

CA INTER - GST REBOOT SUMMARY BOOK AMENDMENT NOTES FOR MAY 2024 & ONWARDS

(AMENDMENTS PDF BY CA YASHVANT MANGAL)

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operator [Sec. 9(5)/5(5)]	to such ECO as if ECO is the supplier liable for paying the tax. [Eg. Uber, Ola, Swiggy, etc.]
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Person liable to pay tax :

Forward Charge Sec. 9(1) / 5(1)	Supplier of Goods/Service
Reverse Charge Sec. 9(3) / 9(4) / 5(3) / 5(4)	Recipient of Goods/Service
E- Commerce Sec. 9(5) / 5(5)	ECO

Goods or Services imported in India:

- Import of goods or services are treated as inter-state supplies as per provisions of IGST Act, 2017.
- On import of goods, IGST is levied alongwith Customs duty. But, on import of services, only IGST is levied.
- Further, under GST, "online money gaming" is treated as goods on import of which only IGST is levied but Customs duty is not levied.

TAXABLE EVENT UNDER GST = SUPPLY [SECTION 7]

सीधी बात...Supply होगा तो GST लगेगा...NO SUPPLY NO GST

Statutory Provisions	
Sec. 7	Meaning and Scope of Supply
(1)	Supply includes (सिर्फ "तुम ही हो" नहीं... "तुम भी हो"...)-
(a)	all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
(aa)	the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. Explanation.--For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;
(b)	importation of services, for a consideration whether or not in the course or furtherance of business and
(c)	the activities specified in Schedule I, made or agreed to be made without a consideration.
(1A)	where certain activities or transactions constitute a supply in accordance with the provisions of sub section (1), they shall be treated either as supply of goods or supply of services as

2.	<p>Services by any Court or Tribunal established under any law for the time being in force. Explanation : The term "Court" includes District Court, High Court and Supreme Court. [Circular] Having regard to the functioning & characteristics of the Consumer Disputes Redressal Commissions, it is hereby clarified that the fee paid by litigants are not leviable to GST. Any penalty imposed by or amount paid to these Commissions will also not attract GST.</p>						
3.	<p>(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.</p>						
4.	<p>Services of funeral, burial, crematorium or mortuary including transportation of the deceased.</p> <div style="text-align: right; background-color: #e91e63; color: white; padding: 5px; border: 1px solid black;">जाने वाले से कौन GST ले सकता है...</div>						
5.	<p>Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Rental, leasing, licensing of land and building</td> <td style="width: 50%; padding: 5px;">Treated as supply of service [GST is applicable]</td> </tr> <tr> <td style="padding: 5px;">Sale of flats, etc. in a building before completion certificate or 1st occupancy, whichever is earlier</td> <td style="padding: 5px;">Treated as supply of service under para 5(b) of Sch. II [GST is applicable]</td> </tr> <tr> <td style="padding: 5px;">Sale of land and building</td> <td style="padding: 5px;">Not treated as supply as per para 5 of Sch. III [GST is not applicable]</td> </tr> </table> <p>[Circular] Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and accordingly does not attract GST.</p> <p>However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.</p>	Rental, leasing, licensing of land and building	Treated as supply of service [GST is applicable]	Sale of flats, etc. in a building before completion certificate or 1 st occupancy, whichever is earlier	Treated as supply of service under para 5(b) of Sch. II [GST is applicable]	Sale of land and building	Not treated as supply as per para 5 of Sch. III [GST is not applicable]
Rental, leasing, licensing of land and building	Treated as supply of service [GST is applicable]						
Sale of flats, etc. in a building before completion certificate or 1 st occupancy, whichever is earlier	Treated as supply of service under para 5(b) of Sch. II [GST is applicable]						
Sale of land and building	Not treated as supply as per para 5 of Sch. III [GST is not applicable]						
6.	<p>Actionable claims, other than specified actionable claims.</p> <div style="text-align: right; background-color: #e91e63; color: white; padding: 5px; border: 1px solid black;">जुआ खेलोगे तो GST देना पड़ेगा...</div> <p>Note: "specified actionable claim" means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming. Further, the applicable rate of GST on specified actionable claims is 28%.</p> <p>Example : M/s Rohit ASREC Ltd. procured a portfolio of NPAs (of Rs. 50 crores) from Pankaj Bank Ltd. for a consideration of Rs. 7 crores (under the provisions of SRFAESI Act, 2002). Whether GST is leviable on Rs. 7 crores ?</p>						

CHAPTER 03

TIME OF SUPPLY

Time of supply of goods where tax is payable under forward charge

Time of supply of goods [Section 12(2)]	Time of supply of services [Section 13(2)]
<p>➔ Date of issue of invoice (date of actual issue or last date when it should be issued u/s 31); or Date of receipt of payment (to the extent payment is received), whichever is earlier.</p> <p>No GST on advances received for supply of goods: The registered person who did not opt for the composition levy u/s 10, has been notified as the class of persons who shall pay GST on the outward supply of goods on the date of issue of invoice or last date when it should be issued u/s 31, irrespective of the actual receipt of payment in respect of such supply.</p> <p>➔ However, in respect of supply of "specified actionable claims", time of supply shall be earlier of Date of issue of invoice (date of actual issue or last date when it should be issued u/s 31) or Date of receipt of payment (to the extent payment is received), whichever is earlier. In nut shell, GST will be required to be paid on advances received in respect of supply of "specified actionable claims".</p> <p>[In Simple Words, Forward Charge में Goods के Case में TOS निकालते Time सिर्फ Date of invoice ही देखना है]</p>	<p>(a) Invoice issued within the time period prescribed u/s 31</p> <p>Earlier of the following:</p> <ul style="list-style-type: none"> ➔ Date of issue of invoice by the supplier ➔ Date of receipt of payment (entering the payment in books of account or crediting of payment in bank account, whichever is earlier) <p>(b) Invoice not issued within the time period prescribed u/s 31</p> <p>Earlier of the following:</p> <ul style="list-style-type: none"> ➔ Date of provision of service ➔ Date of receipt of payment (entering the payment in books of account or crediting of payment in bank account, whichever is earlier) <p>(c) When the above events are unascertainable</p> <p>Date on which the recipient shows the receipt of services in his books of account.</p> <p>Note: If Advance payment received is upto Rs. 1,000, the supplier can choose to take date of invoice issued with respect to such excess amount as the time of supply of services of such excess value.</p>

Time limit for issue of invoices [Sec. 31]

person shall be eligible for ITC of the GST paid on such input services.

