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CA FINAL IDT AMENDMENTS & RTP DISCUSSION

Applicable for May. 2020 Examination

BY : CA VISHAL BHATTAD

- All circulars & Notifications upto 31Oct 2018
- All Statutory Updates of ICAI
- RTP for May .2020

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CONCEPT OF SUPPLY

Taxable event - Supply

Section 7 - Meaning and scope of supply

1	Supply includes - <table><tr><td>(a)</td><td>All forms of supply of goods and/ or services or both such as<ul style="list-style-type: none">➔ sale transfer, barter, exchange, licence, rental, lease or disposal➔ made or agreed to be made➔ for a consideration by a person➔ in the course or furtherance of business.</td></tr><tr><td>(b)</td><td>Importation of services, for a consideration <i>whether or not in the course or furtherance of business and</i></td></tr><tr><td>(c)</td><td>The activities specified in Schedule I, made or agreed to be made without a consideration.</td></tr><tr><td>(d)</td><td>The activities to be treated as supply of goods or supply of services as referred to in Schedule II. <small>Omitted by CGST Amendment Act, 2018</small></td></tr></table>	(a)	All forms of supply of goods and/ or services or both such as <ul style="list-style-type: none">➔ sale transfer, barter, exchange, licence, rental, lease or disposal➔ made or agreed to be made➔ for a consideration by a person➔ in the course or furtherance of business.	(b)	Importation of services , for a consideration <i>whether or not in the course or furtherance of business and</i>	(c)	The activities specified in Schedule I, made or agreed to be made without a consideration.	(d)	The activities to be treated as supply of goods or supply of services as referred to in Schedule II. <small>Omitted by CGST Amendment Act, 2018</small>
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1A	<i>Where certain activities or transaction constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.</i>								
2	Activities not treated as supply and not liable to GST Notwithstanding anything contained in sub-section(1) <table><tr><td>(a)</td><td>activities or transactions specified in Schedule III or</td></tr><tr><td>(b)</td><td>such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, Shall be treated neither as a supply of goods nor a supply of services. As per N/N 14/2017 - Central Tax (Rate) Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of constitution shall be treated neither as a supply of goods nor a supply of service. Newly Inserted by N/N 25/2019 CT (R) 30/09/2020 Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name called by the State Government in which they are engaged as public authorities, shall neither be treated as a supply of goods nor a supply of service.” Newly Inserted</td></tr></table>	(a)	activities or transactions specified in Schedule III or	(b)	such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, Shall be treated neither as a supply of goods nor a supply of services. As per N/N 14/2017 - Central Tax (Rate) Services by way of any activity in relation to a function entrusted to a Panchayat under article 243G of the Constitution or to a Municipality under article 243W of constitution shall be treated neither as a supply of goods nor a supply of service. Newly Inserted by N/N 25/2019 CT (R) 30/09/2020 Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name called by the State Government in which they are engaged as public authorities, shall neither be treated as a supply of goods nor a supply of service.” Newly Inserted				
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3	Subject to sub-sections (1), (1A) & (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as <table><tr><td>(a)</td><td>A supply of goods and not as a supply of services or</td></tr><tr><td>(b)</td><td>A supply of services and not as a supply of goods.</td></tr></table>	(a)	A supply of goods and not as a supply of services or	(b)	A supply of services and not as a supply of goods.				
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Clarification on Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors (Circular No. 116/35/2019-GST dated 11/10/2019)

Issue:- whether GST is leviable on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors.

1) Clarification:-

- a. Individual donors provide financial help or any other support in the form of donation or gift to institutions such as religious institutions, charitable organisations, schools, hospitals, orphanages, old age homes etc.
- b. The recipient institutions place a name plate or similar such acknowledgement in their premises to express the gratitude.
- c. When the name of the donor is displayed in recipient institution premises, in such a manner, which can be said to be an expression of gratitude and public recognition of donor's act of philanthropy
- d. It is not aimed at giving publicity to the donor in such manner that it would be an advertising or promotion of his business,
- e. then it can be said that there is no supply of service for a consideration (in the form of donation).
- f. There is no obligation (quid pro quo) on part of recipient of the donation or gift to do anything (supply a service).
- g. Therefore, there is no GST liability on such consideration.

