
  - (i) Taxable value of supplies indicated on tax invoice: Rs. 35,000/- (ii) Value of exempted supplies: Rs. 8,000/-
  - (iii) Value of goods to be sent to job worker on delivery challan: Rs. 15,000/-

Calculate the consignment value for the purpose of generating e-way bill for inter-State supply of goods.

Assume rate of tax on taxable goods to be 18%.

- (a) Rs. 35,000/-
- (b) Rs. 50,000/-
- (c) Rs. 56,300/-
- (d) Rs. 64,300/-

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### **Accounts and Records**

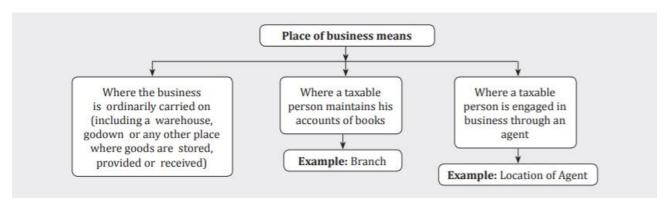
# ACCOUNTS AND GST GST

#### **CHAPTER OUTLINES**

- Relevant Definition.
- [Sec. 35] Accounts and other records.
- [Sec. 36] Period of retention of Accounts.
- [Sec. 68] Inspection of goods in movement.

#### **RELEVANT DEFINITIONS**

- 1. [Section 2(5): "agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another;
  - Meaning of Arhatia It means middleman of agricultural produce Del Crede Agent – Agent who sells on behalf on principal on credit.
- 2. [Section 2(13): "Audit" means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;
- **3. Section 2(26): "common portal"** means the common goods and services tax electronic portal referred to in section 146;
- **4. Section 2(8): "Appellate Authority"** means an authority appointed or authorised to hear appeals as referred to in section 107;
- **5. Section 2(99): "Revisional Authority"** means an authority appointed or authorised for revision of decision or orders as referred to in section 108;
- **6. Section 2(108): "Taxable supply":** means a supply of goods and/or services which is chargeable to tax under CGST Act.
- 7. Section 2(85)]: "place of business" includes:
  - (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
  - (b) a place where a taxable person maintains his books of account; or
  - (c) a place where a taxable person is engaged in business through an agent, by whatever name called;



- **8. Section 2(107): "Taxable person":** means a person who is registered or liable to be registered under section 22 or section 24.
- **9. Section 2(89): "principal place of business"** means the place of business specified as the principal place of business in the certificate of registration;
- **10. Section 2(91): "proper officer"** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;
- **11. Section 2(94): "registered person"** means a person who is registered under section 25 but does not include a person having a Unique Identity Number;
- 12. Section 2(106): "tax period" means the period for which the return is required to be furnished;
- **13. Section 2(23): "Chartered Accountant"** means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949;

- **14. Section 2(35): "Cost Accountant"** means a cost accountant as defined in clause (c) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959;
- **15. Section 2(41): "document"** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000;
- **16. Section 2(18):"voucher"** means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
- 17. Section 2(34): "conveyance" includes a vessel, an aircraft and a vehicle;
- 18. Section 2(17): "business" includes:
  - (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
  - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
  - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
  - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
  - (f) admission, for a consideration, of persons to any premises;
  - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
  - (h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
  - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

#### **ACCOUNTS AND OTHER RECORDS [SECTION 35]**

#### SECTION 35(1): LIST OF RECORDS AND PLACE OF MAINTENANCE OF RECORDS

Every registered person shall keep and maintain, at his **PRINCIPAL PLACE OF BUSINESS**, as mentioned in the certificate of registration, a true and correct account of:

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

Analysis: Emphasis is given on true and correct maintenance and not on true and fair view. What is to be maintained has to be correct. It means the details maintained has to match exactly with say production, manufacture, etc. For example – Let's say 5 units of input makes 1 unit of output. In case for a period say 100 units were provided as input, output should be 20 units. In case units produced is 21, 1 extra unit has to be recorded. As per Section 2(89) "principal place of business" means the place of business specified as the principal place of business in the certificate of registration.

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

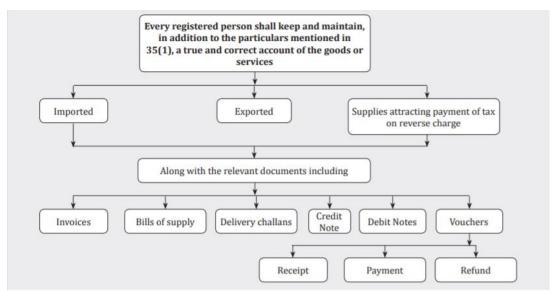
**Analysis:** It means books of accounts with respect to information specified above of the particular location have to maintained at such place of business.

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

#### **RULE 56: MAINTENANCE OF ACCOUNTS BY REGISTERED PERSONS**

## RULE 56(1): TRUE AND CORRECT ACCOUNT OF THE GOODS OR SERVICES IMPORTED OR EXPORTED ETC. TO BE KEPT

Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.



#### **RULE 56(2): ITEMWISE STOCK ACCOUNT**

Every registered person, other than a person paying tax under section 10, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.

#### **RULE 56(3): SEPARATE ACCOUNT OF ADVANCES**

Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.

#### **RULE 56(4): DETAILS OF ITC CLAIMED**

Every registered person, other than a person paying tax under section 10, shall keep and maintain an account, containing the details of tax payable (including tax payable in accordance with the provisions of sub-section (3) and sub-section (4) of section 9), tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

#### RULE 56(5): DETAILS OF SUPPLIERS, RECIPIENTS AND STORAGE

Every registered person shall keep the particulars of - (a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act; (b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter; (c) the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

#### RULE 56(6): GOODS FOUND AT A PLACE(S) OTHER THAN THOSE DECLARED

If any taxable goods are found to be stored at any place(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

#### **RULE 56(7): ACCOUNTS TO BE KEPT AT ALL PLACE OF BUSINESS**

Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

#### **RULE 56(8): CHANGES TO BE ATTESTED**

Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter, the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.

#### **RULE 56(9): SERIAL NUMBER**

Each volume of books of account maintained manually by the registered person shall be serially numbered.

#### RULE 56(10): DOCUMENTS, ETC. FOUND AT OTHER PLACE – PRESUMPTION THEREOF

Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

#### **RULE 56(11): RECORDS BY AGENT**

Every agent referred to in clause (5) of section 2 shall maintain accounts depicting the:

- (a) particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

#### **RULE 56(12): PRODUCTION RECORDS BY MANUFACTURERS**

Every registered person manufacturing goods shall maintain monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

#### **RULE 56(13): RECORDS OF SERVICE SUPPLIERS**

Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

#### **RULE 56(14): WORKS CONTRACTER RECORDS**

Every registered person executing works contract shall keep separate accounts for works contract showing - (a) the names and addresses of the persons on whose behalf the works contract is executed; (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract; (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract; (d) the details of payment received in respect of each works contract; and (e) the names and addresses of suppliers from whom he received goods or services.

#### **RULE 56(15): ELECTRONICAL RECORDS MAY BE MAINTAINED**

The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.

#### **RULE 56(16): PRESERVATION OF RECORDS**

Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

#### **RULE 56(17): RECORDS BY CARRIER OR A CLEARING AND FORWARDING AGENT**

Any person having custody over the goods in the capacity of a carrier or a clearing and forwarding agent for delivery or dispatch thereof to a recipient on behalf of any registered person shall maintain true and correct records in respect of such goods handled by him on behalf of such registered person and shall produce the details thereof as and when required by the proper officer.

#### **RULE 56(18): PRODUCTION OF BOOKS OF ACCOUNTS ON DEMAND**

Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

#### **RULE 57: GENERATION AND MAINTENANCE OF ELECTRONIC RECORDS**

#### **RULE 57(1)**

Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.

#### **RULE 57(2)**

The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

#### **RULE 57(3)**

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files

#### SECTION 35(2): RECORD BY OWNER OR OPERATOR OF WAREHOUSE OR GODOWN

Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

**Analysis:** This section covers 2 kinds of persons: 1. Owner / operator of warehouse / godown 2. Transporter Both the above specified persons have to compulsorily maintain specified records of the consigner, consignee, etc. Even unregistered persons have to maintain such records. Hence, irrespective of the status of warehouse owner/operator or transporter, they have to compulsorily maintain specific records.

## RULE 58: RECORDS TO BE MAINTAINED BY OWNER OR OPERATOR OF GODOWN OR WAREHOUSE AND TRANSPORTERS.

#### **RULE 58(1): DETAILS TO BE SUBMITTED BY GODOWN OWNER, ETC.**

Every person required to maintain records and accounts in accordance with the provisions of sub-section (2) of section 35, if not already registered under the Act, shall submit the details regarding his business electronically on the common portal in FORM GST ENR-01, either directly or through a Facilitation Centre notified by the Commissioner and, upon validation of the details furnished, a unique enrolment number shall be generated and communicated to the said person.

#### **RULE 58(1A):**

For the purpose of Chapter XVI of these rules, a transporter who is registered in more than one state or Union Territory having the same Permanent Account Number, he may apply for a unique common enrolment number by submitting the details in **FORM GST ENR-02** using any one of his Goods and services Tax Identification Numbers, and upon validation of the details furnished, a unique common enrolment number shall be generated and communicated to the said transporter.

Provided that where the said transporter has obtained a unique common enrolment number, he shall not be eligible to use any of the Goods and Services Tax Identification Numbers for the purposes of the said Chapetr XVI.

#### **RULE 58(2): DEEMED ENROLLMENT**

The person enrolled under sub-rule (1) as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

#### **RULE 58(3): AMENDMENT OF DETAILS**

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files

#### **RULE 58(4): RECORDS OF TRANSPORTED / WAREHOUSED GOODS**

Subject to the provisions of rule 56:

- (a) any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him alongwith the Goods and Services Tax Identification Number of the registered consigner and consignee for each of his branches.
- (b) every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt and disposal of such goods.

#### **RULE 58(5): MANNER OF STORAGE OF GOODS**

The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

#### SECTIONS 35(3): ADDITIONAL ACCOUNTS OR DOCUMENTS FOR NOTIFIED PERSONS

The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

#### **SECTION 35(4): RELAXATION FOR CLASS OF TAXABLE PERSON**

Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

**Analysis:** Section 35(3) deals with a situation where commissioner notifies class of taxable persons to maintain additional documents.

Section 35(4) deals with a situation where commissioner notifies class of taxable persons to maintain lesser documents. However, in case if the commissioner notifies, the reasons have to be compulsorily recorded in writing

#### **SECTION 35(5): AUDIT LIMITS**

Every registered person whose turnover during a financial year exceeds Rs. 2 Crores shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under section 44(2) and such other documents in such form and manner as may be prescribed.

Books of accounts of the Central/State Government or local authority would not be subject to audit by a Chartered Accountant/Cost Accountant if the same are subject to audit by CAG of India or any statutory auditor appointed for auditing the accounts of local authorities.

#### SECTION 35(6): DEEMED SUPPLY → ACCOUNTS NOT MAINTAINED

Subject to the provisions of section 17(5)(h), where the registered person fails to account for the goods or services or both in accordance with the provisions of section 5(1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax

**Analysis:** This deals with a situation where supplies are unaccounted. If proper officer notices any supplies which are not accounted, he shall determine the tax liability and recover such tax along with interest and penalties, if any.

#### PERIOD OF RETENTION OF ACCOUNTS [SECTION 36]

Every registered person required to keep and maintain books of account or other records in accordance with the provisions of section 35(1) shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

**Analysis:** This section covers period for which the accounts have to be retained. Normally, 72 months from the due date of furnishing annual return for the period pertaining to such accounts and records. In special cases – Later of (a) 1 year after final disposal of such appeal, revision, etc (b) 72 months from the due date of furnishing annual return.

#### **INSPECTION OF GOODS IN MOVEMENT [SECTION 68]**

#### **SECTION 68(1): CARRYING OF E-WAY BILL**

The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

#### **SECTION 68(2): VALIDATION OF E-WAY BILL**

The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

#### **SECTION 68(3): CHECKING OF E-WAY BILL IN TRANSIT**



Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

**Analysis:** The Government requires the person in charge of conveyance to carry all the necessary documents with him while the goods are in transit. The proper officer can inspect the conveyance at any time. At the time of inspection, the person in charge should have all the documents and should allow the inspector to inspect the conveyance.

## RULE 138: INFORMATION TO BE FURNISHED PRIOR TO COMMENCEMENT OF MOVEMENT OF GOODS AND GENERATION OF E-WAY BILL

## RULE 138(1): VALUE > Rs. 50,000; FURNISH INFORMATION PRIOR TO MOVEMENT OF GOODS

Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees:

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods in Part A of FORM GST EWB-01, electronically, on the common portal.

Provided that where goods are sent by a principal located in one State to a jobworker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment.

Provided further that where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration under clauses (i) and (ii) of section 24, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

**Explanation:** For the purposes of this rule, the expression "handicraft goods" has the meaning as assigned to it in the Government of India, Ministry of Finance, notification No.32/2017-Central Tax dated 15.09.2017 published in the Gazette vide number G.S.R 1158 (E)]21

#### **RULE 138(2): GENERATION BY CONSIGNOR OR THE RECIPIENT**

Where the goods are transported by the registered person as a consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one or by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in FORM GST EWB-01 electronically on the common portal after furnishing information in Part B of FORM GST EWB-01.

#### **RULE 138(3): GENERATION BY TRANSPORTER**

Where the e-way bill is not generated under sub-rule (2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01 on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-01:

Provided that the registered person or, as the case may be, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees:

Provided further that where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in FORM GST EWB-01 on the common portal in the manner specified in this rule.

Provided also that where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

#### **Explanation**:

- (i) For the purposes of this sub-rule, where the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods.
- (ii) The information in Part A of FORM GST EWB-01 shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel.

#### **RULE 138(4): UNIQUE NUMBER**

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal.

#### **RULE 138(5): TRANSFER BETWEEN VEHICLES** → **UPDATE IN BILL**

Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in FORM GST EWB-01:

Provided that where the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill.

#### **RULE 138(6): MULTIPLE CONSIGNMENT IN ONE CONVEYANCE**

After e-way bill has been generated in accordance with the provisions of sub-rule (1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02maybe generated by him on the said common portal prior to the movement of goods.

## RULE 138(7): TRANSPORTER TO GENERATE BILL IF NOT GENERATED BY CONSIGNOR / CONSIGNEE

Where the consignor or the consignee has not generated FORM GST EWB-01 in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate FORM GSTEWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.

#### **RULE 138(8): INFORMATION TO REGISTERED SUPPLIER**

The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in FORM GSTR-1: Provided that when the information has been furnished by an unregistered supplier in FORM GST EWB-01, he shall be informed electronically, if the mobile number or the e- mail is available.

#### **RULE 138(9): CANCELLATION OF E-WAY BILL**

Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill: Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

#### **RULE 138(10): VALIDITY OF BILL**

An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance the goods have to be transported, as mentioned in column (2) of the said Table:

Validity of e-way bill in case of multimodal shipment in which at least one leg involves transport by ship [Rule 138(10) of the CGST Rules]

Rule 138(10) of CGST Rules provides validity period of e-way bill for over dimensional cargo and for cases other than over dimensional cargo. The sub-rule (10) of rule 138 has been amended to also provide the validity period of e-way bill for multimodal shipment in which at least one leg involves transport by ship.

Thus, amended sub-rule (10) lays down as under-

SI.	Distance within country	Validity period from relevant date	
No.			
1.	Upto <del>100km</del> 200 km [w.e.f 01.01.21]	One day in cases other than Over Dimensional Cargo <b>or</b>	
	·	multimodal shipment in which at least one leg involves transport by ship	
2.	For every <del>100km</del> 200 km or part thereof thereafter	One additional day in cases other than Over Dimensional  Cargo or multimodal shipment in which at least one leg involves transport by ship	
3.	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship	
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg	
		involves transport by ship	

The sub-rule (10) has been further amended to lay down that the validity of the e-way bill can be extended within eight hours from the time of its expiry.

#### **Example:-**

A registered person has to transport goods from its warehouse to its depot located at a distance of 500 km. In the given case, if e-way bill was generated before 01.01.2021, it would have been valid for 5 days. However, an e-way bill generated on or after 01.01.2021 would be valid for only 3 days.

Provided that the Commissioner may, by notification, extend the validity period of e- way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GSTEWB-01.

**Explanation:** For the purposes of this rule, the "relevant date" shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as twenty- four hours

#### **RULE 138(11): ACCEPTANCE / REJECTION OF E-WAY BILL**

The details of e-way bill generated under sub-rule (1) shall be made available to the recipient, if registered, on the common portal, who shall communicate his acceptance or rejection of the consignment covered by the e-way bill..

#### **RULE 138(12): DEEMED ACCEPTANCE**

Where the recipient referred to in sub-rule (11) does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

#### **RULE 138(13): VALIDITY IN STATES**

The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory.