- Further, if any person has used Construction Service or Works Contract Service for construction, installation, etc. of any plant & machinery for his business, then, he shall be eligible for ITC of GST paid on Construction Service or Works Contract Service used in construction, installation, etc. of such plant & machinery.
- The expression "construction" includes re-construction, renovation, additions or alteration or repairs, to the extent of capitalization, to the said immovable property. It means, if any input or input services are used for repairing, etc. of immovable property, which is revenue expenditure in nature (i.e. not capitalized in the books of accounts), then, ITC of GST paid on such inputs and input services shall be available to the registered person.

Examples:

- (1) A company buys cement, tiles etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked.
- (2) MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services is allowed to MN & Co.
- (3) A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account. ITC on such goods and services is allowed.
- (4) ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.
- (5) ITC on goods and/or services used by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.
- (6) A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.

(e) Inward supplies on which tax has been paid under the composition scheme

(f) Inward supplies received by a non-resident taxable person (NRTP) except goods imported by him

Note: ITC of GST paid on any goods and/or services received by any NRTP is not available. However, ITC of GST paid on goods imported by NRTP is allowed. Further, ITC of GST paid on services imported by him is also blocked.

(fa) Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.

(g) Goods and/or services used for personal consumption

(h) Goods that are lost, stolen, destroyed, written off or disposed of by way of gift or free samples

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

- (i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
- (ii) amount of interest or discount earned on loans, advances or deposits extended.

6.3 Persons not eligible to opt for composition scheme



- (a) A person who is engaged in supply of service except restaurant & outdoor catering service. However, if an eligible person (i.e. supplier of goods or restaurant & outdoor catering service supplier) who has opted for composition scheme may supply services (other than restaurant & outdoor catering service), of value not exceeding Rs. 5,00,000/- or 10% of turnover in a State or Union territory in the preceding financial year, whichever is higher.

Further, while computing value of services supplied during current financial year, interest or discount earned on loans, advances or deposits will not be taken into account.

Further, for the purposes of computing limit of “10% of turnover in a State or Union territory in the preceding financial year”, the interest or discount earned on loans, advances or deposits shall not be taken into account for determining the value of turnover in a State or Union territory.

Example: Vivek is engaged in supply of goods. His aggregate turnover in preceding FY is Rs. 84 lakh (including Rs. 4 Lakhs interest or discount earned on loans, advances or deposits). Since, his aggregate turnover in the preceding FY does not exceed Rs. 1.5 crore, he is eligible for composition scheme in current FY. Further, in current FY, he can supply services [other than restaurant & outdoor catering services] upto a value of not exceeding:

- (a) 10% of Rs. 80 lakh, i.e. Rs. 8 lakh

or

- (b) Rs. 5 lakh,

whichever is higher. Thus, he can supply services upto a value of Rs. 8 lakh in current FY. If the value of services supplied exceeds Rs. 8 lakh, he becomes ineligible for the composition scheme and has to opt out of the composition scheme. However, interest or discount earned during current financial year on loans, advances or deposits shall not be taken into account while computing limit of Rs. 8 lakhs in current financial year.

- (b) Supplier of goods or services which are not leviable under the CGST Act/SGST Act/UTGST Act.

- (c) Supplier of inter-State outward supplies of goods or services.

- (d) Person supplying goods or services through an ECO, who is required to collect TCS u/s 52.


- (e) Manufacturer of following notified goods:

- (iv) who is not engaged in making any inter-State outward supplies of goods or services;
- (v) who is neither a casual taxable person nor a non-resident taxable person;
- (vi) who is not engaged in making any supply of ~~goods~~ or services through an ECO who is required to collect TCS u/s 52; and
- (vii) who is not engaged in **manufacture** of the following goods:

(i)	Ice cream and other edible ice, whether or not containing cocoa
(ii)	Pan masala
(iii)	Aerated Water, containing added sugar or other sweetening matter or flavoured [Eg. Pepsi, Coca-cola, etc.]
(iv)	All goods, i.e. Tobacco and manufactured tobacco substitutes
(v)	Fly ash bricks; fly ash aggregates; Fly ash blocks
(vi)	Bricks of fossil meals or similar siliceous earths
(vii)	Building bricks
(viii)	Earthen or roofing tiles

Note : Further, all other provisions, as applicable to a person paying tax under composition scheme for goods shall apply, as it is, to a person paying tax under composition scheme for services.

“Kar Har Maidaan Fateh”

Sl.	Category of Supply of Service	Supplier of Service	Recipient of Service
1.	Services by a GTA , in respect of transportation of goods by road	Goods Transport Agency (GTA) 	(a) Factory registered under Factories Act; or (b) Society registered under Societies Registration Act; or (c) Co-operative society ; or (d) Person registered under GST; or (e) Body corporate ; or (f) Partnership firm whether registered or not including AOP; or (g) Casual taxable person registered under GST.