Some examples of cases where there would be no taxable supply are as follows:-

- (a) "Good wishes from Mr. Rajesh" printed underneath a digital blackboard donated by Mr. Rajesh to a charitable Yoga institution.
- (b) "Donated by Smt. Malati Devi in the memory of her father" written on the door or floor of a room or any part of a temple complex which was constructed from such donation.

2) GST shall not be leviable if 3 conditions are satisfied which are:

- a. gift or donation is made to a charitable organization
- b. the payment has the character of gift or donation
- c. the purpose is neither commercial gain nor advertisement



REVERSE CHARGE & ECO

Sec 9(3) : Reverse Charge under notified cases

9 Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original ~~literary~~, dramatic, musical or artistic works

(Covered by Separate entry in 9A)

By

To

Person liable to pay tax : A ~~Publisher~~ music company, producer or the like, located in the taxable territory

(Covered by Separate entry in 9A)
An Author, Music Composer, photographer, artist

A Music company, producer or the like, located in the taxable territory

Musical



Lyrics of Song

Artistic



Painting by Painter

Dramatic



Acting by Actor



9A Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works

Newly Inserted by N/N 22/2019 CT-(R) dt 30/09/2019

By

To

Person liable to pay tax : A Publisher located in the taxable territory

An Author

A Publisher located in the taxable territory

Literary



Books by Author

Conditions:- (Reverse charge is not applicable in following cases)

Provided that nothing contained in this entry shall apply where, -

(i) the **author has taken registration, and filed a declaration**, within the time limit with the jurisdictional GST commissioner that

➔ he exercises the option to pay central tax on the service under forward charge and

➔ to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and

➔ that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;

(ii) the author makes a declaration, on the **invoice issued by him in Form GST Inv-I** to the publisher.

Note:- Thus, where the author is registered and he make a declaration to pay the tax to proper officer then publisher is not required to pay tax & Author will pay tax under forward charge.

15 Services provided by way of renting of a motor vehicle

Newly Inserted by N/N 22/2019 CT-(R)
dt 30/09/2019

By

Any person other than a body corporate,
(paying CGST @ 2.5% & SGST @ 2.5 % on renting of motor vehicles with input tax credit only of input service in the same line of business)

To

Anybody corporate located
in the taxable territory.

Person liable to pay tax :
Anybody corporate located
in the taxable territory.

16 Services of **lending of securities** under Securities Lending Scheme, 1997
of SEBI

Newly Inserted by N/N 22/2019 CT-(R) dt 30/09/2019

By

Lender

(i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI)

To

Borrower

(i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI).

Person liable to pay tax :
Borrower i.e. a person who
borrows the securities

Sec 9(4) (CGST) Reverse Charge - when supply of goods or services by unregistered person to registered person

The central tax in respect of the

supply of specified category of goods or services or both by a supplier, who is not registered,

to

a specified class of registered person

shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

N/N 07/2019 CT(R) dt 29/03/2019

1 value of inputs and input services purchased from registered supplier is less than 80%

Newly Inserted N/N 07/2019-CT (R) dt 29/03/2019 & N/N 7/2019-IT(R) dt 29/03/2019

Person liable to pay tax is promoter

By

Purchase from unregistered person

To

promoter

Note:- Reverse Charge is applicable only to the extent of shortfall to make it 80%

2 In case of Cement

Newly Inserted N/N 07/2019-CT (R) dt 29/03/2019 & N/N 7/2019-IT(R) dt 29/03/2019

Person liable to pay tax is promoter

By

Supplied by unregistered person

To

promoter

3 In case of Capital Goods

Newly Inserted N/N 07/2019-CT (R) dt 29/03/2019 & N/N 7/2019-IT(R) dt 29/03/2019

Person liable to pay tax is promoter

By

Supplied by unregistered person

To

promoter

Note : Above reverse charge is applicable in a case

- Promotor is opting for 1% or 5% scheme of N/N 11/2017
- Promoter has to pay GST under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).
- Where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.
- Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997 (Circular No. 119/38/2019-GST dated 11/10/2019)

Issue:- whether the supply of securities under Securities Lending Scheme, 1997 (“Scheme”) by the lender is taxable under GST.