#### **RULE 138(14): EXCEPTION TO E-WAY BILL GENERATION**

Notwithstanding anything contained in this rule, no e-way bill is required to be generated:

- (a) where the goods being transported are specified in Annexure;
- (b) where the goods are being transported by a non-motorised conveyance;
- (c) where the goods are being transported from the port, aircorgo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and
- (d) in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the Goods and Services Tax Rules of the concerned State

#### RULE 138A: DOCUMENTS AND DEVICES TO BE CARRIED BY A PERSON-IN-CHARGE OF A CONVEYANCE

#### **RULE 138A(1): DOCUMENTS BY PERSON IN CHARGE**

The person in charge of a conveyance shall carry:

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

#### **RULE 138A(2): ONLINE UPLOADING OF TAX INVOICE**

A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in FORM GST INV-1 and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of thirty days from the date of uploading.

#### **RULE 138A(3): AUTO POPULATION OF INVOICE NUMBER**

Where the registered person uploads the invoice under sub-rule (2), the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.

#### **RULE 138A(4): RFID TO NOTIFIED TRANSPORTERS**

The Commissioner may, by notification, require a class of transporters to obtain a unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device (RFID) prior to the movement of goods.



#### **RULE 138A(5): DOCUMENTS IN LIEU OF E-WAY BILL**

Notwithstanding anything contained clause (b) of sub-rule (1), where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill- (a) tax invoice or bill of supply or bill of entry; or (b) a delivery challan, where the goods are transported for reasons other than by way of supply.

#### **RULE 138B: VERIFICATION OF DOCUMENT AND CONVEYANCE**

#### **RULE 138B(1): STOPPING OF VEHICLE FOR VERIFICATION**

The Commissioner or an officer empowered by him in this behalf may authorise the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter- State and intra-State movement of goods.

#### **RULE 138B(2): INSTALLATION OF RFID READERS**

The Commissioner shall get Radio Frequency Identification Device readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e- way bill has been mapped with the said device.

#### **RULE 138B(3): PHYSICAL VERIFICATION OF CONVEYANCE**

Where the registered person uploads the invoice under sub-rule (2), the information in Part A of FORM GST EWB-01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1.

#### RULE 138C: INSPECTION AND VERIFICATION OF GOODS

#### **RULE 138C(1): E-RECORD OF SUMMARY REPORT OF INSPECTION OF GOODS**

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.

#### **RULE 138C(2): ONE TIME PHYSICAL VERIFICATION OF CONVEYANCE IN STATE**

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently.

## RULE 138D: FACILITY FOR UPLOADING INFORMATION REGARDING DETONATION OF VEHICLE

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal 22.

The CGST (Amendment) Act, 2018 has inserted a proviso after the said sub-section to lay down that nothing contained in section 35(5) shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General (CAG) of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

In other words, books of accounts of the Central/State Government or local authority would not be subject to audit by CAG of India or any statutory auditor appointed for auditing the accounts of local authorities.

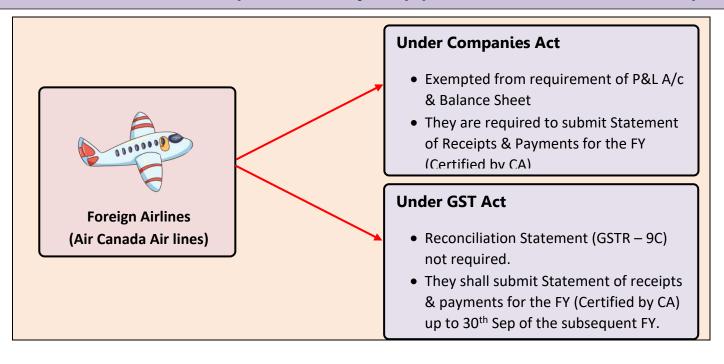
## 1. For FY 2018-19, threshold for GST Audit as required u/Sec 35(5) enhanced to Rs 5 Crores

Every registered person [other than those referred to in the proviso to section 35 (5)] whose AGGREGATE TURNOVER during a financial year exceeds Rs 2 (For FY 18-19 IFAID > 5 Cr.) crore shall get his accounts audited as specified under Sec 35 (5) 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.

2. FOREIGN AIRLINE Companies (which are exempted under Companies Act from requirement of maintaining P&L and Balance Sheet in India) – now 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) (w.e.f. 16th March, 2020)



#### **CHECK YOUR KNOWLEDGE**

- 1. Which of the following statements are true w.r.t. accounts and records?
  - 1) All accounts and records are to be retained for 6 years.
  - 2) Stock record is to be maintained by all registered dealers except the dealers registered under composition scheme.
  - 3) Stock record is to be maintained by all registered dealers including composition dealers.
  - 4) Monthly production records are to be maintained by all dealers except the dealers who have taken option for composition.
  - 5) Monthly production records are to be maintained by all dealers including composition dealers
  - 6) Records are to be maintained at principal place of business.

#### Which of the above are correct?

a) 1,2,5,6

b) 1,3,5

c) 1,3,4

d) 1,2,4,6

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Payment of Tax
Unit 1 : Payment of Tax, Interest and Other Amounts



## **PAYMENT OF TAX UNDER GST**

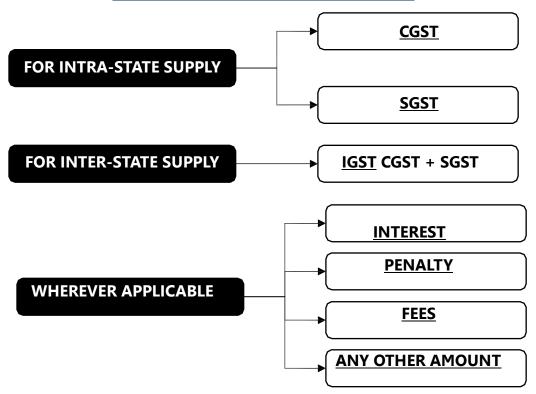
Payment to be made in GST Regime.

- **Key features of Payment Process.**
- **Electronic Ledgers.**
- **Manner of Payment of Tax.**
- Interest of Delayed Payment of Tax.

**CHAPTER OUTLINES** 



#### **PAYMENTS TO BE MADE IN GST REGIME**



#### **KEY FEATURES OF PAYMENT PROCESS**

Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;

Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;

Convenience of making payment online;

Logical tax collection data in electronic format;

Faster remittance of tax revenue to the Government Account;

Paperless transactions;

Speedy Accounting and reporting;

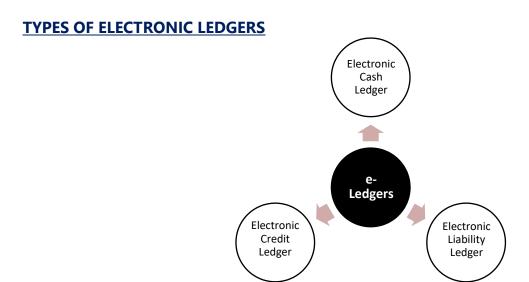
Electronic reconciliation of all receipts;

Simplified procedure for banks;

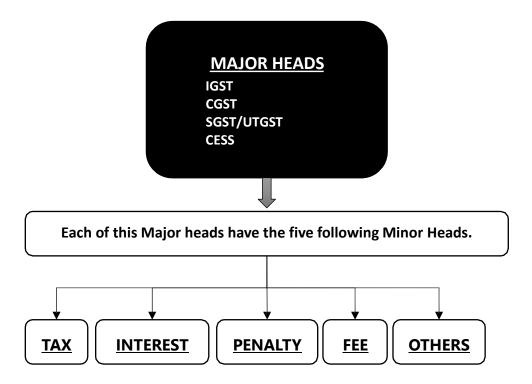
Warehousing of Digital Challan.

#### **ELECTRONIC LEDGERS**

Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register.



#### **MAJOR AND MINOR HEADS OF PAYMENT**



#### **DATE OF DEPOSITOF TAX DUES**

Which date is considered as date of deposit of tax dues?			
(i)	Date of presentation of cheque	x	
(ii)	Date of payment	x	
(iii)	Date of credit of amount in the account of government	√	

#### ORDER OF DISCHARGE OF LIABILITY OF TAXABLE PERSON

All dues related to previous tax period



All dues related to current tax period



All dues including demand determined u/s 73 and 74

#### **MANNER OF PAYMENT OF TAX**

Through debit of Electronic Credit Ledger	In cash, by debit in the Electronic Cash Ledger
Through debit of Credit Ledger of the tax payer maintained on the Common portal – ONLY Tax can be paid.	

#### AMENDMENTS MADE BY THE CGST (AMENDMENT) ACT, 2018 – EFFECTIVE FROM 01.02.2019

1. SGST/ UTGST to be used for payment of IGST only when credit of CGST is not available [Section 49(5) of the CGST Act]

Refer Chapter 8: Input Tax Credit for discussion on this amendment.

2. ITC of IGST to be fully utilized first [Section 49A of the CGST Act]
Refer Chapter 8: Input Tax Credit for discussion on this amendment.

3. Order of utilisation of ITC [Section 49B of the CGST Act]
Refer Chapter 8: Input Tax Credit for discussion on this amendment.

NOTE: -

NOTE: - Rule 87(13),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.".

#### **ELECT RONIC L EDGER's SUMMARY**

ELECTRONIC CASH LEDGER

- It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer
- This ledger can be used for making **ANY PAYMENT** towards tax, interest, penalty, fees or any other amount on account of GST.

ELECTRONIC CREDIT LEDGER

- It will reflect Input Tax Credit as self-assessed in monthly returns.
- The credit in this ledger can be used to make payment of **TAX ONLY** i.e. output tax and not other amounts such as interest, penalty, fees etc.

ELECTRONIC LIABILITY LEDGER • Electronic Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

#### PAYMENT OF TAX VIA ELECTRONIC CASH LEDGER

### **DEBIT AMOUNT (DR)**

#### **CREDIT AMOUNT (CR)**

- Credit amount of this ledger may be used for payment of tax, interest, fees etc.
- Remaining credit balance amount after payment TDS/TCS claimed of above tax etc. will be refunded to taxable person.
- Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc.

#### **PAYMENT OF TAX VIA ELECTRONIC CREDIT LEDGER**

#### **DEBIT AMOUNT (DR)**

#### **CREDIT AMOUNT (CR)**

- Credit amount of this ledger may be used for | Input Tax credit as self-assessed in the return payment of output tax viz IGST, CGST, SGST, UTGST in the prescribed order.
- in the form of IGST, CGST, SGST, UTGST

#### **PAYMENT OF TAX VIA ELECTRONIC LIABILITY REGISTER**

#### **DEBIT AMOUNT (DR)**

#### **CREDIT AMOUNT (CR)**

- Amount payable towards tax, interest, fees etc.
- Tax or interest payable due to mismatch
- Any other dues
- Electronic cash ledger
- Amount payable towards output tax

- Electronic cash ledger
- Electronic credit ledger

#### **INTEREST ON DELAYED PAYMENT OF TAX**

#### **INTEREST RATES** Undue or excess claim of If person pays the unpaid ITC u/s 42(10)\* or undue amount on his own or excess reduction in (without demand by output tax liability u/s **Department)** 43(10)\*\* 18% per annum 24% per annu

# PAYMENT OF TAX UNIT 1 – PAYMENT OF TAX, INTEREST AND OTHR RECORDS

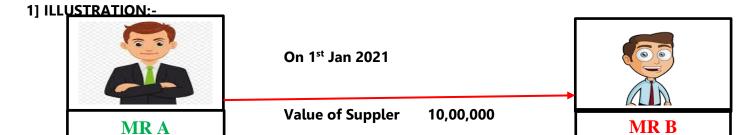
- \*Section 42(10) of CGST Act deals with contravention of provisions for matching of claims for input tax credit by recipient and
- \*\*Section 43(10) of CGST Act deals with contravention of provisions for matching of claims for reduction in output tax liability by a supplier.

#### **Interest on Net Tax liability** [Not on Gross Tax liability]



Recipient

Provision to Sec 50(2) inserted providing that in case of belated tax payment (of self-assessed liability), interest shall be chargeble on NET CASH TAX liability (not on GROSS TAX LIABILITY) [EFFECTIVE FROM 1/09/2020]



1,80,000

#### Note:-

**Supplier** 

- Balance of electric Credit ledger of Mr A = 1,00,000
- Mr A is a normal Tax payer

Suppose Mr A pay his tax liability on 20<sup>th</sup> may 2021 Compute the Interest liability as per Sec 50(1).

#### **SOLUTION:-**

Due date of filing of Return (Due date of payment of Tax) = 20<sup>th</sup> Feb 2021

**GST @ 18%** 

- Actual Date of payment 20<sup>th</sup> may 2021
- Delay (feb-8 days)+(March-31 days)+(April-30 Days)+(May-20 days)=89 days
- Interest Rate = @ 18%

#### Interest liability:-

Before Amendment	Now
1,80,000 * 18% * 89days	(1,80,000-ITC 1,00,000) * 18% * 89 days
365 days	365 days
= Rs 7900 (Approx)	= Rs 3511 (Approx)

#### 2] ILLUSTRATION: -

A ltd have belatedly filed GST return (under section39) for the month of March after 60 days from the due date for filing such return. Total tax paid in such return is as below:

Particulars	IGST	CGST	SGST
Output tax payable	5,00,000	3,00,000	3,00,000
Tax payable under reverse charge	20,000	24,000	24,000
Input tax available for utilization	2,50,000	50,000	50,000

Examine the interest payable as per the provisions of GST law.

#### **SOLUTION:-**

Statement showing computation of net liability (due for payment from e-cash ledger)

Which is subject to nearest to interest u/Sec 50 due to belated payment.

Liability	Nature of liability (Gross)	Liability Discharged through E-credit ledger (utilization of ITC)	Liability Discharged through E-cash ledger (net liability)
	IGST=5,00,000	IGST=2,50,000	IGST=2,50,000
Famusud	CGST=3,00,000	CGST=50,000	CGST=2,50000
Forward charge	SGST=3,00,000	SGST=50,000	SGST=2,50,000
_	IGST=20,000	-	IGST=20,000
D	CGST=24,000	-	CGST=24,000
Reverse charge	SGST =24,000	-	SGST =24,000

#### Interest Calculation:-

interest catcutation.			
	Amount in (RS)		
Particular	IGST	CGST	SGST
I. Net liability under FCM	2,50,000	2,50,000	2,50,000
a) Delay =	60 days	60 days	60 days
b) Interest Rate	18%	18%	18%
c) Interest = Net Liability*18%*6Odays 365 days	7397	7397	7397
II. Liability under RCM	20,000	24,000	24,000
Interest = Liability*18%*60days  365 days	592	710	710

#### SEC 170: ROUNDING OFF OF TAX, etc.

The amount of tax, interest, penalty, fine or any other sum payable, and The amount of refund or Any other sum due.

Under the provisions of this Act, shall be rounded off to the nearest rupee

If such part is fifty paise or more, it shall be increased to one rupee and If such part is less than fifty paise, it shall be ignored.

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Payment of Tax
Unit 2 : Tax Deduction at Source and Collection of Tax at Source



# PAYMENT OF TAX **UNDER GST**

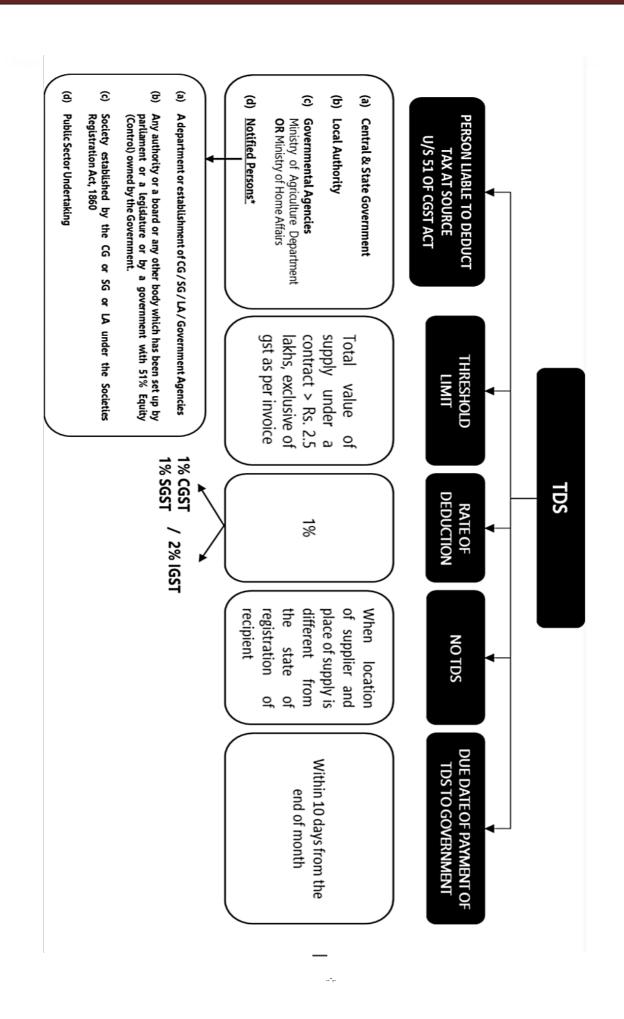
Applicability of Tax Deduction at Source (TDS).