However, **RCM on GTA service** shall **not apply** where, -

- (a) GTA has taken registration under GST and exercised the option to pay GST under forward charge mechanism; and
- (b) GTA has issued a tax invoice charging GST and has made following declaration on such invoice:

Not in ICAI

"I/we have taken registration under GST and have exercised the option to pay tax on services of GTA in relation to transport of goods supplied by us from the Financial Year _____ under forward charge and have not reverted to reverse charge mechanism."
- (c) Further, the option exercised by GTA to itself pay GST on the services supplied by it during a Financial Year shall be deemed to have been exercised for the next and future financial years unless the GTA files a declaration to revert under reverse charge mechanism on or after the 1st January of the preceding Financial Year but not later than 31st March of the preceding Financial Year.
- (d) Further, a GTA who commences new business or crosses threshold for registration during any Financial Year, may exercise the option to itself pay GST on the services supplied by it during that Financial Year by making a declaration before the expiry of 45 days from the date of applying for GST registration or 1 month from the date of obtaining registration, whichever is later.

	<p>(2) Services specified below –</p> <p>(i) services by the Department of Posts and the Ministry of Railways (Indian Railways);</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p> <p>[Provisions of RCM, in so far as they apply to the CG and SG, shall also apply to the Parliament, State Legislatures, Courts and Tribunals]</p>		
5A.	Services supplied by the Central Government excluding the Ministry of Railways (Indian Railways), State Government, Union territory or local authority by way of renting of immovable property	Central Government, State Government, Union Territory or Local Authority	Person registered under GST
5AA	Renting of residential dwelling	Any person	Person registered under GST
5B.	Transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter. [also refer analysis given at the end of this table]	Any person	Promoter
5C.	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter. [also refer analysis given at the end of this table]	Any person	Promoter
6.	Director of a company/body corporate	Director	Company or a body corporate
7.	Insurance agent	An insurance agent	Any person carrying an insurance business.

Sec. 9(5) of CGST Act : Tax Payable by the Electronic Commerce Operator (ECO) on Notified Services

The Government may notify specific categories of services (which are supplied through ECO), on which GST shall be paid by the ECO as if such services are supplied by it. Few services have been so notified.

Following categories of services supplied through ECO are notified u/s 9(5) –

- (i) Transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle or any other motor vehicle **except omnibus** (e.g. OLA, Uber, Rapido, etc.);
 - (ii) **Transportation of passengers by an omnibus except where the person supplying such service through ECO is a company or;**
 - (iii) Providing accommodation in hotels, inns, guest houses, clubs, Campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through ECO is liable for registration under GST. (e.g. Tripadvisor, goibibo, etc.)
 - (iv) House-keeping services, such as plumbing, carpentering, etc., except where the person supplying such services through ECO is liable for registration under GST. (e.g. urbanclap.com, zimber.com, etc.)
 - (v) Restaurant service other than the service supplied by restaurant, eating joints etc. located at specified premises. (e.g. Swiggy, Zomato, etc.) [Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above Rs. 7,500/- per unit per day or equivalent.]
- **Radio Taxi** means a taxi including a radio cab, by whatever name called, which is in two- way radio communication with a central control office and is enabled for tracking using GPS or GPRS.
 - All the provisions of the CGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.
 - It is important to note here that the above provision shall **apply only in case of supply of aforesaid notified services.**

Person liable to pay GST for above specified services when supplied through ECO

1	If the ECO is located in taxable territory	→	Person liable to pay tax is the ECO
	↓		↓
2	If the ECO does not have physical presence in the taxable territory	→	Person liable to pay tax is the person representing the ECO
	↓		↓
3	If the ECO has neither the physical presence nor any representative in the taxable territory	→	Person liable to pay tax is the person appointed by the ECO for the purpose of paying the tax

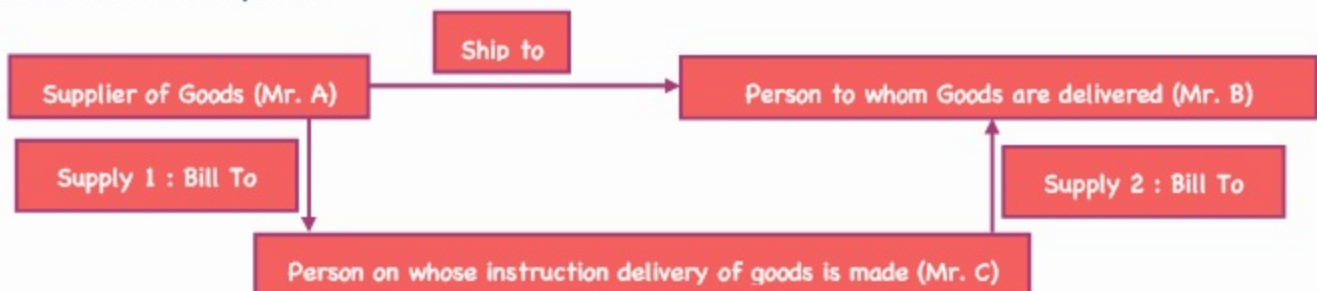
- (a) where the location of the supplier is in the territorial waters, the location of such supplier; or
 (b) where the place of supply is in the territorial waters, the place of supply,
 shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

PLACE OF SUPPLY OF GOODS

SECTION 10 OF IGST ACT, 2017

Section	Nature of Supply	Place of Supply
10(1)(a)	Supply involves movement of goods	Location of goods at the time at which movement terminates for delivery to recipient.
10(1)(b)	Goods delivered to a third person on direction of the Buyer [Bill to Ship to Model]	Principal place of business of Buyer
10(1)(c)	Supply does not involves movement of goods	Location of goods at the time of delivery to the recipient
10(1)(ca)	Supply made to unregistered person	Location of recipient recorded in the invoice (even if name of the State of recipient is recorded); and location of the supplier where the address of the recipient is not recorded in the invoice
10(1)(d)	Where goods are assembled or installed at site	Place of installation or assembly
10(1)(e)	Goods supplied on board a conveyance like a vessel, aircraft, train or motor vehicle	Place where such goods are taken on-board the conveyance