Fact:- Securities and Exchange Board of India (SEBI) has prescribed the Securities Lending Scheme, 1997 for the purpose of facilitating lending and borrowing of securities.

Under the Scheme, lender of securities lends to a borrower through an approved intermediary to a borrower under an agreement for a specified period with the condition that the borrower will return equivalent securities of the same type or class at the end of the specified period along with the corporate benefits accruing on the securities borrowed.

The transaction takes place through an electronic screen-based order matching mechanism provided by the recognised stock exchange in India. There is anonymity between the lender and borrower since there is no direct agreement between them.



Legal provision:-

1. Securities as defined in section 2(h) of the Securities Contracts (Regulation) Act, 1956 are not covered in the definition of goods under section 2(52) and services under section 2(102) of the CGST Act.

Therefore, a transaction in securities which involves disposal of securities is not a supply in GST and hence not taxable.

2. **Services as per Section 2(102) of the CGST Act, :-** “services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

Explanation.— “services” includes facilitating or arranging transactions in securities;

3. The explanation added to the definition of services w.e.f. 01.02.2019 i.e.” includes facilitating or arranging transactions in securities” is only clarificatory in nature and does not have any bearing on the taxability of the services under discussion (lending of securities) in past since 01.07.2017 but relates to facilitating or arranging transactions in securities.

Clarification:-

- 1. It has been clarified that **lending of securities is not a transaction** in securities as it **does not entail disposal of securities**
- 2. *the activity of lending of securities would be treated as supply of services by the lender. Thus, GST is required to be discharged by the lender on the fee charged in respect of lending of securities.*

Sr. No.	Date of transaction	Person liable to pay tax	Nature of tax
1.	1/7/2017-30/9/219	Lender (forward charge)	IGST (In case the lender has already paid CGST/SGST/UTGST, they would not be required to pay IGST again in lieu of those transactions.)
2.	1/10/2019 and onward	Borrower (RCM)	IGST

- 1. **Lender** is a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the scheme.
- 2. **Borrower** is a person who borrows the securities under the scheme through an approved intermediary.
- 3. **Approved intermediary** is a person duly registered by the SEBI under the guidelines/scheme through whom the lender will deposit the securities for lending and the borrower will borrow the securities;



CHAPTER - 5

IMPORTANT DEFINITIONS & COMPOSITION Levy

Section 10 (2) - Conditions for Composition Scheme

(a) Save as provided in subsection (1), he is not engaged in the supply of services

Comment: - As we have seen in proviso to sec 10(1), that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or 5 lakh rupees, whichever is higher.

(b) He is not engaged in making any supply of goods which are not leviable to tax under this Act;

© He is not engaged in making any inter-State outward supplies of goods

(d) He is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and

(e) He is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council

Tariff item, subheading, heading or Chapter*	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2106 90 20	Pan Masala
2202 10 10	Aerated Water
24	All goods, i.e. Tobacco and manufactured tobacco substitutes

Newly Inserted N/N 2/2019CT dt 30/09/2019 & 18/2019CT(R)

Composition Scheme for Service: (Effective from 1 st April, 2019) [N/N 2/2019 – CT(R) dt 7/3/2019]

Other condition for availing composition scheme:-

- The supplier should not be engaged in the business of making any supplies on which GST is not leviable under this Act (i.e., petro products or alcoholic liquor).
- The supplier should not be making any interstate supplies.
- The supplier should not be a casual taxable person, non-resident taxable person and
- The supplier should not making any supply through e-commerce operator (ECO) on which TCS applies.
- Shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- Shall be liable to pay central tax on inward supplies on which he is liable to pay tax under Section 9(3) or 9(4) of CGST Act at the applicable rates.
- Shall issue, instead of tax invoice, a bill of supply as referred to in section 31(3)(c) of the CGST Act with particulars as prescribed in rule 49 of CGST Rules.