Consequences of not complying with TDS provisions.

Tax Collection at Source (TCS).

**CHAPTER OUTLINES** 





#### CATEGORIES OF PERSONS NOT LIABLE TO DEDUCT TDS

Tax is not liable to be deducted at source in the following cases:-

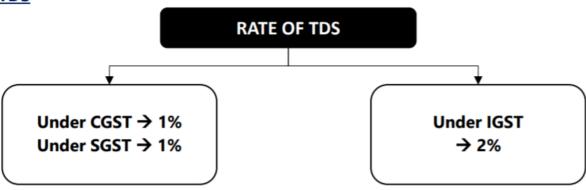
- (i) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person Effective from 01.10.2018. [Notification No. 61/2018 CT dated 05.11.2018]
- (ii) When supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act. [Notification No. 73/2018 CT dated 31.12.2018]

# \*CLARIFICATION REGARDING APPLICABILITY OF THE PROVISIONS OF SECTION 51 (TDS) OF THE CGST ACT ON CERTAIN NOTIFIED PERSONS

It has been clarified that an authority or a board or any other body whether set up by an Act of Parliament or a State Legislature or established by any Government with 51% or more participation by way of equity or control, to carry out any function would only be liable to deduct tax at source.

In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government. [Circular No. 76/50/2018 GST dated 31.12.2018]

#### **RATE OF TDS**



#### MANNER OF ACCOUNT OF TDS BY TDS DEDUCTOR

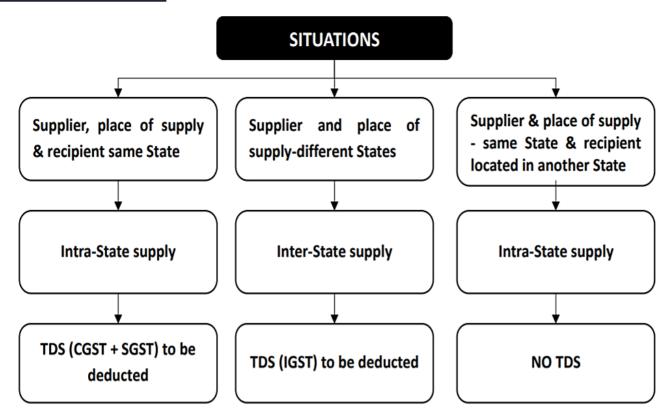
- 1. Such deductors needs to get compulsorily registered under section 24 of the CGST/SGST Act.
- 2. They need to remit such TDS collected by the 10th day of the month succeeding the month in which TDS was collected.
- 3. The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.
- 4. They need to issue certificate of such TDS to the deductee within 5 days of deducting TDS failing which fees of Rs.

100 per day subject to maximum of Rs. 5,000/- will be payable by such deductor.

#### MANNER OF ACCOUNT OF TDS BY SUPPLIER

- Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier.
- He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

#### APPLICABILITY OF TDS



#### REFUND ON EXCESS/ERRONEOUS DEDUCTION

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.

#### **EXAMPLE**

Suppose a supplier makes a supply worth Rs. 1000/- to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of Rs. 1000/- to the supplier, shall deduct 1% viz Rs. 10/- as TDS.

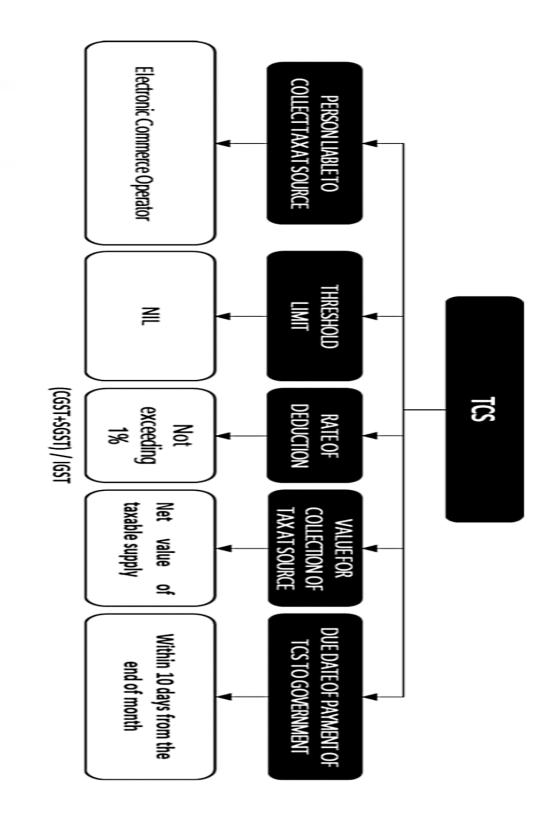
The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month.

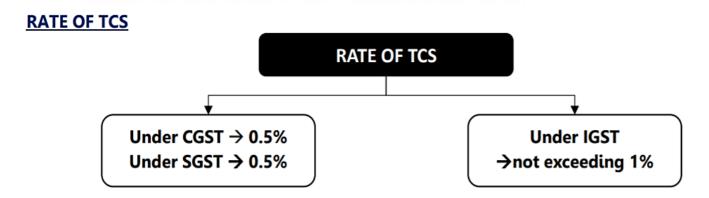
The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount. The purpose of TDS is just to enable the Government to have a trail of transactions and to monitor and verify the compliances.

#### CONSEQUENCES OF NOT COMPYLING WITH TDS PROVISIONS

Sr. No.	EVENT	CONSEQUENCE
(i)	TDS not deducted	Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law
(ii)	TDS certificate not issued or delayed beyond the prescribed period of five days	Late fee of Rs. 100/- per day subject to a maximum amount of Rs. 5000/-

iii)	TDS deducted but not paid to the Government or paid later than 10th of the succeeding month	Interest to be paid along with the TDS amount else the amount shall be determined and recovered as per the law
iv)	Late filing of TDS returns	Late fee of Rs. 100/- for every day during which such failure continues, subject to a maximum amount of Rs. 5000





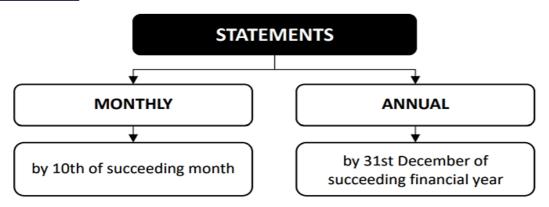
#### **NET VALUE OF TAXABLE SUPPLIES**

Aggregate value of taxable supplies of goods and/or services (other than notified services under section 9(5) by all registered persons)

Less: Taxable supplies returned to supplier

**NET VALUE OF TAXABLE SUPPLIES** 

#### **FILING OF STATEMENTS**



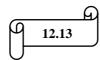
#### SOME POINTS RELATING TO TCS

- (a) Every e-commerce operator is required to collect tax on behalf of actual supplier, where consideration with respect to the supply is being collected by the e-commerce operator.
- (b) The e-commerce operator should make the collection during the month in which supply was made.

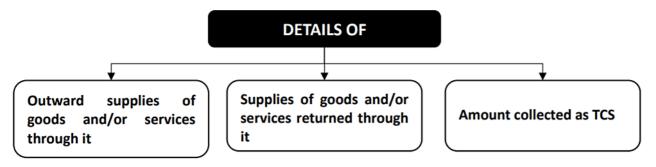
DETAILS OF SUPPLIES FURNISHED BY E-COMMERCE OPERATOR TO BE MATCHED WITH CORRESPONDING DETAILS FURNISHED BY THE SUPPLIER UNDER SECTION 37 OR SECTION 39 OF THE CGST ACT [SECTION 52(9) OF THE CGST ACT]

Section 52(9) of the CGST Act which prescribes the provisions for dealing with discrepancy in case of matching of details, has been amended so as to include the reference of section 39 (furnishing of returns) therein.

Thus, the amended provision read as "Where the details of outward supplies furnished by the operator under subsection (4) do not match with the corresponding details furnished by the supplier under section 37 or section 39, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed." Therefore, details of supplies furnished by e-commerce operator shall be matched with the corresponding details furnished by the supplier in GSTR-1 or in returns prescribed under section 39.



#### CONTENT OF MONTHLY & ANNUAL STATEMENTS FURNISHED BY OPERATOR



### SOME EXAM ORIENTED MCQ's

- 1. Analyse the transactions mentioned below-
  - (a) Mr. Abhinay, provides architect services to Institute for Rural Development, a Government Agency for Rs. 2,80,000/- (inclusive of Rs. 30,000/- GST) under a contract in October, 2018. Mr. Abhinay, is registered under GST. Being a registered supplier, Institute for Rural Development deducted TDS of supplier.
  - (b) M/s. Manmohak Apparels, is registered under GST in Madhya Pradesh. It sells leather handbags across India through e-commerce operator Pingpong. Pingpong, is also registered with Madhya Pradesh GST Authority as TCS collector and collected TCS @ 1% (0.5% CGST + 0.5% SGST) on supplies made through it. M/s. Manmohak Apparels made sales of Rs. 3,45,000/- and received sales returns of Rs. 67,700/- in the month of October, 2018. Sales are inclusive of tax. Leather handbags are taxable @ 18% GST. Pingpong, collected TCS of Rs. 2,350/- from M/s Manmohak Apparels.

Which of the transactions are in compliance with section 51 and section 52 of CGST Act?

- (a) Only (a)
- (b) Only (b)
- (c) Both (a) and (b)
- (d) Neither (a) nor (b)
- 2. In which of the following supplies of goods and services made exclusively to Government departments, agencies etc. and persons notified under section 51 of the CGST Act, 2017, TDS is required to be deducted?
  - (i) Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs. 2.6 lakh (including GST) and is making full payment.
  - (ii) Government school is making a payment of Rs.3.5 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government
  - (iii) Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi. Now, it is making payment of Rs.5 lakh and IGST @18% on Rs.5 lakh for such purchase.
  - (iv) Finance Department is making a payment of Rs.3 lakh (including GST) to a supplier of 'printing & stationery'.

Assume all other conditions for deduction of TDS are fulfilled.

- (a) (i), (ii) and (iii)
- (b) (ii), (iii) and (iv)

- (c) Only (i) and (ii)
- (d) Only (ii) and (iv)
- 3. In which of the following supplies of goods and services made exclusively to Government departments, agencies etc., TDS is required to be deducted?
  - i. Health Department executed a contract with a local supplier to supply "medical grade oxygen" of Rs. 2.6 lakh (including GST @ 18%) and is making full payment.
  - ii. Government school is making a payment of Rs. 3.5 Lakh to a supplier for supply of cooked food as mid-day meal under a scheme sponsored by Central/State Government
  - iii. Municipal Corporation of Kolkata purchases a heavy generator from a supplier in Delhi.
  - iv. Now, it is making payment of Rs. 5 lakh and IGST @18% on Rs. 5 lakh for such purchase.
  - v. Finance Department is making a payment of Rs. 3 lakh (including GST @ 18%) to a supplier of printing & stationery'.

Assume all other conditions for deduction of TDS are fulfilled.

- a) (i), (ii) and (iii)
- b) (i), (iii) and (iv)
- c) Only (i) and (ii)
- d) Only (ii) and (iv)



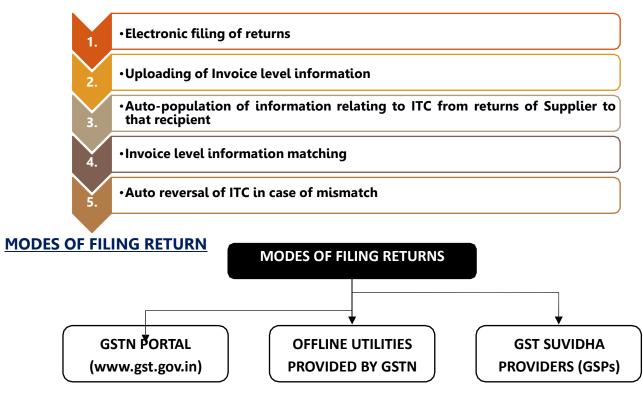


### **CHAPTER OUTLINES**

- [Sec. 37] Furnishing details of Outward Supplies.
- [Sec. 38] Furnishing details of Inward Supplies.
- [Sec. 39] Furnishing of Returns.
- / [Sec. 40] First Return.
- [Sec. 41] Claim of ITC & Provisional Acceptance Thereof.
- [Sec. 46 & 47] Default in Furnishing Returns



#### **BASIC FEATURES OF RETURN FILING**



### However, all returns have to be filed online

# FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37 READ WITH RULE 59 OF CGST RULES]

# WHO IS REQUIRED TO FURNISH DETAILS OF OUTWARD SUPPLIES? [SECTION 37(1) READ WITH RULE 59(1) OF CGST RULES]

The details of outward supplies (see definition) of both goods and services are required to be furnished by every registered person including casual registered person except the following:

Input service distributor (ISD)

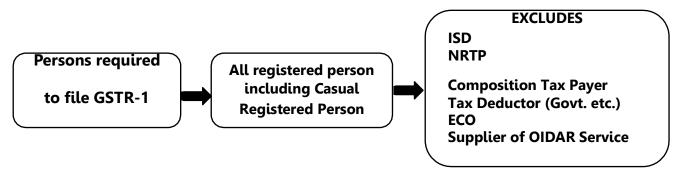
Non-resident taxable person (NRTP)

Person paying tax under composition scheme

Person deducting tax at source

Person collecting tax at source i.e., ecommerce operator (ECO), not being an agent

A supplier of online information and database access or retrieval services (OIDAR)



# WHAT IS THE FORM FOR SUBMISSION OF DETAILS OF OUTWARD SUPPLIES? [SECTION 37(1) READ WITH RULE 59(1) OF CGST RULES]

The details of outward supplies are required to be furnished, electronically, in Form GSTR-1. Such details can be furnished through the common portal, either directly or from a notified Facilitation Centre.

#### WHAT IS THE DUE DATE OF SUBMISSION OF GSTR-1? [SECTION 37(1)]

GSTR-1 for a particular month is filed on or before the <u>-10th</u> 11th day of the immediately succeeding month. In other words, GSTR-1 of a month can be filed any time between 1st and <u>-10th</u> 11th day of the succeeding month.

As a measure of easing the compliance requirement for small tax payers, GSTR-1 has been allowed to be filed quarterly by small tax payers with aggregate annual turnover up to Rs. 1.5 crore in the preceding financial year or the current financial year. Tax payers with annual aggregate turnover above Rs. 1.5 crore will however continue to file GSTR-1 on a monthly basis.

The due date of filing GSTR-1 may be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification.

\*A taxpayer cannot file GSTR-1 before the end of the current tax period.

However, following are the exceptions to this rule:

- a. Casual taxpayers, after the closure of their business
- b. Cancellation of GSTIN of a normal taxpayer

A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

#### If Aggregate Turnover $\leq$ 1.5Cr in the preceding financial year or Current financial year.

Sl. No.	Quarter for which details in FORM GSTR – 1 are furnished	Time period for furnishing details in FORM GSTR – 1
(1)	(2)	(3)
1.	April, 2020 to June, 2020	31 <sup>st</sup> July, 2020
2.	July, 2020 to September, 2020	31st October, 2020

The time limit for furnishing the details or return, as the case may be, under sun-section (2) of section 38 of the said Act, for the months of April, 20209 to September, 2020 shall be subsequently notified in the Official Gazette.

#### **EXAMPLE**

The details of outward supplies pertaining to the month of October will be required to be furnished on or before 11th November and GSTR-1 for October cannot be filed between 11th November to 15th November.

WHAT KIND OF DETAILS OF OUTWARD SUPPLIES ARE REQUIRED TO BE FURNISHED IN GSTR1? [EXPLANATION TO SECTION 37 READ WITH RULE 59(2) OF CGST RULES]



The registered person is required to furnish details of invoices and revised invoices issued in relation to supplies made by him to registered and unregistered persons during a month and debit notes and credit notes in GSTR-1 in the following manner:

Sr. No.	Invoice-wise* details of ALL	Consolidated details of ALL	Debit and Credit Notes
1.	Inter-State and Intra-State supplies made to registered persons	Intra-State supplies made to unregistered persons for each rate of tax	Issued during the month for invoices issued previously
2.	Inter-State supplies made to unregistered persons with invoice value exceeding Rs. 2,50,000	Inter-State supplies made to unregistered persons with invoice value upto Rs. 2,50,000 for each rate of tax separately for each State	

It can be seen from the above table that uploading of invoices depends on whether the supply is B2B or B2C plus whether the supply is intra-State or inter-State.