Illustration : Section 10(1)(b) - Supply involves movement of goods, and delivered to a person on the instruction of a third person



Supply 1: Supply from the supplier of goods (Mr. A) to the person to whom the goods are delivered (Mr. B) on the instruction of a third person (Mr. C) - **Place of supply shall be the principal place of business**

(7)	Organisation of an event including ancillary services and assigning of sponsorship to such events	<ul style="list-style-type: none"> ■ B2B: Location of such registered person ■ B2C: Location where the event is actually held ➤ If the event is held outside India: Location of the recipient
	If the event is held in more than one State	Each such State in proportion to the value of services provided in each State - Refer Rule 5 - Given below
(8)	Transportation of goods, including mails or courier	<p>B2B: Location of such registered person</p> <p>B2C: Location at which such goods are handed over for their transportation</p> <p>If the goods are transported outside India: Location of the destination of goods</p>
(9)	Passenger transportation	<p>B2B: Location of such registered person</p> <p>B2C: Place where the passenger embarks on the conveyance for a continuous journey</p> <ul style="list-style-type: none"> ➤ Return Journey - treated as separate journey ➤ Where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).
(10)	Services on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey
(11)	Telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person	<p>Services involving fixed line, leased and internet leased circuits, dish antenna etc: Location of such fixed equipment</p> <p>Post-paid mobile/ internet services: Location of billing address of the recipient</p> <p>Pre-paid mobile/ internet/DTH services provided:</p> <ul style="list-style-type: none"> ■ Through selling agent/re-seller/distributor: Address of such selling agent/re-seller/distributor in the records of supplier at the time of supply ■ By any person to final subscriber: Location where pre-payment is received or place of sale of vouchers ■ When payment made through electronic mode - Location of recipient in records of supplier

	<p>airport, against consideration in the form of viability gap funding.</p> <p>However, nothing contained in this entry shall apply on or after the expiry of a period of 3 years from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation.</p>
4.	<p>Services by way of transportation of goods-</p> <p>(a) by road except the services of -</p> <p>(i) a goods transportation agency (GTA);</p> <p>(ii) a courier agency;</p> <p>(b) by inland waterways.</p> <p>[Circular] Renting of trucks and other freight vehicles [such as tippers, dumpers, loader, trucks, etc.] with driver for a period of time is a service of renting of transport vehicles with operator and not service of transportation of goods by road and hence, it is not eligible for aforesaid exemption. Therefore, transport of minerals within a mining area, say from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time is taxable under GST.</p>
5.	<p>Satellite launch services supplied by Indian Space Research Organisation (ISRO), Antrix Corporation Limited or New Space India Limited.</p> <p>Analysis of Amendment: W.e.f. 27.07.2023, the exemption to Satellite launch services has been extended to all the organisations including private organisations to encourage start-ups.</p>
6.	<p>Services by way of transportation by rail or a vessel from one place in India to another of the following goods-</p> <p>(a) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap;</p> <p>(b) defence or military equipments;</p> <p>(c) newspaper or magazines registered with the Registrar of Newspapers;</p> <p>(d) railway equipments or materials;</p> <p>(e) agricultural produce;</p> <p>(f) milk, salt and food grain including flours, pulses and rice; and</p> <p>(g) organic manure.</p>
7.	<p>Services provided by a goods transport agency (GTA), by way of transport in a goods carriage of-</p> <p>(a) agricultural produce;</p> <p>(b) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed Rs. 1,500;</p> <p>(c) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750;</p>

entity registered as a charitable or religious trust u/s 12AA or 12AB of the Income-tax Act, 1961 or a trust or an institution registered u/s 10(23C)(v) of the Income-tax Act or a body or an authority covered u/s 10(23BBA) of the said Income-tax Act.

However, nothing contained in entry (b) of this exemption shall apply to -

- (i) renting of **rooms** where charges are **Rs. 1,000 or more per day**.
- (ii) renting of premises, **community halls**, kalyan mandapam or open area, and the like where charges are **Rs. 10,000 or more per day**.
- (iii) renting of **shops** or other spaces for business or commerce where charges are **Rs. 10,000 or more per month**.

4. **Upfront amount** (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting **long term lease of 30 years, or more of industrial plots or plots for development of infrastructure for financial business**, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having **20%** or more ownership of Central Government, State Government, Union territory directly or through an entity which is wholly owned by the Central government, State Government or Union territory to the industrial units or the developers in any industrial or financial business area.

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

Analysis:

- (i) This exemption is admissible irrespective of whether such upfront amount is payable or paid in one or more instalments, provided the amount is determined upfront. **[Circular]**
- (ii) Location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for the above exemption. **[Circular]**

Government Related Services

1. **Services by Government** : Services by the Central Government, State Government, Union territory or local authority **excluding** the following services -

- (a) services by the **Department of Posts and the Ministry of Railways (Indian Railways)**;
- (b) services in relation to an **aircraft or a vessel**, inside or outside the precincts of a port or an airport;
- (c) **transport of goods or passengers**; or
- (d) **any service, other than services covered under entries (a) to (c) above, provided to business entities.**