The registered person shall mention the following words at the top of the bill of supply, namely: – 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'

- The supplier should not be engaged in business of ice cream, Pan Masala, **Aerated Water**, Tobacco and tobacco substitutes.

Newly Inserted N/N 18/2019CT(R)



CHAPTER - 6

TIME OF SUPPLY

Special procedure for determining the time of supply of services in certain cases

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

- (i) transfer of transferable development rights (TDR) or floor space index (FSI);
- (ii) granting of long term lease,

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

Such exemption for TDR, FSI, long term lease (premium) shall not be available in case of flats which remain un-booked on the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

The promoter (developer) shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of

- (i) value of development rights and/or FSI, or
- (ii) upfront amount paid for long term lease, as is attributable to such un-booked residential apartments.

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

- (i) a promoter who receives development rights or FSI (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;
- (ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount*,

* Such upfront amount is called as premium, salami, cost, price, development charges or by any other name.

For such persons, the liability to pay tax on, -

- (a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);
- (b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relating to construction of residential apartments in project;
- (c) the upfront amount paid by him for long term lease of land relating to construction of residential apartments in the project; and
- (d) the supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI), shall arise on the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

[Notification No. 6/2019 CT (R) dated 29.03.2019/ Notification No. 6/2019 IT @ dated 29.03.2019]



CHAPTER - 7

VALUE OF SUPPLY

Clarification regarding applicability of GST on additional/ penal interest (Circular No. 102/21/2019- Dt. 28/06/2019)

Issue –

1. *Whether GST is applicable on additional / penal interest on the overdue loan i.e. whether it would be exempt from GST or such penal interest would be treated as consideration for liquidated damages. [amounting to a separate taxable supply of services under GST]*
2. *Whether levy of additional/ penal interest could be regarded as consideration received for agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act as per Entry 5(e) of Schedule II*

Facts–

1. Supplier of goods allows recipient to make payment towards value of supply in periodic equal instalment i.e. EMI. In case of any delay, the recipient is required to pay pre-agreed penal interest/charges.
2. The recipient avails loan facility and pays for the value of supply of goods. Repayment of loan is undertaken by way of EMI along with interest. In case of delay in repaying the loan EMI, the recipient is required to pay penal interest/charges.

Legal provision –

1. Section 15(2)(d) – Value of Supply

The value of supply shall include “interest or late fee or penalty for delayed payment of any consideration for any supply”

2. SI. No. 27 (a) [N/N. 12/2017- CT (R) dated 28.06.2017 – Exempt Supplies]

services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services)

3. clause 2 (zk) '**interest**' means interest payable in any manner in respect of any moneys borrowed or debt incurred (including a deposit, claim or other similar right or obligation) but does not include any service fee or other charge in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilised.

4. Entry 5(e) of Schedule II of the Central Goods and Services Tax Act, 2017

Consideration for liquidated damages i.e. “agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act” is a Taxable Service.