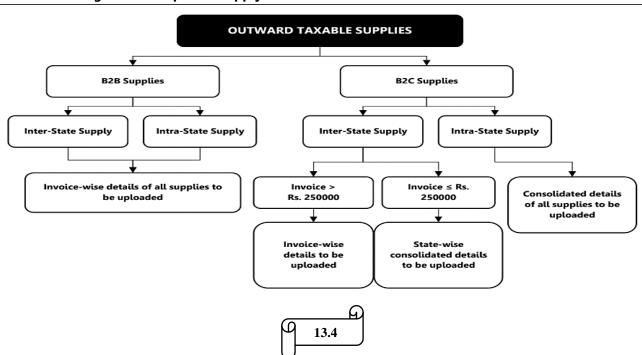
For B2B supplies, all invoices will have to be uploaded irrespective of whether they are intra-State or inter- State supplies. This is so because the recipient will take ITC and thus, invoice matching is required to be done.

For B2C supplies, uploading in general may not be required as the buyer will not be taking ITC. However, still in order to implement the destination based principle, invoices of value more than Rs. 2.5 lakh in inter-State B2C supplies will have to be uploaded. For inter-State invoices below `2.5 lakh, State wise summary will be sufficient and for all intra-State invoices, only consolidated details will have to be given.

The provisions relating to uploading of invoices have been explained by way of a diagram given at the next page. Invoices can be uploaded at any time during the tax period and not just at the time of filing of GSTR-1.

Invoices can be modified/deleted any number of times till the submission of GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the GSTR-1 is submitted and can be changed irrespective of due date.

- Scanned copies of invoices are not required to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded e.g., invoice no., date, value, taxable value, rate of tax, amount of tax etc. In case there is no consideration, but the activity is a supply by virtue of Schedule I of CGST Act, the taxable value will have to be worked out as prescribed and uploaded.
- **♣** Description of each item in the invoice will not be uploaded. Only HSN code in respect of supply of goods and accounting code in respect of supply of services will have to be fed.



#### **INDICATION OF HSN DETAILS**

The minimum number of digits of HSN code that a filer has to upload depend on his turnover in the last year.

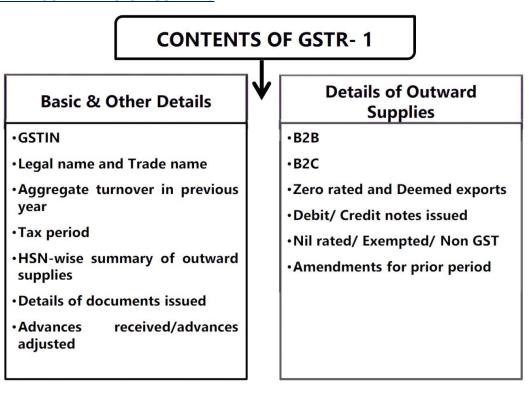
Notification No. 12/2017 CT 28.06.2017, which has been issued in this regard, provides as under:

Annual Turnover in the preceding financial year	Number of Digits of HSN Code
Upto Rs. 1.5 Cr	Nil
More than Rs. 1.5 Cr but upto Rs. 5 Cr	2
More than Rs. 5 Cr	4

# COMMUNICATION OF DETAILS OF GSTR-1 TO THE RECIPIENT OF SUPPLY [SECTION 37(2) READ WITH SUB-RULES (3) AND (4) OF RULE 59]

The details of outward supplies for a month furnished by the supplier are communicated and made available electronically (auto populated) to the respective recipient(s) in Part A of Form GSTR- 2A/ Form GSTR-4A (in case of registered person opting for composition levy) and Form GSTR-6A (in case of ISD) through the common portal after the 10th day of the succeeding month (due date of filing of GSTR-1).

#### WHAT ARE THE CONTENTS OF GSTR-1?



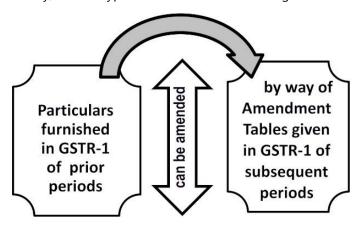
GST is a destination based consumption tax, hence the tax revenue is transferred to the State which is the place of supply of the particular transaction. Since, the place of supply is crucial for determining the share of every State in the tax revenue, GSTR-1 also captures information relating to place of supply in almost all the tables.

#### **SCOPE OF AMENDMENT/ CORRECTION ENTRIES**

Tables 9, 10 and 11(II) provide for amendments in details of taxable outward supplies furnished in earlier periods (hereinafter referred to as "Amendment Table"). The details of original debit notes/ credit notes / refund vouchers issued by the tax-payer in the current tax period as also the revision in the debit notes/ credit notes / refund vouchers issued in the earlier tax periods are required to be shown in Table 9 of the GSTR-1.

Ordinarily in Amendment Table the suppler is required to give details of original invoice (No and Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months and are now sought to be amended. However, it may happen that, a supplier altogether forgets to include the entire original invoice while furnishing the GSTR-1 for a particular month.

In such cases also, he would be required to show the details of the said missing invoice which was issued in earlier month in the Amendment Table only, as such type of errors would also be regarded as data entry error.



#### **RECTIFICATION OF ERRORS**

If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

#### TIME LIMIT FOR RECTIFICATION

Suppose for some reason, supplier could not make correction at the time of filing of GSTR-1 for the month of October, 2017 then he can make such amendments in the subsequent periods.

However, the maximum time limit within which such amendments are permissible is earlier of the following dates:

Date of filing of monthly return u/s 39 for the month of September following the end of the financial year to which such details pertain or

Date of filing of the relevant annual return.

#### **EXAMPLE**

RsM Ltd. has furnished the annual return for the year 2017-18 on August 15, 2018. An error is discovered in respect of a transaction pertaining to November, 2017. RsM Ltd. has filed the returns for the month of September, 2018 on October 20, 2018. In this case, the rectification of the error pertaining to the transaction in November, 2017 cannot be rectified beyond August 15, 2018.

It may be noted that, the expression 'due date' is missing in time limits prescribed for making amendments u/s 37(3) [GSTR-1]. Therefore, such date apparently means actual date of filing and not the due date.



- ✓ GSTR 1 needs to be filed even if there is no business activity (Nil Return) in the tax period.
- √ Taxpayer opting for voluntary cancellation of GSTIN will have to file GSTR-1 for active period.
- ✓ In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer, GSTR 1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. The GSTR 1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.

### WHAT ARE THE PRECAUTIONS THAT A TAXPAYER IS REQUIRED TO TAKE FOR A HASSLE FREE COMPLIANCE UNDER GST?

TIMELY UPLOADING OF THE DETAILS OF OUTWARD SUPPLIES IN FORM GSTR-1

One of the most important things under GST is the timely uploading of the details of outward supplies in GSTR-1 by 10th of next month. How best this can be ensured will depend on the number of B2B invoices that the taxpayer issues. If the number is small, the taxpayer can upload all the information in one go. However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis.

REGULAR UPLOADING OF INVOICES

GST common portal allows regular uploading of invoices even on a real time basis. Till the statement is actually submitted, the system also allows the taxpayer to modify the uploaded invoices. Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices. Last minute rush makes uploading difficult and comes with higher risk of possible failure and default.

FOLLOW UP WITH SUPPLIERS TO UPLOAD THE INVOICES OF INWARD SUPPLIES

The second thing would be to ensure that taxpayers follow up on uploading the invoices of their inward supplies by their suppliers. This would be helpful in ensuring that the ITC is available without any hassle and delay. Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date. The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them.

#### FURNISHING OF RETURNS UNDER SECTION 39

#### **GSTR-3B** [RULE 61(5) OF CGST RULES]

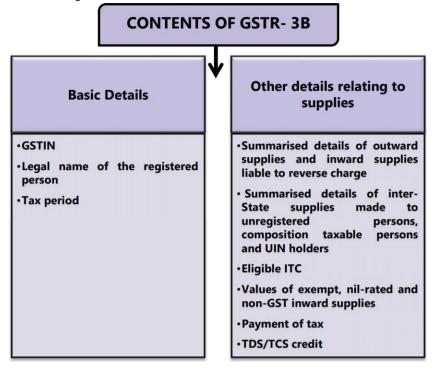
Section 39(1) prescribes a monthly return in Form GSTR-3 for every registered person, other than an input service distributor, a non-resident taxable person, a composition tax payer, person deducting tax at source, an electronic commerce operator and supplier of OIDAR services. GSTR-3 is to be filed by 20th day of the month succeeding the relevant calendar month or part thereof. **However, filing of GSTR-3 has been deferred by the GST Council.** 

Currently, return in **Form GSTR-3B** is being notified as the monthly return to be filed by the registered persons who are required to file GSTR3. Presently, the due date of submission for GSTR-3B is being notified as 20th day of the month succeeding the relevant month.

Where the time limit for furnishing of details in FORM GSTR-1 u/s 37 or in FORM GSTR-2 u/s 38 has been extended, the return specified in section 39(1) shall, in such manner and subject to such conditions as the Commissioner may, by notification, specify, be furnished in FORM GSTR-3B electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

GSTR-3B is a simple return containing summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR-3B does not require invoice-wise data of outward supplies.

The broad content of GSTR-3B are given below:



# COMPOSITION TAXPAYERS AND TAX PAYERS PAYING TAX UNDER NOTIFICATION NO. 2/2019 CT DATED 01.03.2019 TO FILE RETURN ANNUALLY AND MAKE PAYMENT QUARTERLY

A special procedure for furnishing of return and payment of tax has been prescribed for the following persons:

- (i) registered persons paying composition tax
- (ii) registered person paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019.

#### Such persons will:

- (i) furnish a statement in the prescribed form containing details of payment of selfassessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.
- (ii) furnish a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.

The registered persons paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 will be deemed to have complied with the provisions of section 37 and section 39 of the CGST Act if they have furnished the prescribed statement and GSTR 4 as mentioned above.

#### [Notification No. 21/2019 CT dated 23.04.2019]

In view of the above-mentioned special procedure, rule 62 of CGST Rules which prescribed the provisions for quarterly return by the composition supplier has also been amended. The amended rule 62 whose heading has been changed to "Form and manner of submission of statement and return" provides as under:

(i) Every registered person paying tax under section 10 or paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 shall electronically furnish –

- (a) a statement in the prescribed form containing details of payment of self-assessed tax, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter; and
- (b) a return (GSTR 4) for every financial year (or part of the financial year), on or before 30th day of April following the end of such financial year.
- (ii) Every registered person furnishing the statement under sub-rule (1) shall discharge his liability towards tax or interest payable by debiting the electronic cash ledger.
- (iii) The return furnished under sub-rule (1) shall include the- (a) invoice wise interState and intra-State inward supplies received from registered and unregistered persons; and (b) consolidated details of outward supplies made.
- (iv) A registered person who has opted to pay tax under section 10 or by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

Here, the person shall not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme or paying tax by availing the benefit of Notification No. 02/2019 CT (R) dated 07.03.2019.

- (v) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax under the composition scheme till the 18th day of the month succeeding the quarter in which the date of withdrawal falls and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such withdrawal falls.
- (vi) A registered person who ceases to avail the benefit of Notification No. 02/2019 CT (R) dated 7.03.2019, shall, where required, furnish a statement in the prescribed form for the period for which he has paid tax by availing the benefit under the said notification till the 18th day of the month succeeding the quarter in which the date of cessation takes place and furnish GSTR 4 for the said period till the 30th day of April following the end of the financial year during which such cessation happens.

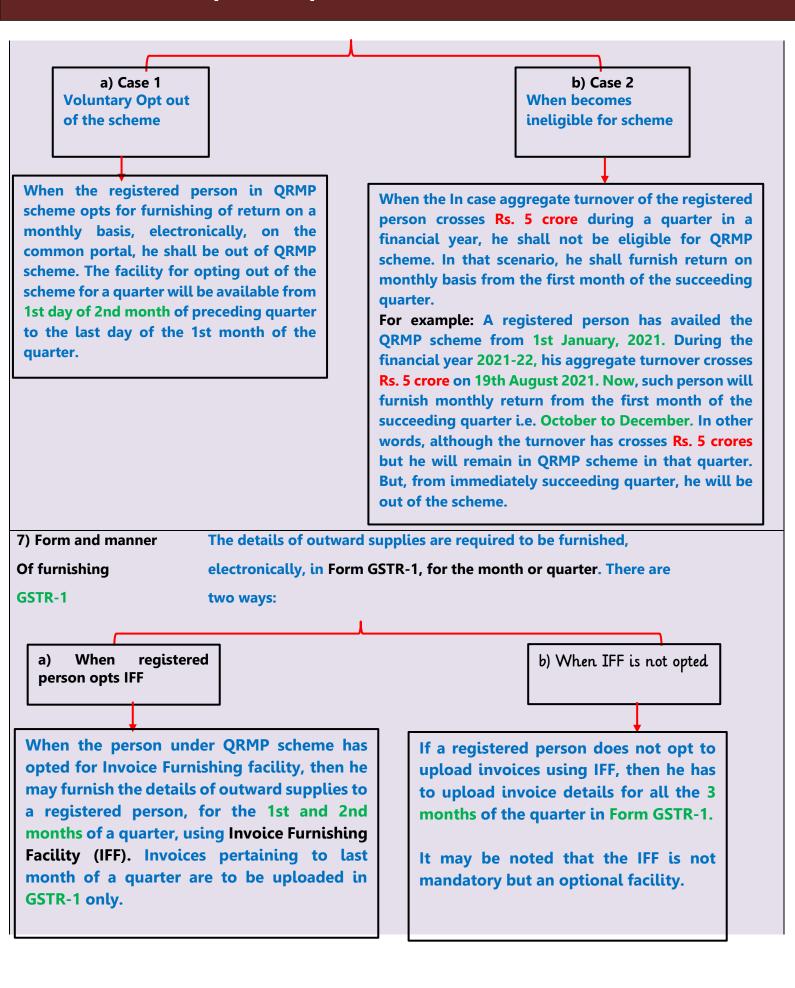
[Notification No. 20/2019 CT dated 23.04.2019]

#### **Contents of GSTR-4**

The broad contents of GSTR-4 are given below:

#### **CONTENTS OF GSTR- 4 Details regarding Inward and Basic & Other Details GSTIN** Invoice-wise details of all inward supplies (i.e., intra and inter- State Legal name and Trade name supplies and from registered and TDS/TCS credit received [Table7] unregistered persons) including Tax, interest, late fee payableand reverse charge supplies and import of paid [Table 8] services [Table 4] · Refund claimed from Electronic Summary of self assessed liability as cash ledger [Table 9] per GST CMP 08 (Net of advances credit & debit notes and any other adjustments due to amendment tables etc.) [Table 5] Tax rate wise details of outward supplies/inward supplies attracting reverse charge (Net of advances, credit & debit notes and any other adjustments due to amendments etc.)-

) Optional Scheme	Quarterly Return Monthly Payment (QRMP) Scheme has been
	introduced as a trade facilitation measure and in order to further ease
	the process of doing business. It is an optional return filing scheme,
	which, once exercised, shall continue for future tax period
	automatically. It means there is no need to exercise the option every quarter.
2) GSTIN-wise	It is GSTIN-wise scheme in which some GSTINs for a PAN can opt
Scheme	for the QRMP scheme and remaining GSTINs may NOT opt for the
	said scheme.
3) Elegibility for	The taxpayers whose aggregate turnover is up to Rs. 5 crore in the
QRMP scheme	preceding financial year are eligible for QRMP scheme.
4) Condition	To opt the QRMP scheme, It is necessary that the Registered person
regarding preceding	must have furnished the return for the preceding month, as due on the
month return	date of exercising such option.
	For Example:- If a registered person intending to avail of QRMP scheme for the quarter 'April to June' is exercising his option on 27th April for the said quarter, he must have furnished the return for the month of March on the due date.
5) Manner of	As per Rule 61A, the registered person intending to opt for QRMP
exercising Option of	scheme for any quarter shall indicate his preference for furnishing of
QRMP Scheme	return on a quarterly basis from 1st day of the 2nd month of the
[Rule 61A]	preceding quarter till the last day of the 1st month of the quarter for
	which the option is being exercised.
	For Example:- A registered person intending to avail of QRMP scheme for the quarter 'April to June' can exercise his option from 1st February to 30th April.
6) Lapse of QRMP	The following are the relevant points:-



8) Form and manner
Of filing GSTR-3B
For taxpayers opted
For QRMP scheme

The due date for filing Quarterly GSTR-3B is on or before 22nd or 24th of the month succeeding the quarter for which return is furnished.

It has to be furnished electronically as per following details:

For registered persons whose place of business is in	Due date
the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Union territories of Daman & Diu & Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	
the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	

### 9) Monthly payment

Of tax

The registered person under the QRMP Scheme would be required to pay the tax due in each of the first two months of the quarter by depositing the due amount in FORM GST PMT-06, by the 25th day of the month succeeding such month. While generating the challan, taxpayers should select "Monthly payment for quarterly taxpayer" as reason for generating the challan.