	<ul style="list-style-type: none"> • provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity • by way of any activity: <ul style="list-style-type: none"> - in relation to any function entrusted to a Panchayat under article 243G of the Constitution or - in relation to any function entrusted to a Municipality under article 243W of the Constitution
32.	<p>Composite supply provided to Government:</p> <ul style="list-style-type: none"> • Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply • provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity • by way of any activity: • in relation to any function entrusted to a Panchayat under article 243G of the Constitution or • in relation to any function entrusted to a Municipality under article 243W of the Constitution. <p>[Circular] If sanitation and conservancy services (covered under articles 243W & 243G) are supplied to Indian Army or any other Government Ministry/Department, in the same manner as a local authority does for the general public, then, the same will be eligible for aforesaid exemption. Otherwise, it will be chargeable to GST.</p> <p>[Circular] Supply of pure services and composite supplies by way of horticulture / horticulture works (where the value of goods constitutes not more than 25% of the total value of supply) made to Central Public Works Department (CPWD) are eligible for aforesaid exemption from GST as these activities are also covered under Article 243G and 243W of the constitution.</p>
33.	<p>Services provided to a Governmental Authority by way of -</p> <p>(a) Water supply; (b) Public health; (c) Sanitation conservancy; (d) Solid waste management; and (e) Slum improvement and upgradation.</p> <p>[Circular] District Mineral Foundations Trusts (DMFTs) set up by the State Governments are Governmental Authorities and thus eligible for the same exemptions from GST as available to any other Governmental Authority.</p>
34.	<p>Services provided to the Central Government, State Government or Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government or Union territory.</p>
35.	<p>Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government or Union territory.</p>
36.	<p>Services provided to the Central Government, by way of transport of passengers with or without</p>

rupees (Rs 1000/-) per member per year.

Clarification on whether GST is applicable on reimbursement of electricity charges received by real estate companies, malls, airport operators, etc. from their lessees / occupants [Circular]

Issue: Applicability of GST on supply of electricity by the real estate companies, malls, airport operators, etc., to their lessees or occupants.

Clarification: It is clarified that whenever electricity is being supplied bundled with renting of immovable property and/or maintenance of premises, it forms a part of composite supply and shall be taxed accordingly. The principal supply is renting of immovable property and/or maintenance of premise and the supply of electricity is an ancillary supply. Even if electricity is billed separately, the supplies will constitute a composite supply and therefore, the rate of the principal supply i.e., GST rate on renting of immovable property and/or maintenance of premise would be applicable.

However, where the electricity is supplied by the Real Estate Owners, Resident Welfare Associations (RWAs), Real Estate Developers etc., as a pure agent, it will not form part of value of their supply. Further, where they charge for electricity on actual basis that is, they charge the same amount for electricity from their lessees or occupants as charged by the State Electricity Boards or DISCOMs from them, they will be deemed to be acting as pure agent for this supply.

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

Notes :

1. Above services have been exempted from CGST, SGST and IGST by virtue of notifications issued under respective Acts.
2. A "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.


Clarification on applicability of GST on payment of Honorarium to the Guest Anchors [Circular]

1. Sansad TV and other TV channels invite guest anchors for participating in their shows and pays remuneration to them in the form of honorarium. Some of the guest anchors have requested payment of GST @ 18% on the honorarium paid to them for such appearances.
2. It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed Rs 20 lakhs (Rs 10 lakhs in case of special category states) shall not be liable to take registration and hence, will not be liable to pay GST.

Clarification on GST applicability on Liquidated Damages, Compensation and Penalty arising out of breach of contract or other provisions of law - [Circular]

- To be Computed on all India basis of persons having same PAN

Compulsory Registration in Certain Cases [Section 24]

Statutory Provisions	
Sec. 24	Compulsory registration in certain cases 
Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act, -	
(i)	persons making any inter-State taxable supply (also refer Note 1);
(ii)	casual taxable persons making taxable supply;
(iii)	persons who are required to pay tax under reverse charge;
(iv)	person who are required to pay tax u/s 9(5);
(v)	non-resident taxable persons making taxable supply;
(vi)	persons who are required to deduct TDS u/s 51, whether or not separately registered under this Act;
(vii)	persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
(ix)	persons who supply goods or services or both, other than supplies specified u/s 9(5), through such ECO who is required to collect TCS u/s 52; [Also refer notes 2 & 3]
(x)	every ECO who is required to collect TCS u/s 52;

ANALYTICAL VIEW OF THE TOPIC

Notes :

- (1) In exercise of the powers conferred by Sec. 20 of IGST Act read with Sec. 23(2) of the CGST Act, the Central Government, on the recommendation of the council, has exempted the persons making inter-state supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding Rs. 20 lakhs in a financial year from obtaining registration under GST Act. [Aggregate turnover limit is Rs. 10 lakhs, in case of Manipur, Mizoram, Nagaland and Tripura.]
- (2) Persons making supplies of services through an ECO who is required to collect TCS u/s 52, and having an aggregate turnover upto Rs. 20 lakhs in a financial year are exempted from obtaining registration under GST. [Aggregate turnover limit is Rs. 10 lakhs in the States of Manipur, Mizoram, Nagaland and Tripura.]
- (3) Persons making supplies of goods through an ECO who is required to collect TCS u/s 52, and having an aggregate turnover upto Rs. 20 lakhs in the preceding & current financial year, are exempted from obtaining registration under GST. [Aggregate turnover limit is Rs. 10 lakhs in the States of

Manipur, Mizoram, Nagaland and Tripura.] But, this exemption is subject to the following conditions, namely :

- (i) Such persons shall not make any inter-State supply of goods;
 - (ii) Such persons shall not make supply of goods through ECO in more than one State or Union territory;
 - (iii) Such persons shall be required to have a PAN issued under the Income Tax Act, 1961;
 - (iv) Such persons shall, before making any supply of goods through ECO, declare on the common portal their PAN, address of their place of business and the State or Union territory in which such persons seek to make such supply, which shall be subjected to validation on the common portal;
 - (v) Such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared as per clause (iv);
 - (vi) Such persons shall not be granted more than one enrolment number in a State or Union territory;
 - (vii) No supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
 - (viii) Where such persons are subsequently granted registration u/s 25 of the said Act, the enrolment number shall cease to be valid from the effective date of registration.
- (4) Government has exempted Casual Taxable Persons & other persons making inter-state supplies of [notified handicraft goods, and other notified products when made by craftsmen predominantly by hand even though some machinery may also be used in the process] and having an aggregate turnover, to be computed on all India basis, not exceeding Rs. 20/Rs. 10 lakhs in a financial year, from obtaining registration under GST Act. But, these persons should have obtained a PAN and have generated an e-way bill.