Clarification. :

1. Example in this case is supply of mobile whose cost is Rs. 40,000/-

Example	Clarification
<p>X sells a mobile phone to Y, the cost of which is INR40,000. X gives Y an option to pay in installments of INR11,000 each over next four months. In case there is delay in payment of installment, Y would be liable to pay INR500 per month for the delay.</p> <p>In some cases, separate invoicing may be done by X for cost of the product (INR40,000) and service of providing loan facility (consideration for which is interest of 2.5% per month and an additional/penal interest of INR500 for delay in payment).</p>	<p>1. <i>As per sec 15(2)(d) The amount of penal interest is to be included in the value of supply.</i></p> <p>2. <i>The penal interest would be taxable as it would be included in the value of the mobile, irrespective of the manner of invoicing.</i></p>

<p>X sells mobile phone to Y for INR40,000. For purchase of mobile, Y has an option to avail loan at interest of 2.5% per month from M/s ABC Ltd.</p> <p>The terms of loan allow Y a period of 4 months to repay the loan. Additional/penal interest will be charged at 1.25% per month for any delay in payment.</p>	<p><i>1. Penal interest is charged for a transaction between Y and M/s ABC Ltd. will be covered under the definition of interest. Thus, the same would be exempt from GST penal interest shall also not be liable to GST.</i></p> <p><i>2. The value of supply of mobile by X to Y would be Rs. 40,000/- for the purpose of levy of GST</i></p> <p><i>3. Further, any service fee or other charges levied by M/s ABC Ltd. in respect of the transaction related to extending deposits, loans or advances does not qualify as 'interest' and the same will not be exempt.</i></p>
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2. Circular also clarifies that levy of additional/ penal interest could not be regarded as consideration received for agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act.

Clarification on issue of GST on Airport levies (Circular No. 115/34/2019-GST DATED 11/10/2019)

Fact:- Passenger Service Fee (“PSF”) is charged under rule 88 of Aircraft Rules, 1937 according to which the airport licensee may collect PSF from embarking passengers at such rates as specified by the Central Government. According to the rule the airport license shall utilize the said fee for infrastructure and facilitation of the passengers.

Further, the User Development Fee (“UDF”) is levied under rule 89 of the Aircraft rules 1937 which provides that the licensee may levy and collect, at a major airport, the User Development Fee at such rate as may be determined under section 13(1) (b) of the Airports Economic Regulatory Authority of India Act, 2008.

Though the rule does not prescribe the specific purpose of levy and whether it is to be charged from the airlines or the passengers. However, it is seen from section 2(n) of Airports Economic Regulatory Authority of India Act, 2008, **that the authority which manages the airport is eligible to levy and charge UDF from the embarking passengers at any airport.**

the User Development Fees (UDF) shall be collected from the passengers by the airlines at the time of issue of air ticket and the same shall be remitted to Airports Authority of India(AAI) in the line system/procedure in vogue.

For this, collection charges of Rs. 5/- shall be receivable by the airlines from AAI, which shall not to be passed on to the passengers in any manner.

Issue:-

- 1.whether GST is on airport levies and
2. airport levies do not form part of the value of services provided by the airlines and consequently no GST should be charged by airlines on airport levies

Legal provision :-

1. **Section 2(31) of the CGST Act “consideration”** in relation to the supply of goods or services or both includes any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person.

Thus, PSF and UDF charged by airport operators are consideration for providing services to passengers.

2. **Pure agent” has been defined to mean a person who-**

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

Clarification:-

- ➡ The airline acting as pure agent (provided all conditions are satisfied under rule 33) of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers.
- ➡ The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. **The amount so recovered will be excluded from the value of supplies made by the airline to its passengers.**
- ➡ The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. **Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government.**
- ➡ *The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.*





CHAPTER - 8

INPUT TAX CREDIT

Amendments in Rule 42 & Rule 43

Calculation of Value of Exempt supply and Total Turnover for Rule 42 & 43

Prior Amendment : the value of exempt supplies and the total turnover excluded central excise duty, State excise duty and VAT as levied under **entry 84** of List I and **entries 51 and 54** of List II of Seventh Schedule.

After Amendment : With effect from 01.02.2019, the value of exempt supplies and the total turnover under rules 42 and 43 will exclude the amount of any duty or tax levied under **entry 84 and entry 92A** of List I of the Seventh Schedule to the Constitution and **entry 51 and 54** of List II of the said Schedule.