There are following two options for monthly payment of tax during the first two months and the registered person under QRMP is free to avail either of these two tax payment methods.

Fixed sum method

**Self-Assessment Method** 

If a taxpayer chooses this option, a facility is available on the GST portal for generating an auto-generated/prefilled challan in Form GST PMT-06. The challan amount is calculated by the system which cannot be edited. The amount is equal to:

- 35% of the tax paid in cash in the return for the preceding quarter where the return was furnished quarterly; or
- Tax liability paid in cash in the return for the last month of the immediately preceding quarter where the return was furnished monthly.

The person can pay the tax due by considering the tax liability on inward and outward supplies and the input tax credit available, in Form GST PMT-06. In order to facilitate ascertainment of the ITC available for the month, an autodrafted input tax credit statement has been made available in Form GSTR2B, for every month.

#### No amount may be required to be deposited for the

For the 1st month of the quarter, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability;

For the 2nd month of the quarter, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the cumulative tax liability for the 1st and the 2nd month of the quarter or where there is nil tax liability

Ineligibility for Fixed Sum method: This method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month. Here, a complete tax period means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

#### 10) Applicability of Interest

a) Under Fixed sum method

No interest would be payable in case the tax due is paid in the first two months of the quarter by way of depositing auto-calculated fixed sum amount by the due date. In other words, if while furnishing return in FORM GSTR-3B, it is found that in any or both of the first two months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan, then, no interest would be charged provided they deposit system calculated amount for each of the first two months and discharge their entire liability for the quarter in the FORM GSTR-3B of the quarter by the due date.

Under Self-Assessment Method

Interest amount would be payable as per the provision of Section 50 of the CGST Act for tax or any part thereof (net of ITC) which remains unpaid / paid beyond the due date for the first two months of the quarter. The interest payable, if any, shall be paid through FORM GSTR-3B.

#### **Exceptions:**

- In case such payment of tax by depositing the system calculated amount in FORM GST PMT-06 is not done by due date, interest would be payable at the applicable rate, from the due date of furnishing FORM GST PMT-06 till the date of making such payment.
- •Further, in case FORM GSTR-3B for the quarter is furnished beyond the due date, interest would be payable as per the provisions of Section 50 of the CGST Act for the tax liability net of ITC.

11) Applicability of

Late Fee

Late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of Section 47 of the CGST Act. As per the Scheme, the requirement to furnish the return under the proviso to subsection (1) of Section 39 of the CGST Act is quarterly. Accordingly, late fee would be the applicable for delay in furnishing of the said quarterly return / details of outward supply. It is clarified that no late fee is applicable for delay in payment of tax in first two months of the quarter.

# GSTR-5 - RETURN FOR NON-RESIDENT TAXABLE PERSONS [SECTION 39(5) READ WITH RULE 63 OF CGST RULES]

Non-Resident Taxable Persons (NRTPs) are those suppliers who do not have a business establishment in India and have come for a short period to make supplies in India. They would normally import their products into India and make local supplies. The concept of Non-Resident Taxable Person has been discussed in detail in Chapter 9 – Registration.

#### MONTHLY RETURN

A registered NRTP is not required to file the Statement of Outward Supplies and return applicable for a normal tax payer.

In place of the same, a simplified monthly tax return has been prescribed in Form GSTR-5 for a NRTP for every calendar month or part thereof. NRTP shall incorporate the details of outward supplies and inward supplies in GSTR-5.

#### LAST DATE OF FILING RETURN

The details in GSTR-5 should be furnished within 20 days after the end of the calendar month or within 7 days after the last day of validity period of the registration, whichever is earlier.

#### PAYMENT OF INTEREST, PENALTY, FEES OR ANY OTHER AMOUNT PAYABLE

NRTP shall pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or the provisions of the Returns Chapter under CGST Rules till the last date of filing return.

A NRTP is not required to file annual return.

# <u>GSTR-6 – RETURN FOR INPUT SERVICE DISTRIBUTOR [SECTION 39(4) READ WITH RULE 60(5) AND RULE 65 OF CGST RULES]</u>

An ISD is required to distribute both eligible as well as ineligible credit as per rule 39 of the CGST Rules, 2017.

#### MONTHLY RETURN

ISD is not required to file statement of outward supplies with its return. It needs to file only a monthly return in **Form GSTR-6** electronically through the common portal. **Form GSTR-6** contains the details of input tax credit received for distribution, total ITC/ eligible/ ineligible ITC to be distributed for the tax period, distribution of ITC, details of debit/ credit notes, etc.

#### **♣** LAST DATE OF FILING RETURN

The details in GSTR-6 should be furnished **on/before 13<sup>th</sup> of the month succeeding the calendar month.** GSTR-6 can only be filed after 10<sup>th</sup> of the month and before 13<sup>th</sup> of the month succeeding the tax period.

#### AUTO-POPULATION OF INPUT TAX CREDIT RECEIVED FOR DISTRIBUTION

The details of input tax credit received for distribution by an ISD will be auto populated in **Form GSTR-6A**. Such details are auto-populated in Form GSTR-6A when the registered suppliers file their GSTR-1. ISD can view the auto-populated details of ITC received for distribution in GSTR-6A

#### CONTENTS OF GSTR-6

#### **CONTENTS OF GSTR-6**

#### **Basic & Other Details**

- · GSTIN
- Legal name and Trade name
- ·Late Fee [Table 10]
- •Refund claimed from electronic cash ledger [Table 11]

#### Details regarding Inward and Outward Supplies

- Input tax credit received for distribution [Table 3]
- •Total ITC/ Eligible ITC/ Ineligible ITC to be distributed for tax period [Table 4]
- •Distribution of input tax credit reported in Table 4 [Table 5]
- Amendments in information furnished in earlier returns [Table 6]
- Input tax credit mis-matches and reclaims to be distributed in the tax period [Table 7]
- •Distribution of input tax credit reported in Table No. 6 and 7 (plus/minus) [Table 8]
- •Redistribution of ITC distributed to wrong recipient (plus/minus) [Table 9]

#### **★** DETAILS OF GSTR-6 TO BE AVAILABLE IN GSTR-2A OF THE RECIPIENTS

The details of invoices furnished by an ISD in his return will be made available to the respective registered recipients of credit in their GSTR 2A (Form GSTR 4A in case of composition supplier).

# GSTR-7 - RETURN FOR PERSON REQUIRED TO DEDUCT TAX AT SOURCE [SECTION 39(3) READ WITH RULE 60(6) AND RULE 66 OF CGST RULES]

Whenever taxable goods or services or both are supplied to a Central/ State Government's Department/ establishment or, local authority, or Governmental agencies, recipient is required to deduct tax at source4 under section 51.

#### MONTHLY RETURN

Deductor shall furnish a monthly return in Form GSTR-7 electronically through the common portal.

#### LAST DATE OF FILING RETURN

The details in GSTR-7 should be furnished **on/before 10th of the month succeeding the calendar month** in which tax has been deducted at source.

#### TDS DETAILS MADE AVAILABLE IN GSTR-2A/4A

The details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the suppliers in Part C of Form GSTR2A/ Form GSTR- 4A (in case of registered person opting for composition levy) on the common portal after the due date of filing of Form GSTR7. The supplier can take this amount as credit in his Electronic Cash Register and use the same for payment of tax or any other liability.

#### **TAX DEDUCTION AT SOURCE (TDS) CERTIFICATE**

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment, TDS is deducted), within 5 days of crediting the amount to the Government. It contains the details pertaining to value on which tax has been deducted, rate of deduction, amount of tax deducted at source and amount paid to the Government.

#### **DUE DATE FOR PAYMENT OF TAX**

Due dates for payment of tax in respect of the persons required to file GSTR3B, GSTR-4, GSTR-5 and GSTR-7 are linked with the due dates for filing of such returns i.e., the last dates (due dates) of filing such returns are also the due dates for payment of tax in respect of persons required to file such returns.

However, non-resident taxable persons or casual taxable persons are required to make advance deposit of tax of an amount equivalent to the estimated tax liability of such person for a period for which registration is sought or extension of registration is sought in terms of section 27(2).

#### **RECTIFICATION OF ERRORS/OMISSIONS [SECTION 39(9)]**



# IF A RETURN HAS BEEN FILED, HOW CAN IT BE REVISED IF SOME CHANGES ARE REQUIRED TO BE MADE?

In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided for the purposes of amending previously declared details.

Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the month/quarter during which such omission or incorrect particulars are noticed. Any tax payable as a result of such error or omission will be required to be paid along with interest.

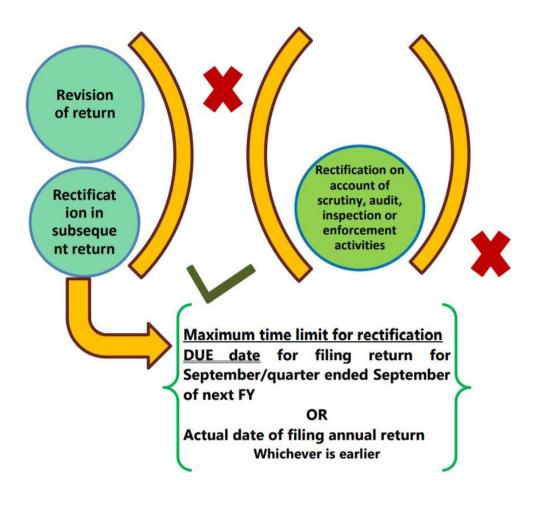
#### **EXCEPTION**

It is important to note that section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities. Hence, assessee may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of account of any of the aforementioned situations.

#### TIME LIMIT FOR MAKING RECTIFICATION

The maximum time limit within which the rectification of errors/omissions is permissible is earlier of the following dates:

Due date of filing of return for the month of September/ quarter ending September following the end of the financial year [i.e., 20th October of next financial year] or Actual date of filing of the relevant annual return. The last date of filing of annual return is 31st December of next financial year. Hence, if annual return for the year 2017-18 is filed before 20th October 2018, then no rectification of errors/omissions in returns pertaining to FY 2017-18 would be permitted thereafter.



- **Filling of returns of current month is possible only when returns of the previous month have been filled.**
- **A** taxpayer needs to electronically sign the submitted returns otherwise it will be considered not-filed.
- Taxpayers can electronically sign their returns using a DSC (mandatory for all types of companies and LLPs), E-sign (Aadhaar-based OTP verification), or EVC (Electronic Verification Code sent to the registered mobile number of the authorized signatory).

### **FIRST RETURN [SECTION 40]**

When a person becomes liable to registration after his turnover crossing the threshold limit of Rs. 20 lakh (Rs. 10 lakh in case of Special Category States except Jammu and Kashmir), he may apply for registration within 30 days of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate. During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.

Now, in order to enable such registered person to declare the taxable supplies made by him for the period between the date on which he became liable to registration till the date on which registration has been granted so that ITC can be availed by the recipient on such supplies, firstly, the registered person may issue Revised Tax Invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration [Section 31(3)(a) read with rule 53 of CGST Rules, 2017 – Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes]. Further, section 40 provides that registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration. The format for this return is the same as that for regular return.

#### **OTHER RETURNS**

# <u>GSTR - 8 - STATEMENT FOR ECO FOR SUPPLIES EFFECTED THROUGH IT [SECTION 52(4) READ WITH RULE 60(7) AND RULE 67 OF CGST RULES]</u>

#### MONTHLY RETURN

ECO shall furnish a monthly return in Form GSTR-8 electronically through the common portal. Form GSTR-8 contains the details of supplies of goods or services or both effected through ECO, including the supplies of goods or services or both returned through it and the amount of tax collected at source.

#### LAST DATE OF FILING RETURN

The details in GSTR-8 should be furnished on/before 10th of the month succeeding the calendar month in which tax has been collected at source. Further, the amount of tax collected by ECO (TCS amount) is required to be deposited by the 10th of the month succeeding the calendar month in which tax has been collected at source.

#### TCS DETAILS MADE AVAILABLE IN GSTR-2A

The details of TCS furnished by the ECO in Form GSTR-8 shall be made available electronically to each of the suppliers in Part C of Form GSTR-2A on the common portal after the due date of filing of Form GSTR-8.

#### GSTR – 9/9A - ANNUAL RETURN [SECTION 44 READ WITH RULE 80 OF CGST RULES]

#### WHO ARE REQUIRED TO FURNISH ANNUAL RETURN AND WHAT IS THE DUE DATE?

All registered persons are required to file an annual return. However, following persons are not required to file annual return:

- (i) Casual Taxable Persons.
- (ii) Non-resident taxable person
- (iii) Input Service Distributors and
- (iv) Persons authorized to deduct/collect tax at source under section 51/52.
- (v) Person Suppling **OIDAR** Services

This return needs to be filed by 31st December of the next Financial Year

Note: - In practical life, due date of filing of annual return for financial year 2018-19, is 30th June 2020



#### **WHAT IS THE PRESCRIBED FORM FOR ANNUAL RETURN?**

Annual Return is to be filed electronically in Form GSTR-9 through the common portal.

**Composition scheme supplier:** A person paying tax under composition scheme is required to file the Annual Return in **Form GSTR-9A.** 

### **WHO IS REQUIRED TO FURNISH A RECONCILIATION STATEMENT? [SECTION 44(2) READ WITH SECTION 35(5) AND RULE 80(3) OF CGST RULES]**

Section 35 contains the provisions relating to Accounts and Records. Sub-section (5) of section 35 read alongwith section 44(2) and rule 80 of the CGST Rules stipulates as follows:

- (i) Every registered person must get his accounts audited by a Chartered Accountant or a Cost Accountant if his aggregate turnover during a FY exceeds Rs. 2 crores.
- (ii) Such registered person is required to furnish electronically through the common portal alongwith Annual Return a copy of
  - a. Audited annual accounts
  - b. A Reconciliation Statement, duly certified, in prescribed form

Reconciliation Statement will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement and such other particulars, as may be prescribed

#### **GSTR - 10 - FINAL RETURN [SECTION 45 READ WITH RULE 81 OF CGST RULES]**

#### WHO ARE REQUIRED TO FURNISH FINAL RETURN?

Every registered person who is required to furnish return u/s 39(1) and whose registration has been surrendered or cancelled shall file a **Final Return** electronically in **Form GSTR-10** through the common portal.

#### **♦** WHAT IS THE TIME-LIMIT FOR FURNISHING FINAL RETURN?

Final Return has to be filed within 3 months of the:

- (i) date of cancellation or
- (ii) date of order of cancellation

whichever is later.

# GSTR – 11 - DETAILS OF INWARD SUPPLIES OF PERSONS HAVING UIN [RULE 82 OF CGST RULES]

#### **↓** UIN ISSUED FOR CLAIMING REFUND OF TAXES PAID ON HIS INWARD SUPPLIES OF A PERSON

Such person shall furnish the details of those inward supplies of taxable goods and/or services on which refund of taxes has been claimed in Form GSTR-11, along with application for such refund claim.

#### **UIN ISSUED FOR PURPOSES OTHER THAN REFUND OF TAXES PAID**

Such person shall furnish the details of inward supplies of taxable goods and/or services as may be required by the proper officer in Form GSTR-11.

#### **GSTR-5A – RETURN FOR PERSONS PROVIDING OIDAR SERVICES**

Every registered person providing OIDAR services from a place outside India to a person in India other than a registered person shall file return in FORM GSTR5A by 20th day of the month succeeding the calendar month or part thereof.

### **DEFAULT IN FURNISHING RETURN [SECTION 46 & 47]**

#### NOTICE TO RETURN DEFAULTERS [SECTION 46 READWITH SECTION 52 AND RULE 68]

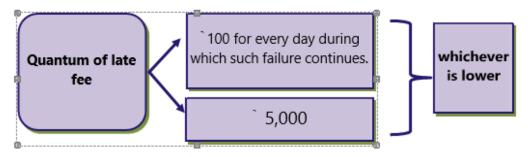
A notice in prescribed form shall be issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement]. Such notice shall require such registered person him to furnish such return within 15 days.