CONCEPT OF TAXABLE PERSON

Taxable person means a person who is registered or liable to be registered u/s 22 or 24.

From the definition of 'taxable person' provided above, it may be inferred that even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

10.5 Persons Not Liable For Registration [Section 23]

1. Persons not liable for registration u/s 23(1):

- (i) Person engaged exclusively in supplying goods/services/both **not liable to tax**
- (ii) Person engaged exclusively in supplying goods/services/both **wholly exempt from tax**
- (iii) **Agriculturist** to the extent of supply of produce out of cultivation of land



waters of India

registration

appropriate base line is located.

- Registration needs to be taken State-wise, i.e. there are no centralized registrations under GST. A business entity having its branches in multiple States will have to take separate State-wise registration.
- Further, within a State, an entity with different branches can have single registration wherein it can declare one place as principal place of business (PPoB) and other branches as additional place of business (APoB).
- A person having multiple places of business in a State or Union territory may apply for separate registration for each such place of business.
- If separate registration for each POB is taken, then, all separately registered POB shall be treated as distinct person and shall pay tax on supply of goods/services/both made to another registered POB of such person and issue a tax invoice or a bill of supply for such supply.
- A person who has more than one registration, whether in one State or more than one State shall, in respect of each such registration, be treated as **distinct persons**.
- Once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover does not exceed Rs. 20 lakh/Rs. 10 lakh.
- A PAN is mandatory to be eligible for grant of registration.
- A NRTP may be granted registration on the basis of other prescribed documents.
- Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, consulate or embassy of foreign countries and any other person notified by the Commissioner, is required to obtain a UIN from the GSTN portal (Valid for entire INDIA).
- **Suo - Moto Compulsory registration** (Temporary Registration) by the proper officer - Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, PO finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis.
- There may be a case where two units of a tax payer are located in same State - one in **SEZ** and another **outside SEZ**. **Separate registrations** have to be obtained for each of the two units.
- Normal procedure for registration is also applicable to a person paying tax under composition levy, person seeking voluntary registration as well as a casual taxable person.
- Different procedure for registration is prescribed for NRTP, person required to deduct TDS, person required to collect TCS, person supplying OIDAR services from outside India **and person supplying online money gaming from outside India to a person in India**.

Meri Marzi 😎



Proper Officer ke aage kol bol sakta hai kyaaaaaa...

Procedure for Registration



Every Person liable to get registered and person seeking voluntary registration shall, before applying for registration, declare his Permanent Account Number (PAN), State/UT in **Part A** of **FORM GST REG-01** on GST Common Portal (www.gst.gov.in).

The PAN shall be validated online by the common portal from the CBDT database and shall also be verified through separate OTPs sent to the mobile number and e-mail address linked to the PAN.

Temporary Reference Number (TRN) is generated and communicated to the applicant on the validated mobile number and e-mail address.

Using TRN, applicant shall electronically submit application in **Part B** of application form, along with specified documents at the Common Portal.

Rule 8 (4A): Where an applicant opts for authentication of Aadhaar number, he shall, while submitting the application, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or 15 days from the submission of the application in Part B of FORM GST REG-01.

Further, if the applicant is applying for GST registration in the State of Gujarat or Puducherry, then, the following additional procedure needs to be followed by the applicant:

Every registration application made by a person, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this proviso.

On receipt of such application, an acknowledgement shall be issued to the applicant electronically. A Casual Taxable Person (CTP) applying for registration get a TRN for making an advance deposit of tax in his electronic cash ledger and an acknowledgement is issued only after said deposit.

- (b) (i) Bank passbook with photograph; or
 (ii) Voter identity card issued by the Election Commission of India; or
 (iii) Passport; or
 (iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988:

Further, such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

Physical verification of business premises in certain cases [Rule 25]:

- (1) Where the proper officer is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded on the common portal within a period of 15 working days following the date of such verification.
- (2) Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to sub-rule (1) of rule 9, the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.

15 Digit GSTIN Format

State Code	PAN										Entity Code	Check sum character		

Display of registration certificate and GSTIN on the name board : Every registered person shall display his registration certificate in a prominent location at his PPOB and at every APOB. Further, his GSTIN also has to be displayed on the name board exhibited at the entry of his PPOB and at every APOB.

■ **Effective date of registration [Rule 10]:**

Where an applicant submits application for registration	Effective date of registration is
within 30 days from the date he becomes liable to registration	the date on which he becomes liable to registration
after 30 days from the date he becomes liable to registration	date of grant of registration

- **Furnishing of Bank Account Details [Rule 10A]** – After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a GSTIN has been assigned, the registered person shall **furnish information with respect to details of bank account on the common portal**

- within 30 days from the date of grant of registration, or
 - before furnishing the details of outward supplies in FORM GSTR-1 or using invoice furnishing facility,
- whichever is earlier.

However, this rule does not apply to the following persons:

- Persons who have been granted registration under rule 12 (TDS/TCS);
- Persons who have been granted registration under rule 16 (Compulsory / Suo-Motu Registration by Proper officer).

■ **Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP):**

A. Both CTP and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.

B. Application will be submitted by NRTP in a different prescribed form whereas CTP will submit the application for registration in the normal form for application for registration i.e. Form GST REG 01 and his registration of CTP will be a PAN based registration.

C. **Period of validity of registration certificate granted to CTP/NRTP :** Registration Certificate granted to CTP/ NRTP will be valid for earlier of:

- Period specified in the registration application, or
- 90 days from the effective date of registration [can be extended further by a period not exceeding 90 days by making an application**]

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

**Where extension of time is sought, such registered taxable person will deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.