Impact : In other words, apart from excise duty, State excise duty and VAT, the value of exempt supplies and the total turnover as provided under rules 42 and 43 would **now exclude central sales tax also**.

Other miscellaneous amendments in rule 42 and 43

S.N.	Rule	Particulars	Amendment	
1	42(1)(g)	T1, T2, T3, T4 should be declare and determine	Old	On the basis of GSTR-2
			New	On the basis of GSTR-2 & at summary level in GSTR-3B
2	42(1)(l)	C3 is computed	Old	Separately for ITC of CGST, SGST/UTGST & IGST
			New	C3, D1 & D2 should be computed separately for ITC of CGST SGST/UTGST & IGST and declare in GSTR 3B or through prescribe form
3	42(1)(m)	Amount equal to aggregate of D1 and D2	Old	Added to the output tax liability of a registered person
			New	Reversed by the registered person in GSTR 3B or in the prescribed form
4	41(2)(a)	Aggregate amount calculated finally in D1and D2 (annual basis) exceed aggregate amount in rule 41(1) in respect of D1 & D2	Old	Added to the output tax liability of a registered person not later than September following the end of financial year
			New	Reversed by the registered person in GSTR 3B or in the prescribed form not later than September following the end of financial year
5	43(1)(a)	Amount of ITC in respect of Capital goods used or intend to be used exclusively for non business purposeor exempt supplies	Old	In GSTR-2 and not credited to his electronic credit ledger
			New	In GSTR-2 and GSTR 3B and not credited to his electronic credit ledger
6	43(1)(b)	Amount of ITC in respect of Capital goods used or intend to be used exclusively for taxable supply including zero rated supply	Old	In GSTR-2 and credited to his electronic credit ledger
			New	In GSTR-2 and GSTR 3B and credited to his electronic credit ledger
7	43(1)(g)	F stand for	Old	Total turnover
			New	Total turnover in a state Important
8	43	The amount T_e should be computed	Old	Separately for ITC of CGST, SGST/UTGST & IGST
			New	Separately for ITC of CGST, SGST/UTGST & IGST & declared in GSTR 3B

SEC 20 : MANNER OF DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR.

Value of turnover for the purpose of pro rata distribution of ITC by an ISD to exclude central sales tax also [Section 20 of the CGST Act]

Prior Amendment : As per explanation to **sec 20 clause (c) Value of turnover means** supply of taxable goods as well as goods not taxable under this Act to mean the value of turnover, reduced by the amount of any duty or tax levied under **entry 84** of List I of the Seventh Schedule to the Constitution and **entries 51 and 54** of List II of the said Schedule.

After Amendment : With effect from 01.02.2019, As per explanation to **sec 20 clause (c) Value of turnover means** the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under **entries 84 and 92A** of List I of the Seventh Schedule to the Constitution and **entries 51 and 54** of List II of the said Schedule.

Impact : In other words, apart from excise duty, State excise duty and VAT, the value of turnover would now exclude central sales tax also. It may be noted that the power to levy central sales tax is derived from the **entry 92A** of the List I of the VII Schedule to the Constitution.

Sec 16 : Eligibility and conditions for taking input tax credit.

Restriction on availment of input tax credit (ITC) in respect of invoices/debit notes not uploaded by the suppliers in their GSTR-1s [New sub-rule (4) inserted in rule 36 of the CGST Rules]

Rule 36. Documentary requirements and conditions for claiming input tax credit.-

- (1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely,-
 - (a) an invoice issued by the supplier of goods or services or both.
 - (b) an invoice issued by recipient (receiving goods and/or services from unregistered supplier) along with proof of payment of tax (in case of reverse charge)
 - (c) a debit note issued by a supplier
 - (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 for the assessment of integrated tax on imports;
 - (e) Revised invoice
 - (f) Documents issued by input service distributor.