### LATE FEES LEVIED FOR DELAY IN FILING RETURN [SECTION 47(1)]

Maximum late fees payable under section 47 for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4 and GSTR-7, rationalized

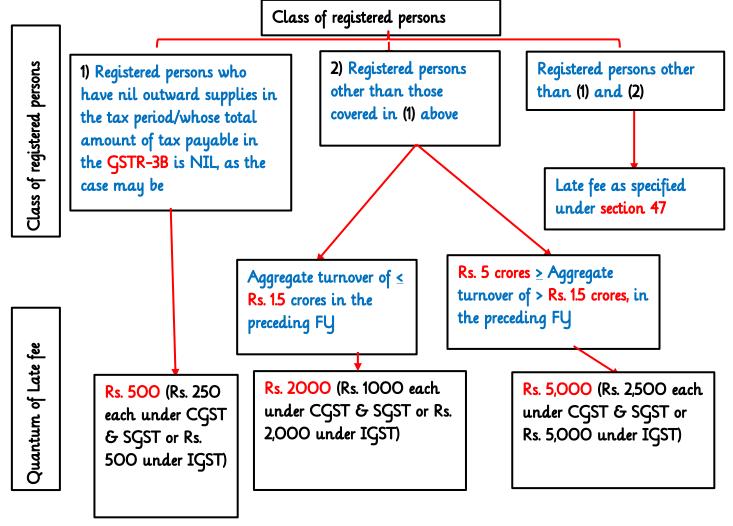
Section 47 of the CGST Act stipulates a specified amount of late fee for delay in filing any of the following by their respective due dates:For delayed filing of GSTR-7:-

- (A) Statement of Outward Supplies [Section 37]
- (B) Returns (including returns under QRMP Scheme) Returns [Section 39]
- (C) Final Return [Section 45]



For delayed filing of GSTR-1 and/or GSTR-3B:-

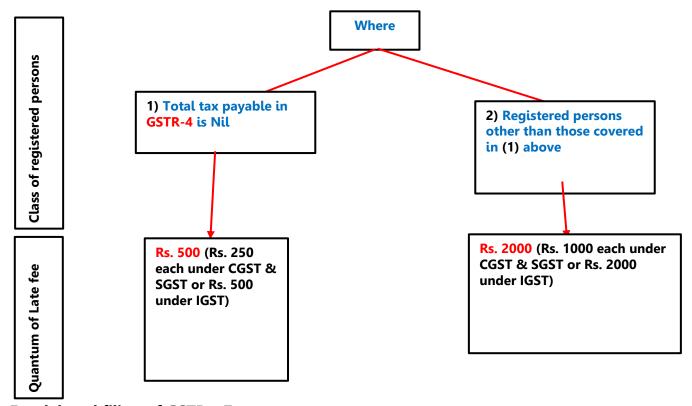
Total amount of late fee payable under section 47 of the CGST Act from June, 2021 / quarter ending June, 2021 onwards, by the registered person who fail to furnish Form GSTR-1 and/or Form GSTR-3B by the due date, shall be as follows:



For delayed filing of GSTR-4:-

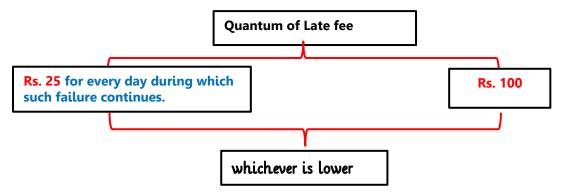
Total amount of late fee payable under section 47 of the CGST Act from

F.Y. 2021-22 onwards, by the registered person (composition taxpayer) who fail to furnish Form GSTR-4 by the due date, shall be as follows:



### For delayed filing of GSTR - 7:-

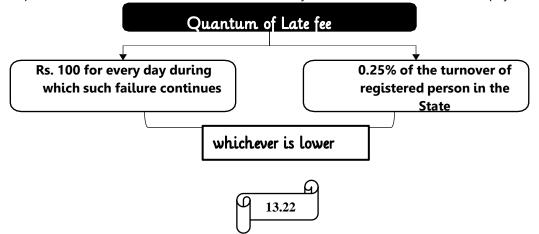
Total amount of late fee payable under section 47 of the CGST Act by any registered person, required to deduct tax at source under the provisions of section 51 of the CGST Act for delayed filing of GSTR-7, **from the month of June 2021 onwards**, shall be as follows:



[Notification Nos 19-22/2021 CT all dated 01.06.2021]

### **LATE FEES LEVIED FOR DELAY IN FILING ANNUAL RETURN [SECTION 47(2)]**

Any registered person who fails to furnish the Annual Return by the due date shall be liable to pay a late fee.





Mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional, done away with [Section 35(5) omitted and section 44 substituted]

Required to furnish Annual Return and what is the due date and prescribed form for annual return [Section 44 read with rule 80]

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 which may include

- a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year.
- with the audited annual financial statement for every financial year electronically. with such time and in such form and in such manner as may

Provided that the Commissioner may on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under the section:

The commissioner, on the recommendations of the Council, hereby exempts the registered person. whose aggregate turnover in the financial year 2020-21 is upto Rs. 2 crore, from filing annual return for the said financial year.

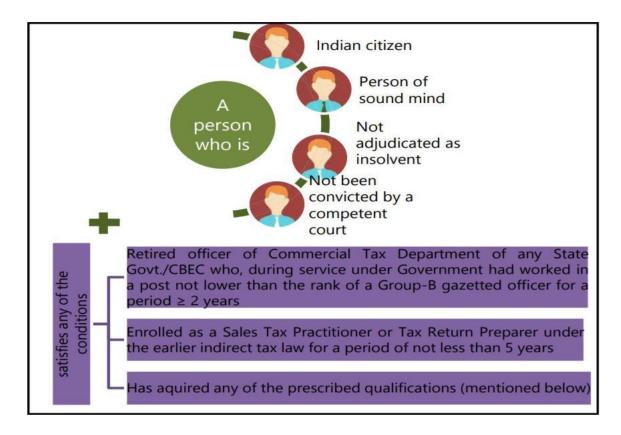
Provided further that nothing contained in this section shall apply to any department of the **Central Government or a State Government or a Local Authority**, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force

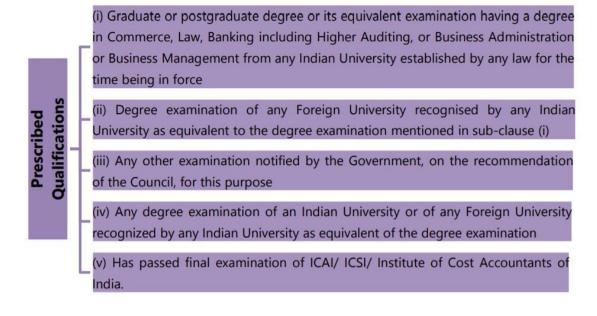
Note- Due Date of GSTR-9, 9A & 9C-> 31st December of the next fy [Extended time limit]

### **GOODS AND SERVICES TAX PRACTITIONERS [SECTION 48]**

Section 48 provides for the authorisation of an eligible person to act as approved Goods and Services Tax Practitioner (GSTP). A registered person may authorise an approved GSTP to furnish information, on his behalf, to the Government. The manner of approval of GSTPs, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning have been prescribed in the rules 83 and 84 of the CGST Rules, 2017

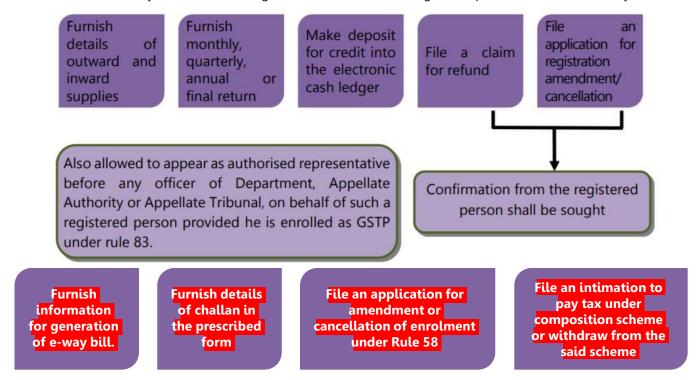
#### **ELIGIBILITY CRITERIA FOR GSTP**





#### **ACTIVITIES WHICH CAN BE UNDERTAKEN BY A GSTP?**

A GSTP can undertake any/all of the following activities on behalf of a registered person, if so authorised by him



#### **FURNISHING RETURNS THROUGH GSTP:**

When a registered person opts to furnish his return through GSTP, such registered person:

Gives his consent in **prescribed form** to any GSTP to prepare and furnish his return

Before confirming submission of any statement prepared by GSTP, ensure that the facts mentioned in the return are true and correct

Thus, the responsibility for correctness of any particulars furnished in the return or other details filed by the GST practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation shall be treated as deemed confirmation

## GST PRACTITIONER ENABLED TO PERFORM OTHER PRESCRIBED FUNCTIONS AS WELL [SECTION 48(2) OF THE CGST ACT]

Earlier, as per section 48(2) of the CGST Act, a registered person could authorise a Goods and Services Tax Practitioner (GSTP) to furnish its details of outward supplies, inward supplies and returns.

The CGST (Amendment) Act, 2018 has amended section 48(2) to provide as under:

"A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 and to perform such other functions in such manner as may be prescribed."

## TIME PERIOD AVAILABLE TO A SALES TAX PRACTITIONER/ TAX RETURN PREPARER ENROLLED AS A GSTP TO PASS THE EXAMINATION CONDUCTED BY NACIN INCREASED FROM 18 MONTHS

As per rule 83(3) of the CGST Rules, any person who has been enrolled as GSTP by virtue of being enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier indirect tax laws could remain enrolled as a GSTP only for a period of 18 months from the appointed date unless he passed the examination conducted by NACIN (National Academy of Customs, Indirect Taxes and Narcotics) within the said period of 18 months.

With effect from 01.02.2019, the said sub-rule has been amended to provide that a sales tax practitioner and a tax return preparer shall be eligible to remain enrolled as GSTP only if he passes the said examination within 30 months from the appointed date. [Notification No. 03/2019 CT dated 29.01.2019]"

#### BOOKS OF ACCOUNTS OF CENTRAL/STATE GOVERNMENT OR LOCAL AUTHORITY ARE NOT SUBJECT TO AUDIT BY A CHARTERED ACCOUNTANT [RULE 80(3) OF THE CGST RULES]

Earlier, rule 80(3) of CGST Rules provided that every registered person whose aggregate turnover during a financial year exceeds Rs. 2 crore shall get his accounts audited by a Chartered accountant or a Cost Accountant and furnish a copy of audited annual accounts and a duly certified reconciliation Statement along with the Annual Return.

With effect from 01.02.2019, the said sub-rule has been amended to exempt the department of the Central/State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, from the requirement of getting its accounts audited and furnishing the copy of audited annual accounts and a duly certified reconciliation Statement along with the Annual Return.

This amendment has been made as a consequence of the amendment made by the CGST (Amendment) Act, 2018 in section 35 of the CGST Act. The said amendment has been discussed in Chapter Accounts and Records. [Notification No. 03/2019 CT dated 29.01.2019]

#### RULE 83B, surrender of enrolment of goods and services tax practitioner

- 1. A goods and services tax practitioner seeking to surrender his enrolment shall electronically submit an application in FORM GST PCT-06, at the common portal, either directly or through a facilitation centre notified by the Commissioner.
- 2. The Commissioner, or an officer authorized by him, may after causing such enquiry as deemed fit and by order in FORM GST PCT-07, cancel the enrolment of such practitioner.

#### **SOME CLARIFICATIONS ISSUED BY ICAI FOR MAY/ NOV 2020**

 Person supplying online information technology and database access retrieval [OIDAR] services not required to furnish annual return and reconciliation statement

The Government has notified the persons compulsorily registered under section 24(xi) of the CGST Act read with rule 14 of CGST Rules supplying OIDAR services from a place outside India to a person in India, other than a registered person, as the class of registered persons who shall not be required to furnish -

- (i) the annual return under section 44(1) of the CGST Act read with rule 80(1) of the CGST Rules, and
- (ii) the reconciliation statement under section 44(2) of the CGST Act read with rule 80(3) of the CGST Rules
- Details of tax deducted and tax collected to be made available to the deductee and collectee respectively on the common portal after filing of GSTR-7 and GSTR-8 respectively [Rule 66(2) of the CGST Rules]

Earlier, the details of tax deducted furnished by the deductor in GSTR-7 was made available to each supplier in Part C of Form GSTR-2A / Form GSTR-4A (in case of registered person opting for composition levy) on the common portal after the due date of filing of Form GSTR-7 [Rule 66(2) of the CGST Rules]. The deductee could include the details of TDS reflecting in Part C of GSTR-2A in his Form GSTR-2 by accepting the same. However since, GSTR-2 has been kept in abeyance, this provision has been amended.

Sub-rule (2) of rule 66 has been amended to lay down that the details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7 for claiming the amount of tax deducted in his electronic cash ledger after validation.

Similarly, the details of TCS furnished by operator in GSTR-8 were made available to each supplier in Part C of Form GSTR-2A on the common portal after the due date of filing of Form GSTR-8 under rule 67(2) of the CGST Rules.

Sub-rule (2) of rule 67 has been amended to provide that the details of TCS furnished by the deductor in GSTR-8 is made available electronically to each of the deductees on the common portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

3. Form GSTR-3B to be treated as a return furnished under section 39 of the CGST Act [Rule 61(5) of the CGST Rules]

where a return in GSTR-3B is furnished by a person then such person shall not be required to furnish the return in Form GSTR-3.

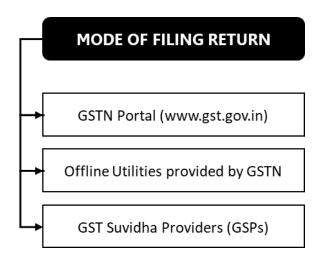
Sub-rule (2) of rule 67 has been amended to provide that the details of TCS furnished by the deductor in GSTR-8 is made available electronically to each of the deductees on the common portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

4. Filing of annual return under section 44(1) of the CGST Act for F.Y. 2017-18 and 2018-19 made optional for small taxpayers whose aggregate turnover is less than Rs 2 crores and who have not filed the said return before the due date

Filing of annual return (GSTR-9) under section 44(1) of CGST Act read with rule 80(1) of CGST Rules, in respect of financial years 2017-18 and 2018-19, has been made voluntary for the registered persons whose turnover is less than Rs. 2 crore and who have not furnished the said annual return before the due date. The annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

#### **SUMMARY**

#### **MODES OF FILING RETURN**



#### **LIST OF RETURNS UNDER GST**

SR. NO	DESCRIPTION	WHO FILES?	DATE OF FILING
GSTR-1	Monthly Statement of Outward supplies of Goods or Services	Registered Person with annual aggregate turnover greater than Rs. 1.5 crore	11th of the next month
GSTR-T	Quarterly Statement of Outward supplies of Goods or Services	Registered Person with annual aggregate turnover up to Rs. 1.5 crore	Last day of next the month after the end of the quarter
GSTR-3B	Monthly Return for a normal taxpayer	Registered Person	20th of the next month
COMPOSITION SCHEME	PRESCRIBED FORM Furnishing a statement in the prescribed form containing details of Payment of Self Assessed tax, for every quarter.	Taxable Person opting for Composition Levy	PRESCRIBED FORM  18th of the month succeeding the quarter  GSTR-4
	GSTR-4 Return		On or before 30 <sup>th</sup> Day of April following the end of such Financial Year.

GSTR-5	Monthly Return for a nonresident taxpayer	Non-resident Taxpayer	20th of the month succeeding the tax period or within 7 days after expiry of registration, whichever is earlier
GSTR-5A	Monthly return for a person supplying OIDAR services from a place outside India to a non- taxable online recipient	Supplier of OIDAR Services	20th of the next month
GSTR-6	Monthly Return for an Input Service Distributor (ISD)	Input Service Distributor	13th of the next month
GSTR-7	Monthly Return for authorities deducting tax at source	Tax Deductor	10th of the next month
GSTR-8	Monthly Statement for ECommerce Operator depicting supplies effecting through it	E-Commerce Operator	10th of the next month
GSTR-9	Annual Return	Registered Person other than an ISD, TDS/TCS Taxpayer, Casual Taxable Person and Nonresident Taxpayer, person suppling OIDAR Services	31st December of next Financial Year
GSTR-9A	Simplified Annual Return under Composition Scheme	Taxable Person opting for Composition Levy	31st December of next Financial Year
GSTR-10	Final Return	Taxable Person whose registration has been surrendered or cancelled	Within three months of the date of cancellation or date of order of cancellation, whichever is later.
GSTR-11	Details of inward supplies to be furnished by a person having UIN	Persons who have been issued a Unique Identity Number (UIN)	28th of the next month

#### **DUE DATE FOR MAKING PAYMENT**



PAYMENT SHOULD BE MADE ON OR BEFORE 20TH OF EVERY MONTH

#### **REVISION** OF RETURNS

THE MECHANISM OF FILING REVISED RETURNS FOR ANY CORRECTION OF ERRORS/OMISSIONS HAS BEEN DONE AWAY WITH.



THE RECTIFICATION OF ERRORS/OMISSIONS IS ALLOWED IN THE SUBSEQUENT RETURNS.



HOWEVER, NO RECTIFICATION IS ALLOWED AFTER FURNISHING THE RETURN FOR THE MONTH OF SEPTEMBER FOLLOWING THE END OF THE FINANCIAL YEAR TO WHICH SUCH DETAILS PERTAIN OR FURNISHING OF THE RELEVANT ANNUAL RETURN, WHICHEVER IS EARLIER.