Clarifications of issues under GST related to casual taxable person (CTP) [Circular]

The amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be **"estimated net tax liability"**, calculated after considering the due eligible ITC which might be available to such taxable person.

Further, in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.

or such other analysis, as may be carried out on the recommendations of the Council, show that there are **significant differences or anomalies** indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or

(b) **there is a contravention of the provisions of rule 10A by the registered person,**

his registration shall be **suspended** and the said person shall be intimated electronically, on the common portal, or by sending a communication to his e-mail address, highlighting the said differences, anomalies or non-compliances and asking him to **explain**, within a period of **30 days**, as to why his registration shall not be cancelled.

- (3) **No Taxable Supply/Return during Suspension:** A registered person, whose registration has been suspended, shall not make any taxable supply during the period of suspension and shall not be required to furnish any return.

Explanation : For the purposes of this sub-rule, the expression "**shall not make any taxable supply**" shall mean that the registered person shall **not issue a tax invoice** and, accordingly, not charge tax on supplies made by him during the period of suspension.

- (3A) **No Refund during Suspension:** A registered person, whose registration has been suspended, shall not be granted any refund u/s 54, during the period of suspension of his registration.

- (4) **Revocation of Suspension:** The suspension of registration shall be deemed to be revoked upon completion of the proceedings by the proper officer and such revocation shall be effective from the date on which the suspension had come into effect.

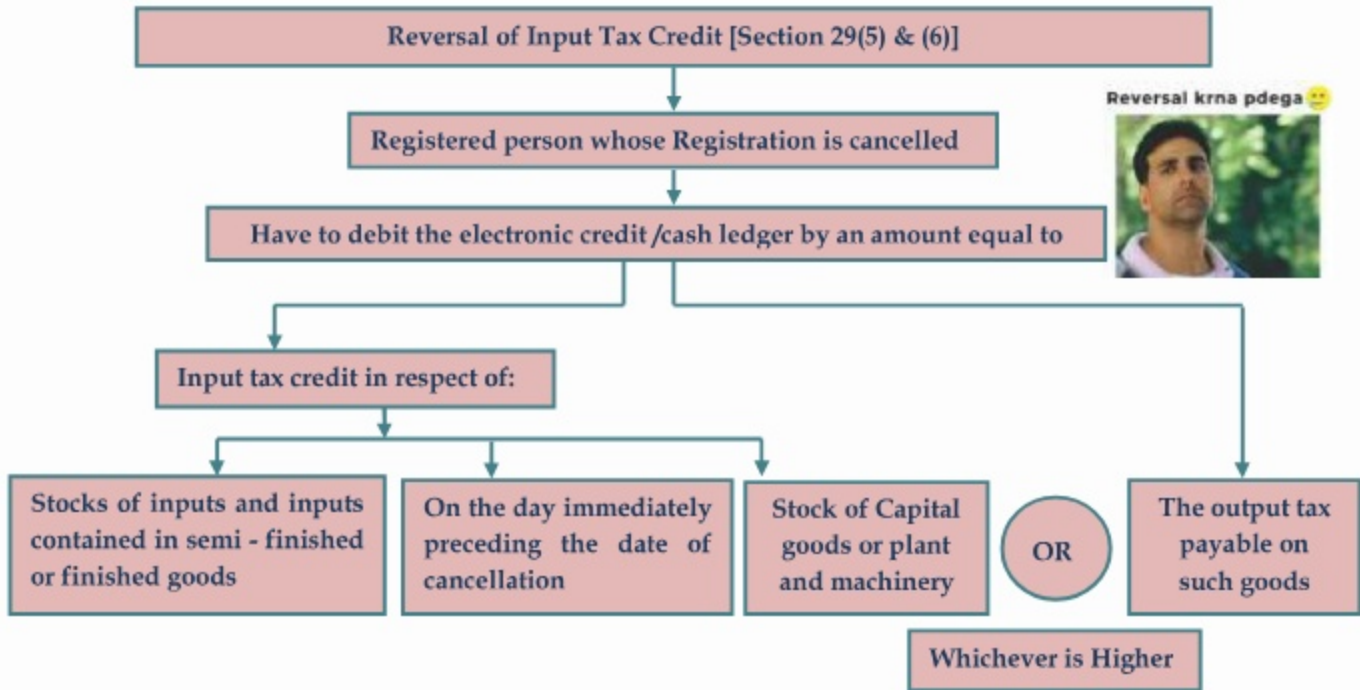
However, the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

Further, where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in section 29(2) clause (b) or clause (c) (i.e. due to non-furnishing of returns by regular or composition taxpayer for prescribed tax periods) and the registration has not already been cancelled by the proper officer, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns.

Further, where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer u/r 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

- (5) **Tax Invoice>Returns after Revocation of Suspension:** Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [i.e. **Revised Tax Invoice**] and section 40 [i.e. **First Return**] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

The cancellation of registration shall be effective from a date to be determined by the proper officer. He will direct the taxable person to pay arrears of any tax, interest or penalty including the amount liable to be paid under section 29(5).



4. Revocation of cancellation of registration:

- Application: Where the registration of a person is cancelled suo-motu by the proper officer, such registered person may, subject to the provisions of rule 10B, apply for revocation of the cancellation of registration to such proper officer, **within 90 days** from the date of service of the order of cancellation of registration, at the GST Common Portal.

However, such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, for a further period not exceeding 180 days (i.e. 90 + 180 days).