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

Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person (Inserted via N/N 39/2018 dt 04/09/2018)

- (3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed on account of any fraud willful misstatement or suppression of facts

- (4) *Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under section 37(1), shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under section 37(1). [Notification No. 49/2019 CT dated 09.10.2019]*

This can be further understood as under-

Case	Amount of ITC to be claimed by recipient
Where invoice/debit note has been uploaded by the supplier in his GSTR-1	Full ITC, if all other conditions of availing ITC are fulfilled
Where invoice/debit note has not been uploaded by supplier in his GSTR-1	20% of the eligible ITC available in respect of the uploaded invoices/debit notes. However, the ITC so claimed should not exceed the actual eligible ITC available in respect of the invoices not uploaded.

Illustration 1

Mr. Vijay, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of October 20XX.

Compute the ITC that can be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX in the following independent cases assuming that GST of Rs. 10 lakh is otherwise eligible for ITC:

Case I

Out of 100 invoices, 80 invoices involving GST of Rs. 6 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Case II

Out of 100 invoices, 75 invoices involving GST of Rs. 8.5 lakh have been uploaded by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor.

Answer

As per sub-rule (4) of rule 36, ITC to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers in GSTR-1, cannot exceed 20% of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers in GSTR-1.

Case I

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under-

Invoice	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 80 invoices uploaded in GSTR - 1	6 Lakh	₹6 lakh [Refer Note 1 below]
In respect of 20 invoices not uploaded in GSTR - 1	4 Lakh	₹1.2 lakh [Refer Note 1 below]
Total	10 Lakh	7.2 Lakh

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
- (2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. Thus, in respect of 20 invoices not uploaded in GSTR-1s, the ITC has been restricted to Rs. 1.2 lakh [20% of Rs. 6 lakh].