#### **PENAL PROVISIONS RELATING TO RETURNS**

ANY REGISTERED PERSON WHO FAILS TO FURNISH FORM GSTR-1, GSTR-2, GSTR-3 OR FINAL RETURN WITHIN THE DUE DATES,



SHALL BE LIABLE TO PAY A LATE FEE OF Rs. 100 PER DAY,



SUBJECT TO A MAXIMUM OF Rs. 5,000

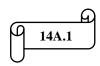
**14A** 

## **IMPORT AND EXPORT UNDER GST**



- INTRODUCTION
- IMPORT OF GOODS
- / IMPORT OF SERVICES
- REGISTRATION IN CASE OF IMPORT OF GOODS AND SERVICES
- ITC IN CASE OF IMPORT OF GOODS AND SERVICES
- **EXPORT OF GOODS/SERVICES**
- PROCEDURE FOR EXPORT UNDER BOND/LUT WITHOUT PAYMENT OF TAX

#### **CHAPTER OUTLINE**



India is well integrated into the web of international business transactions. There is inward as well as outward flow of goods and services between India and other countries. GST, being a business tax, impacts imports and exports too.

Provisions in the GST laws seek to

- (i) provide level playing field to domestic suppliers vis a vis international suppliers in case of imports; and
- (ii) make exports more competitive.

The various provisions of GST law as applicable on import and export supplies are discussed in this Chapter in detail. First, the provisions relating to import of goods and services have been discussed followed by discussion on provisions relating to export of goods and services.

#### **IMPORT OF GOODS**

#### **STATUTORY PROVISIONS**

SECTION	PARTICULARS		
	LEVY OF IGST ON IMPORTED GOODS		
SECTION 5(1) OF THE IGST ACT	Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.		
PROVISO TO SECTION 5(1) OF THE IGST ACT	<b>SECTION 5(1)</b> in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the		
INTER-STATE SUPPLY			
SECTION 7(2) OF THE IGST ACT	OF THE IGST India, shall be treated to be a supply of goods in the course of inter-State trade of		
	PLACE OF SUPPLY		
SECTION 11 OF THE IGST ACT	the IGST Act Place of supply of goods imported into, or exported from India [Refer Place of Supply Chapter for discussion on these provisions]		
	LEVY OF CUSTOMS DUTY		
SECTION 12 OF THE CUSTOMS ACT, 1962	(1) Except as otherwise provided in this Act, or any other law for the time being in force, duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act, 1975, or any other law for the time being in force, on goods imported into, or exported from, India.		

(2) The provisions of sub-section (1) shall apply in respect of all goods belonging to Government as they apply in respect of goods not belonging to Government. PROVISIONS FOR COLLECTION OF IGST ON IMPORTED GOODS AND WAREHOUSED GOODS SOLD FROM A CUSTOMS WAREHOUSE AS ALSO FOR DETERMINATION OF THEIR VALUE UNDER SECTION 3 OF THE **CUSTOMS TARIFF ACT, 1975** SECTION 3(7) Any article which is imported into India shall, in addition, be liable to integrated tax at such **OF THE** rate, not exceeding forty per cent. as is leviable under section 5 of the Integrated Goods **CUSTOMS** and Services Tax Act, 2017 on a like article on its supply in India, on the value of the imported TARIFF ACT, article as determined under subsection (8) or sub-section (8A), as the case may be. 1975 For the purposes of calculating the integrated tax under subsection (7) on any imported article where such tax is leviable at any percentage of its value, the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of-SECTION 3(8) OF THE (a) the value of the imported article determined under subsection (1) of section 14 of the **CUSTOMS** Customs Act, 1962 or the tariff value of such article fixed under sub-section (2) of that TARIFF ACT, section, as the case may be; and 1975 (b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, but does not include the tax referred to in sub-section (7) or the cess referred to in sub-section (9). Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under the said Act, the value of such goods for the purpose of calculating the integrated tax under subsection (7) shall be,-(a) where the whole of the goods are sold, the value determined under sub-section (8) or the transaction value of such goods, whichever is higher; or (b) where any part of the goods is sold, the proportionate value of such goods as determined under sub-section (8) or the transaction value of such goods, whichever is SECTION 3(8A) higher: OF THE **CUSTOMS** Provided that where the whole of the warehoused goods or any part thereof are sold more TARIFF ACT, than once before such clearance for home consumption or export, the transaction value of 1975 the last such transaction shall be the transaction value for the purposes of clause (a) or clause (b): Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (8). Explanation.- For the purposes of this sub-section, the expression "transaction value", in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods

SECTION 3(11)
OF THE
CUSTOMS
TARIFF ACT,
1975

The duty or tax or cess, as the case may be, chargeable under this section shall be in addition to any other duty or tax or cess, as the case may be, imposed under this Act or under any other law for the time being in force

#### **IMPORT OF SERVICES**

#### **STATUTORY PROVISIONS**

SECTION	PARTICULARS		
ACTIV	ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION		
PARAGRAPH (4) OF SCHEDULE I TO THE CGST ACT	<b>OF SCHEDULE I</b> Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.		
LEVY OF IGST ON IMPORTATION OF SERVICES			
SECTION 5(1) OF THE IGST ACT	Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.		
PROVISO TO SECTION 5(1) OF THE IGST ACT	Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.		
REVERSE CHARGE			
SECTION 5(3) OF THE IGST ACT	The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.		
SERVICES PROVIDED THROUGH ELECTRONIC COMMERCE OPERATOR (ECO)			

#### The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services: SECTION 5(5) Provided that where an electronic commerce operator does not have a physical presence **OF THE IGST** in the taxable territory, any person representing such electronic commerce operator for **ACT** any purpose in the taxable territory shall be liable to pay tax: Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax **INTER-STATE SUPPLY** SECTION 7(4) Supply of services imported into the territory of India shall be treated to be a supply of **OF THE IGST** services in the course of inter-State trade or commerce. ACT SUPPLIES IN TERRITORIAL WATERS Notwithstanding anything contained in this Act, where the location of the supplier is in the territorial waters, the location of such **SECTION 9 OF** supplier; or THE IGST ACT b) where the place of supply is in the territorial waters, the place of supply shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located. **PLACE OF SUPPLY SECTION 13 OF** Place of supply of services where location of supplier or location of recipient is outside India. [Refer Place of Supply Chapter for discussion on these provisions] THE IGST ACT SPECIAL PROVISION FOR PAYMENT OF TAX BY A SUPPLIER OF ONLINE INFORMATION AND DATABASE **ACCESS OR RETRIEVAL (OIDAR) SERVICES**

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

#### SECTION 14(1) OF THE IGST ACT

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

- a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
- b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
- c) the intermediary involved in the supply does not authorise delivery; and
- d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

#### SECTION 14(2) OF THE IGST ACT

The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government: Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier: Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

#### REGISTRATION IN CASE OF IMPORT OF GOODS AND SERVICES

#### REGISTRATION FOR IMPORTER OF GOODS

Reverse charge provisions do not cover importers of goods. Importers are also not listed among the categories of persons in section 24 of the CGST Act for whom registration is compulsory. However, all importers are required to quote GSTIN in the bill of entry for the purpose of payment of IGST on import of goods as also for availing ITC of such IGST.

#### **REGISTRATION IN CASE OF IMPORT OF EXEMPTED GOODS**

In terms of section 23 of the CGST Act, persons engaged exclusively in the supply of goods (import and export) that is either not liable to tax or is wholly exempt from tax under the CGST or IGST Acts are not required to obtain registration. In such cases, PAN (which is authorized as IEC by DGFT) of the importer and exporter would suffice [Instruction No. 10/2017 Cus dated 06.07.2017].

#### **REGISTRATION FOR IMPORTER OF SERVICES**

Section 24(iii) of the CGST Act mandates compulsory registration for persons, without any benefit of the threshold limit for registration, who are required to pay tax under reverse charge. Accordingly, importer of services who are required to pay IGST under reverse charge have to obtain compulsory registration under GST law so as to be able to pay tax on imported services under reverse charge.

Thus, recipient of imported services other than non-taxable online recipient must register compulsorily.

#### ITC IN CASE OF IMPORT OF GOODS AND SERVICES

#### **ITC OF IGST PAID ON IMPORTED GOODS**

The definition of "input tax" in relation to a registered person includes IGST charged on import of goods [Clause (a) of section 2(62) (See definition)]. Thus, ITC of IGST paid at the time of import is available to the importer subject to the conditions and restrictions provided under sections 16 and 17 of the CGST Act for availing such credit. Such ITC can be utilized by the registered person for payment of taxes on his outward supplies. GST Compensation Cess paid on import of goods is also available as ITC.

IGST and GST Compensation Cess paid at the time of import of goods thus, in essence, are a pass through to this extent. The ITC of GST Compensation Cess, however, can only be used for payment of GST Compensation Cess. Furthermore, ITC of basic customs duty and social welfare surcharge paid on the imported goods is not available.

#### **ITC OF IGST PAID ON IMPORTATION OF SERVICES**

Unlike IGST on importation of goods, IGST on importation of services is not specifically included in the definition of input tax vide a separate clause. Hence, IGST on importation of services is included within the ambit of IGST leviable on other inter-State supplies, i.e. under clause (c) of section 2(62) of the CGST Act. Therefore, IGST paid on importation of services is available as ITC at par with IGST paid on any other supply subject to conditions and restrictions prescribed under sections 16 and 17 of the CGST Act for availing such credit.

#### **EXPORT OF GOODS/SERVICES**

One of the fundamental principle to make exports competitive in the international market is that taxes should not be exported. Hence, export to destinations outside India as well as supplies to SEZ have been 'zero-rated', i.e. the goods or services exported are relieved of GST levied upon them either at the input stage or at the final product stage by way of refund of taxes paid. Thus, it can be seen that supply to SEZ unit/Developer is treated at par with physical exports.

Supplies made for export through merchant exporters are taxed at 0.1% with ITC benefit. Supplies of goods from Domestic Tariff Area (DTA) to EOU/ Electronic Hardware Technology Park (EHTP) Unit/ Software Technology Park (STP) Unit/ Bio-Technology Parks (BTP) Unit are considered as 'deemed exports' and are allowed some of the benefits that actual export enjoy.

#### **STATUTORY PROVISIONS**

SECTION	SECTION PARTICULARS	
INTER-STATE SUPPLY		
SECTION 7(5) OF THE IGST ACT		
ESTABLISHMENTS OF DISTINCT PERSONS		
EXPLANATION 1 TO SECTION 8 OF THE IGST ACT	For the purposes of this Act, where a person has,—  (i) an establishment in India and any other establishment outside India; (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or (iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.	
EXPLANATION 2 TO SECTION 8 OF THE IGST ACT	A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory	
PLACE OF SUPPLY		
SECTION 11 OF THE IGST ACT	Place of supply of goods imported into, or exported from India [Refer Place of Supply Chapter for discussion on these provisions]	
SECTION 13 OF THE IGST ACT	Place of supply of services where location of supplier or location of recipient is outside India [Refer Place of Supply Chapter for discussion on these provisions]	
ZERO RATED SUPPLY		

- (1) "Zero rated supply" means any of the following supplies of goods or services or both, namely:-
  - (a) export of goods or services or both; or
  - (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.
- (2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

## SECTION 16 OF THE IGST ACT

- (3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:-
  - (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
  - (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

#### **DEEMED EXPORTS**

## SECTION 147 OF THE CGST ACT

The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

#### **HOW DO ZERO RATED AND EXEMPT SUPPLIES DIFFER?**

EXEMPTED SUPPLIES	ZERO RATED SUPPLIES
Exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under and includes nontaxable supply.	Zero-rated supply means (i) export of goods and/or services or (ii) supply of goods and/or services to SEZ unit/SEZ developer.
No tax on the outward exempted supplies, however, the input supplies used for making exempt supplies to be taxed	No tax on the outward supplies; Input supplies also to be tax free
Credit of input tax needs to be reversed, if taken.  No ITC on the exempted supplies.	Credit of input tax may be availed for making zero- rated supplies, even if such supply is an exempt supply. ITC allowed on zero rated supplies.

Value of exempt supplies, for apportionment of ITC, shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.	Value of zero rated supplies shall be added along with the taxable supplies for apportionment of ITC.
Any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under the CGST or IGST Act shall not be liable to registration	A person exclusively making zero rated supplies may have to register as refunds of unutilised ITC or IGST paid shall have to be claimed.
A registered person supplying exempted goods and/or services shall issue, instead of a tax invoice, a bill of supply.	Normal tax invoice shall be issued.

#### **TAXABILITY OF EXPORT**

Export of goods or services are treated as inter-State supply and zero rated. This means that even if there is full exemption for the supply, ITC is still available to the exporter. The exporter will have an option to either pay IGST on the output and claim refund of such IGST paid or export under Bond/LUT without payment of IGST and claim refund of ITC. The objective is to make Indian exports competitive in the international market.

It may be noted that since exports are inter-State supplies, the tax associated with them will always be IGST. Thus, there will never be any refund of CGST and SGST in case of exports.

#### **EXPORT OF GOODS**

#### (1) PHYSICAL EXPORTS [SECTION 2(5)]:

Export of goods requires taking the goods from India to a place outside India. India is defined as extending to the limits of its maritime zone, which is 200 nautical miles from the coastal baseline. This is far beyond the normal definition of India, which only includes its territorial waters, which in turn extend 12 miles from the baseline. Given the extended meaning of India, export would require that the goods must travel beyond 200 miles from the baseline in order to qualify as having been exported.

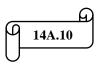
It may be noted that unlike in case of export of services, in case of export of goods there is no condition of receiving the payment in convertible foreign exchange

#### (2) DEEMED EXPORTS

Deemed exports refers to supplies of goods manufactured in India (and not services) which are notified as deemed exports under section 147 of the CGST Act. Such supplies do not leave India and the payment for the same is received either in Indian rupees or in convertible foreign exchange.

Following categories of supply of goods have been notified as deemed exports by the Government vide Notification No. 48/2017 CT dated 18.10.2017:

- (a) Supply of goods by a registered person against Advance Authorisation.
- (b) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation.
- (c) Supply of goods by a registered person to Export Oriented Unit.
- (d) Supply of gold by a bank or Public sector Undertaking specified in Notification No. 50/2017 Cus dated 30.06.2017 (as amended) against Advance Authorisation.



The terms "advance authorisation", "export promotion capital goods" and "export oriented undertaking" are defined in the Foreign Trade Policy 2015-20. The same have been discussed in detail in Foreign Trade Policy Chapter.

#### (3) MERCHANT EXPORTER

There is no specific provision in GST law for export through third parties, commonly known as merchant exports. However, a low rate of GST of 0.1% on supplies for export through third parties has been provided by way of exemption notifications. [This is expressed as 0.1% IGST on inter-State supplies or 0.05% CGST plus 0.05% SGST on intra-State supplies].

Circular No. 37/11/2018 GST dated 15.03.2018 has clarified that the exporter receiving goods at concessional rate of tax @ 0.1% (0.05% CGST + 0.05% SGST & 0.1% IGST) will be eligible to take credit of the concessional tax so paid by him. The supplier who supplies goods at the concessional rate will be eligible for refund of ITC on account of inverted tax structure as per the provisions of section 54(3)(ii) of the CGST Act5. However, it may be noted that the exporter of such goods can export the goods only under LUT / bond and cannot export on payment of IGST.

Circular No. 08/08/2017 dated 04.10.2017 has clarified that there is no provision for issuance of CT-1 Form - which enables merchant exporters to purchase goods from a manufacturer without payment of tax - under the GST regime. The transaction between a manufacturer and a merchant exporter is in the nature of supply and the same would be subject to GST.

Manufacturer exporter means a person who exports goods manufactured by him or intends to export such goods. Merchant exporter means a person engaged in trading activity and exporting or intending to export goods [As defined under Foreign Trade Policy 2015–20].

The merchant exporter can avail the benefit of low rate of GST (0.1%) prescribed under Notification Nos. 41/2017 IT(R) and 40/2017 CT(R) both dated 23.10.2017 if following conditions (specified in the said notifications) are fulfilled-

- (a) the registered supplier (manufacturer) shall supply the goods to the registered recipient (merchant exporter) on a tax invoice;
- (b) the registered recipient shall export the said goods within a period of 90 days from the date of issue of a tax invoice by the registered supplier;
- (c) the registered recipient shall indicate the GSTIN of the registered supplier and the tax invoice number issued by the registered supplier in respect of the said goods in the shipping bill or bill of export;
- (d) the registered recipient shall be registered with an Export Promotion Council;
- (e) the registered recipient shall place an order on registered supplier for procuring goods at concessional rate and a copy of the same shall also be provided to the jurisdictional tax officer of the registered supplier;
- (f) the registered recipient shall move the said goods from place of registered supplier -
  - (a) directly to the Port, Inland Container Deport, Airport or Land Customs Station from where the said goods are to be exported; or
  - (b) directly to a registered warehouse from where the said goods shall be moved to the Port, Inland Container Deport, Airport or Land Customs Station from where the said goods are to be exported; Registered principal place of business or registered additional place of business are deemed to be a registered warehouse [Circular No. 42/2017 Cus dated 07.11.2017].
- (g) if the registered recipient intends to aggregate supplies from multiple registered suppliers and then export, the goods from each registered supplier shall move to a registered warehouse and after aggregation, the registered recipient shall move goods to the Port, Inland Container Deport, Airport or Land Customs Station from where they shall be exported;

- (h) in case of situation referred to in condition (g), the registered recipient shall endorse receipt of goods on the tax invoice and also obtain acknowledgement of receipt of goods in the registered warehouse from the warehouse operator and the endorsed tax invoice and the acknowledgment of the warehouse operator shall be provided to the registered supplier as well as to the jurisdictional tax officer of such supplier; and
- (i) after goods have been exported, the registered recipient shall provide copy of shipping bill or bill of export containing details of GSTIN and tax invoice of the registered supplier along with proof of export general manifest or export report having been filed, to the registered supplier as well as jurisdictional tax officer of such supplier.
  - Merchant exporters may exclude commercially sensitive information while providing copies of shipping bills to registered suppliers [Circular No. 42/2017 Cus dated 07.11.2017].

#### **EXPORT OF SERVICES [SECTION 2(6)]**

Supply of service qualifies to be an 'export of service' if it fulfills the following conditions:

- (a) the service is supplied from India to a place outside India,
- (b) the place of supply of the service is outside India, and
- (c) the consideration for the service is received in freely convertible foreign exchange\*,
- (d) the transaction is between separate entities, i.e. not merely between two establishments of an entity (Branch and Head Office of one taxable person are not treated as two separate entities for this purpose. In other words, provision of outbound services inter se Branch and Head Office is not construed as export of service. However, Notification No. 9/2017 IT(R) dated 28.06.2017 exempts the services provided by an Indian establishment to its foreign establishment from IGST if the place of supply is outside India For details, refer Chapter 4: Exemptions)

\*Payment for export of service can be received in Indian rupees, if permitted by the RBI. In case of exports to Nepal and Bhutan, the payment is received in Indian rupees as per RBI regulations.

As in case of export of goods, in case of export of services also, India extends to the limits of its maritime zone, which is 200 nautical miles from the coastal baseline.

#### **EXAMPLE**

Raman of Delhi has supplied services to John of USA. Place of supply is outside India and John and Raman are two separate separate entities. Payment for service is received in convertible FOREX

In the given example, supplier of service – Raman – is located in India, recipient of service – John – is located outside India and the place of supply of service is USA. Payment for services provided by Raman has been received in convertible FOREX and Raman and John are not merely establishments of a distinct person as per explanation to section 8 of IGST. Since all the requisite conditions have been satisfied, such services qualify as export of services.

#### CLARIFICATION

Where an exporter of services located in India is supplying certain services to a recipient located outside India, either wholly or partly through any other supplier of services located outside India, the following two supplies are taking place:

- a. Supply of services from the exporter of services located in India to the recipient of services located outside India for the full contact value;
- b. Import of services by the exporter of services located in India from the supplier of services located outside India with respect to the outsourced portion of the contract.



It is clarified that the supplier of services located in India would be liable to pay IGST on reverse charge basis on the import of services on that portion of services which has been provided by the supplier located outside India to the recipient of services located outside India. Furthermore, the said supplier of services located in India would be eligible for taking ITC of the IGST so paid.

Thus, even if the full consideration for the services as per the contract value is not received in convertible foreign exchange in India due to the fact that the recipient of services located outside India has directly paid to the supplier of services located outside India (for the outsourced part of services), that portion of the consideration shall also be treated as receipt of consideration for export of services in terms of section 2(6)(iv) of the IGST Act, provided the:

- a) IGST has been paid by the supplier located in India for import of services on that portion of the services which has been directly provided by the supplier located outside India; and
- b) RBI by general instruction or by specific approval has allowed that part of the consideration for such exports can be retained outside India.

#### **ILLUSTRATION:**

ABC Ltd. India has received an order for supply of services amounting to \$ 500,000/- to a US based client. ABC Ltd. India is unable to supply the entire services from India and asks XYZ Ltd. Mexico (who is not merely an establishment of a distinct person viz.

ABC Ltd. India, in accordance with the Explanation 1 in section 8 of the IGST Act) to supply a part of the services (say 40% of the total contract value). ABC Ltd. India shall be the exporter of services for the entire value if the invoice for the entire amount is raised by ABC Ltd. India. The services provided by XYZ Ltd. Mexico to the US based client shall be import of services by ABC Ltd. India and it would be liable to pay IGST on the same under reverse charge and also be eligible to take ITC of the IGST so paid.

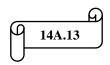
Further, if the provisions contained in section 2(6) of the IGST Act are not fulfilled with respect to the realization of convertible foreign exchange, say only 60% of the consideration is received in India and the remaining amount is directly paid by the US based client to XYZ Ltd. Mexico, even in such a scenario, 100% of the total contract value shall be taken as consideration for the export of services by ABC Ltd. India provided IGST on import of services has been paid on the part of services provided by XYZ Ltd Mexico directly to the US based client and RBI (by general instruction or by specific approval) has allowed that a part of the consideration for such exports can be retained outside India. In other words, in such cases, the export benefit will be available for the total realization of convertible foreign exchange by ABC Ltd. India and XYZ Ltd. Mexico.

#### PROCEDURE FOR EXPORT UNDER BOND/LUT WITHOUT PAYMENT OF TAX

#### PROCEDURE FOR DIRECT EXPORTS [RULE 96A OF THE CGST RULES]

(a) Exporter has to execute the bond or LUT prior to export, binding himself to pay tax along with interest @ 18% as under:-

# If goods are not exported out of India within a period of 3 months and 15 days or such further period as may be allowed by the Commissioner from the date of invoice for export. EXPORT OF SERVICE If export proceeds (of service) in freely convertible foreign exchange (or in Indian Currency if RB permits) is not received within a period of 1 year and 15 days from the date of export invoice.



These provisions are also applicable in respect of zero rated supply of goods and/or services to a SEZ unit/Developer without payment of IGST.

- (b) Failure to export goods and pay the tax due along with interest within the period specified in (a) above results in withdrawal of the facility of export without payment of IGST and recovery of the said amount under section 79 of the CGST Act. The facility, however, can be restored on payment of the said amount [Notification No. 37/2017 CT dated 04.10.2017].
- (c) All registered persons are eligible to furnish a LUT in place of a bond except those who have been prosecuted for cases involving an amount exceeding Rs. 250 lakh [Notification No. 37/2017 CT dated 04.10.2017].
- (d) The details of the export invoices should be submitted in GSTR-1. These details shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.

#### **CLARIFICATION ON FURNISHING OF BOND/LUT**

Circular No. 08/08/2017 GST dated 04.10.2017 as amended vide Circular No. 40/14/2018 GST dated 06.04.2018 has clarified the following with regard to furnishing of bond/LUT for export without payment of tax:

#### (a) **VALIDITY OF LUT:**

The LUT shall be valid for the whole financial year in which it is tendered. However, in case the goods are not exported within the time specified in sub-rule (1) of rule 96A of the CGST Rules (as given in the table above) and the registered person fails to pay the amount mentioned in the said sub-rule, the facility of export under LUT will be deemed to have been withdrawn. If the amount mentioned in the said sub-rule is paid subsequently, the facility of export under LUT shall be restored. As a result, exports, during the period from when the facility to export under LUT is withdrawn till the time the same is restored, shall be either on payment of the applicable IGST or under bond with bank guarantee.

#### (b) FORM FOR BOND/LUT:

The LUT shall be furnished on the letter head of the registered person, in duplicate, and it shall be executed by the working partner/ Managing Director/ Company Secretary / proprietor / a person duly authorised by Board of Directors of such company or proprietor. The bond, wherever required, shall be furnished on non-judicial stamp paper of the value as applicable in the State in which the bond is being furnished.

#### (c) **DOCUMENTS FOR LUT:**

No document needs to be physically submitted to the jurisdictional office for acceptance of LUT.

#### (d) ACCEPTANCE OF LUT/BOND:

An LUT shall be deemed to have been accepted as soon as an acknowledgement for the same, bearing the Application Reference Number (ARN), is generated online. If it is discovered that an exporter whose LUT has been so accepted, was ineligible to furnish an LUT in place of bond, then the exporter's LUT will be liable for rejection. In case of rejection, the LUT shall be deemed to have been rejected ab initio.

#### (e) BANK GUARANTEE:

Since the facility of export under LUT has been extended to all registered persons, bond will be required to be furnished by those persons who have been prosecuted for cases involving an amount exceeding Rs. 250 lakh. A bond, in all cases, shall be accompanied by a bank guarantee of 15% of the bond amount.

#### (f) CLARIFICATION REGARDING RUNNING BOND:

The exporters shall furnish a running bond where the bond amount would cover the amount of self-assessed estimated tax liability on the export. The exporter shall ensure that the outstanding integrated tax liability on exports is within the bond amount. In case the bond amount is insufficient to cover the said liability in yet to be completed exports, the exporter shall furnish a fresh bond to cover such liability. The onus of maintaining the debit / credit entries of integrated tax in the running bond will lie with the exporter. The record of such entries shall be furnished to the Central tax officer as and when required.

#### (g) **SEALING BY OFFICERS**:

Till mandatory self-sealing is operationalized, sealing of containers, wherever required to be carried out under the supervision of the officer, shall be done under the supervision of the central excise officer having jurisdiction over the place of business where the sealing is required to be done. A copy of the sealing report would be forwarded to the Deputy/Assistant Commissioner having jurisdiction over the principal place of business.

#### (h) REALIZATION OF EXPORT PROCEEDS IN INDIAN RUPEE:

Attention is invited to para A (v) Part I of RBI Master Circular No. 14/2015-16 dated 01st July, 2015 (updated as on 05th November, 2015), which states that "there is no restriction on invoicing of export contracts in Indian Rupees in terms of the Rules, Regulations, Notifications and Directions framed under the Foreign Exchange Management Act, 1999. Further, in terms of the Foreign Trade Policy (2015-2020), all export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency (or in Indian Currency if RBI permits). However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan".

Accordingly, it is clarified that the acceptance of LUT for supplies of goods to Nepal or Bhutan or SEZ unit/Developer will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. It may also be noted that the supply of services to SEZ unit/Developer under LUT will also be permissible on the same lines. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if the payment for such services is received by the supplier in convertible foreign exchange. (or in Indian Currency as per RBI Guidelines)

#### (i) JURISDICTIONAL OFFICER:

In exercise of the powers conferred by subsection (3) of section 5 of the CGST Act, it is hereby stated that the LUT/Bond shall be accepted by the jurisdictional Deputy/Assistant Commissioner having jurisdiction over the principal place of business of the exporter. The exporter is at liberty to furnish the LUT/bond before either the Central Tax Authority or the State Tax Authority till the administrative mechanism for assigning of taxpayers to the respective authority is implemented.

CIRCULAR NO. 03/1/2018 IGST DATED 25.5.2018 WHICH CLARIFIED ON THE APPLICABILITY
OF IGST ON GOODS SUPPLIED WHILE BEING DEPOSITED IN A CUSTOMS BONDED
WAREHOUSE, RESCINDED

The provisions of the CGST (Amendment) Act, 2018 and SGST Amendment Acts of the respective States have been brought into force w.e.f. 01.02.2019. Schedule III of the CGST Act has been amended vide section 32 of the CGST (Amendment) Act, 2018 so as to provide that the "supply of warehoused goods to any person before clearance for home consumption" shall be neither a supply of goods nor a supply of services.

Accordingly, Circular No. 03/01/2018 IGST dated 25.05.2018 which clarified on the applicability of IGST on goods supplied while being deposited in a customs bonded warehouse, has been rescinded.

[Circular No. 04/01/2019 IGST dated 01.02.2019]

**14B** 

## Refunds



[Sec. 54] Refund of Tax.

[Sec. 55] Refund in certain cases.

[Sec. 56] Interest on delayed Refunds.

[Sec. 57] Consumer Welfare Fund.

[Sec. 58] Utilisation of Consumer Welfare Fund.

**CHAPTER OUTLINES** 



Timely refund mechanism is essential in tax administration, as it facilitates trade through the release of blocked funds for working capital, expansion and modernisation of existing business.

The provisions pertaining to refund contained in the GST law aim to streamline and standardise the refund procedures under GST regime. Under the GST regime, there will be a standardised form for making any claim for refunds. The claim and sanctioning procedure will be completely online and time bound, which is a marked departure from the earlier time consuming and cumbersome procedure. Further, provisions relating to refund are more transparent as compared to provisions contained in the earlier indirect tax regime.

#### **RELEVANT DEFINITIONS**

- **1. Tourist:** "Tourist" means a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes **[Explanation to section 15 of the IGST Act].**
- **2. Zero rated supply:** Zero-rated supply shall have the meaning assigned to it in section 16 [Section 2(23) of the IGST Act]. As per section 16(1) of IGST Act, "zero rated supply" means any of the following supplies of goods or services or both, namely:—
  - (a) export of goods or services or both; or
  - (b) supply of goods or services or both for authorized operation to a Special Economic Zone developer or a Special Economic Zone unit.
- 3. Recipient of goods or services: "Recipient" of supply of goods or services or both, means—
  - (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
  - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
  - (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93) of CGST Act].

**4. Deemed Exports:** Deemed Exports means such supplies of goods as may be notified under section 147 [Section 2(39) of CGST Act].

**Section 147** stipulates that the Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

#### **REFUND OF TAX [SECTION 54 OF THE CGST ACT]**

#### **SITUATIONS LEADING TO REFUND CLAIMS**

A claim for refund may arise in the following situations:

#### 1) EXPORT/SUPPLY TO SEZ DEVELOPER/UNIT ON PAYMENT OF IGST:

Goods and/or services are exported or, goods and/or services are supplied to an SEZ developer/unit, on payment of IGST, subject to such conditions, safeguards and procedure as may be prescribed, and refund of such IGST paid on goods and/or services supplied is claimed [Section 16(3)(b) of IGST Act].

## 2) REFUND OF UNUTILIZED ITC – EXPORT/SUPPLY TO SEZ DEVELOPER/UNIT WITHOUT PAYMENT OF IGST OR INVERTED DUTY STRUCTURE

Accumulation of Input Tax Credit (ITC) happens when the tax paid on inputs is more than the output tax liability.

However, the GST Law permits refund of unutilised ITC at the end of a tax period in two scenarios, namely if such credit accumulation is on account of zero rated supplies or on account of inverted duty structure, subject to certain exceptions.

As per section 54(3), a registered person may claim refund, of any **unutilised ITC at the end of any tax period**,in the following cases:

(a) ZERO RATED SUPPLIES WITHOUT PAYMENT OF TAX: Supply of goods and/ or services to an SEZ developer/unit or export of goods and/or services under bond or Letter of Undertaking (LUT) without payment of IGST, subject to such conditions, safeguards and procedure as may be prescribed, and

Amount to be claimed as refund in case of zero rated supply of goods or services and on account of inverted duty structure:

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

#### **NET ITC**

Where.

- **A. "Refund amount"** means the maximum refund that is admissible;
- **B. "Net ITC"** means ITC availed on inputs and input services during the relevant period other than the ITC availed for which refund is claimed under sub-rules (4A) or (4B) (discussed below) or both;
- C. "Turnover of zero-rated supply of goods" "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.'
- D. "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely:- Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

	E. Adjusted Total Turnover in a State/ Union Territory:
	Particulars
Goods:	
1) Taxa	ble supplies (Inter/Intra)
2) Zero	Rated Supplies (Even Exempted Supply) [As per b]
Services:	
1)	Zero Rated Supplies (As per c. )
2)	Non Zero-Rated Taxable Supplies
	Adjusted Total Turnover
	Points to be Noted:
	1) Following supplies will not be the part of Adjusted Turnover
	<ul> <li>Value of Exempt Supplies (other than ZR'S)</li> </ul>
	Supplies in respect of which refund is claimed under
	Rule 89(4A)/(4B)

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

As seen above, the definition of the term 'Turnover of zero-rated supply of goods' used in the above formula restricts the same to 1.5 times the value of like goods domestically supplied by thesame/similarly placed supplier/as declared by the supplier.

Further, the term "Adjusted Total Turnover" includes "Turnover in a State/UT". As per section 2(112). "Turnover in a State/UT" includes turnover/ value of export/ zero-rated supplies of goods.

It is clarified that the same value of zero-rated/ export supply ofgoods, as calculated as perthe definition of "turnover of zero-rated supply of goods", needs to be taken into