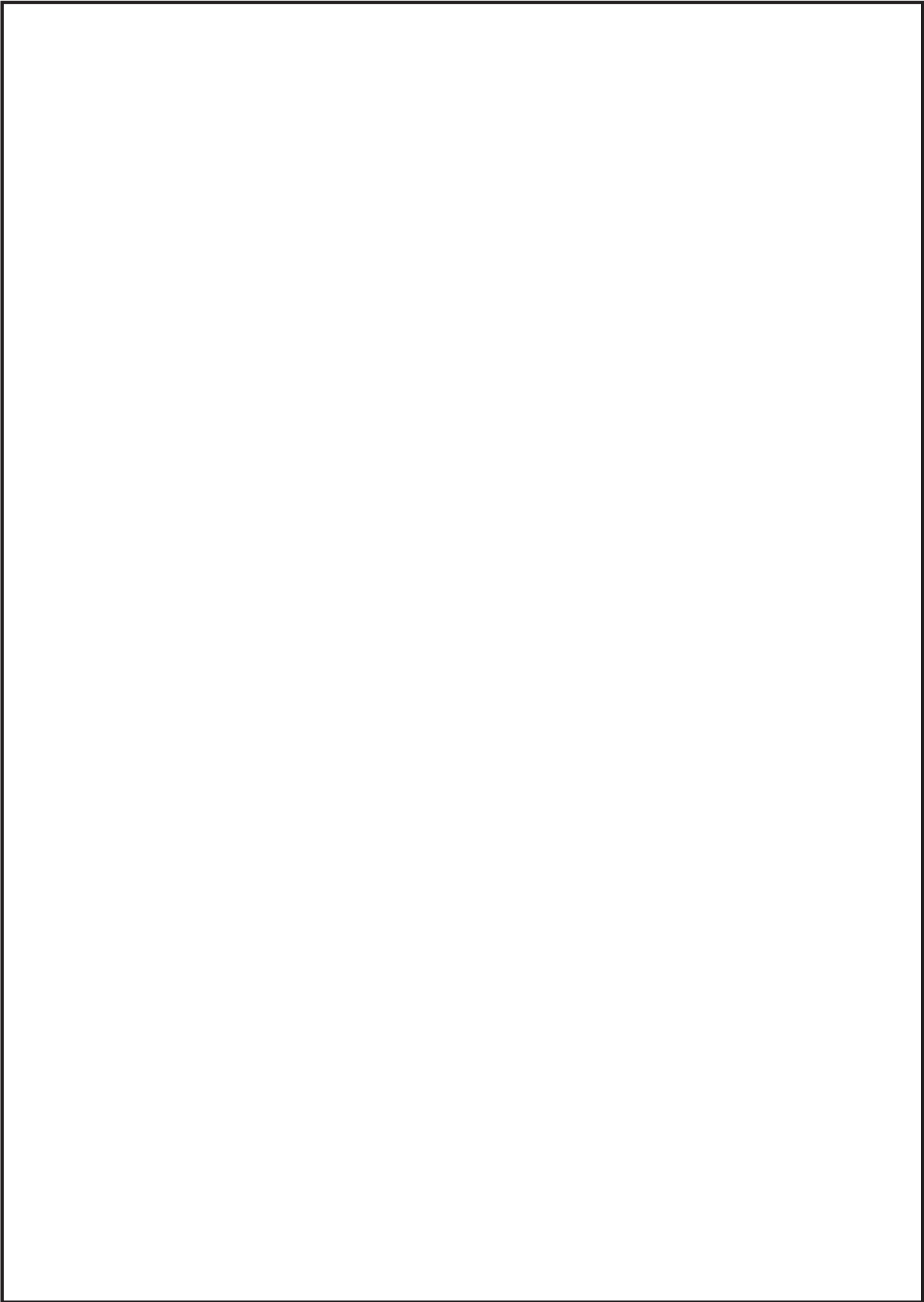
Case II

ITC to be claimed by Mr. Vijay in his GSTR-3B for the month of October 20XX to be filed by 20th November 20XX will be computed as under-

Invoice	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
In respect of 75 invoices uploaded in GSTR - 1	8.5 Lakh	₹ 8.5 lakh [Refer Note 1 below]
In respect of 25 invoices not uploaded in GSTR - 1	1.5 Lakh	₹1.5 lakh [Refer Note 1 below]
Total	10 Lakh	10 Lakh

Notes:

- (1) In respect of invoices uploaded by the suppliers in their GSTR-1, full ITC can be availed.
- (2) The ITC in respect of invoices not uploaded has to be restricted to 20% of eligible ITC in respect of invoices uploaded in GSTR-1. However, since in this case, the actual ITC [Rs. 1.5 lakh] in respect of 25 invoices not uploaded in GSTR-1 does not exceed 20% of the eligible ITC in respect of invoices uploaded in GSTR-1s [Rs. 1.7 lakh (20% of Rs. 8.5 lakh)], actual amount of ITC can be availed.





CHAPTER - 9

PAYMENT OF TAX

Rule 87:- Electronic Cash Ledger

Utilization of Electronic Cash Ledger

The amount available in the **electronic cash ledger** may be used for making any payment towards

- ➔ tax, ➔ interest, ➔ penalty, ➔ fees or
- ➔ any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed

Major Head	Minor Head				
IGST	Tax	Interest	Penalty	Fee	Other
CGST	Tax	Interest	Penalty	Fee	Other
SGST/UTGST	Tax	Interest	Penalty	Fee	Other
CESS	Tax	Interest	Penalty	Fee	Other

Note : The amount available in the Electronic Cash Ledger can be utilised for payment of any liability for the respective major and minor heads. For example, liability for the tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.

N/N 31/2019 CT dt 28/06/2019

Newly Inserted N/N 31/2019
CT dt 28/06/2019

➔ 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**.

RULE 87 - TAX PAYMENT CHALLAN

➔ Any amount deducted under section 51 or collected under section 52 and claimed in ~~FORM GSTR-02~~ by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger ~~in accordance with the provisions of rule 87~~

Omitted by N/N 31/2019
dt 28/06/2019