- Returns/Tax Payment: However, in case registration was cancelled for failure of registered person to furnish returns, **before applying for revocation** the person has to **rectify the defaults** (by filing all pending returns, making payment of all dues in terms of such returns alongwith interest, penalty, late fee, etc.) for which the registration was cancelled by the officer.
- Proper officer as per prescribed manner, either revoke cancellation of the registration or reject the application.
- Application cannot be rejected without giving an opportunity of being heard.
- Revocation of cancellation under CGST will be a deemed revocation under SGST and vice-a-versa.

Collection of Tax at Source [Sec. 52 of CGST Act]

Who is liable to collect TCS?

Every electronic commerce operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) from the net value of the taxable supplies made through it by the other suppliers, whenever the ECO collects the consideration on the behalf of the supplier.



Rate of TCS : 0.5 % (CGST), 1% (IGST)

Net Value of the Taxable Supplies

Net Value of the Taxable Supplies	=	Aggregate value of taxable supplies of goods and /or services [other than notified services u/s 9(5) by all registered persons through ECO]	(-)	Taxable supplies returned to suppliers
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Further, the value of a supply shall include all taxes other than GST and GST Cess.

Deposit of TCS by ECO to Government : By 10th of the next month.

Filing of Monthly & Annual Statement by ECO

- Monthly statement [in Form GSTR - 8] by 10th of the next month.
- Annual Statement [in Form GSTR - 9B] on or before 31st day of December following the end of financial year.
- Further, the ECO shall not be allowed to furnish GSTR - 8 after the expiry of a period of 3 years from the due date of furnishing the said statement, except where the Government allows.
- Rectification of errors/omissions in GSTR-8 : If after submission of GSTR-8, the ECO discovers any discrepancy therein on his own [not being the result of any scrutiny, audit, inspection or enforcement proceedings] it should rectify such discrepancy in GSTR-8 to be filed for the month during which such discrepancy is noticed, subject to payment of interest u/s 50.

The rectification is not allowed after 30th November following the end of the financial year or the actual date of filing of the relevant annual statement [GSTR-9B], whichever is earlier.

Claim of TCS amount by the supplier : The supplier can take this amount of TCS as credit in his electronic cash ledger.

Notice to Operator

- An officer not below the rank of deputy commissioner can issue notice to an operator, asking him to furnish detail relating to volume of the goods/services supplied, stock of the goods lying in the warehouse/godowns, etc.
- The operator is required to furnish such details within 15 working days.
- In case an operator fails to furnish the information, besides being liable for penal action u/s 122, it shall also be liable for penalty up to Rs. 25,000 (CGST).

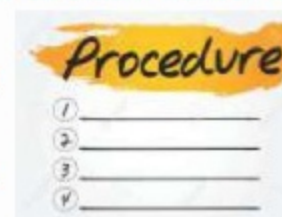


Other Key Points Relating to Registration under GST

- Every ECO who is required to collect TCS is compulsorily required to get itself registered under GST.
- Further, every person who supplies goods or services through such ECOs is also compulsorily required to get themselves registered under GST.
- However, service suppliers supplying services through such ECOs have been exempted from registration until their turnover crosses threshold limit for registration.
- Similarly, suppliers supplying goods through such ECOs have also been exempted from registration until their turnover crosses threshold limit for registration in the preceding and current financial year, subject to fulfillment of certain specified conditions.

Special procedure to be followed by ECO in respect of supply of goods made through it by the persons exempted from obtaining registration (hereinafter referred to as the said person)

- the ECO shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;
- the ECO shall not allow any inter-State supply of goods through it by the said person;
- the ECO shall not collect TCS u/s 52(1) in respect of supply of goods made through it by the said person; and
- the ECO shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.



Further, where multiple ECOs are involved in a single supply of goods through ECO platform, “the ECO” shall mean the ECO who finally releases the payment to the said person for the said supply made by the said person through him.

Special procedure to be followed by ECO in respect of supply of goods made through it by the persons opted for Composition Scheme (hereinafter referred to as the said person)

- the ECO shall not allow any inter-State supply of goods through it by the said person;
- the ECO shall collect TCS u/s 52(1) in respect of supply of goods made through it by the said person and pay to the Government as per provisions of 52(3); and
- the ECO shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

Clarification regarding GST on Services Supplied by Restaurants through E-Commerce Operators [Circular]

Sl.	Issue	Clarification
1.	Would ECOs have to still collect TCS u/s 52 ?	As ‘restaurant service’ has been notified u/s 9(5), the ECOs will no longer be required to collect TCS.
2.	Would ECOs have to mandatorily take a separate registration w.r.t supply of	As ECOs are already registered under GST (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on

	restaurant service ?	restaurant service u/s 9(5).
3.	What would be the aggregate turnover of person supplying 'restaurant service' through ECOs?	The aggregate turnover of restaurant shall include the aggregate value of supplies made by the restaurant through ECOs.

Clarification on TCS liability in case of multiple E-commerce Operators in one transaction, in the context of Open Network for Digital Commerce (ONDC) [Circular]

Case 1: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances u/s 52 including collection of TCS?



Clarification: The compliances u/s 52 of CGST Act, including collection of TCS, is to be done by the supplier-side ECO who finally releases the payment to the supplier for a particular supply made by the said supplier through him.

In this case, the Buyer-side ECO will neither be required to collect TCS nor will be required to make other compliances in accordance with sec. 52 of CGST Act with respect to this particular supply.

Case 2: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances u/s 52 including collection of TCS?



Clarification: In such a situation, TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

"The best way to predict your future is to create it."

The ITC wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of ITC wrongly availed, and the extent of such utilisation of ITC shall be the amount by which the balance in the electronic credit ledger falls below the amount of ITC wrongly availed.

Further, the date of utilisation of such ITC shall be taken to be,

- (a) the date, on which the return is due to be furnished or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or
- (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

Amount on which interest is payable

In case of belated payment of tax: The interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, shall be payable only on that portion of the tax which is paid by debiting the electronic cash ledger (i.e. only on net cash tax liability payable after adjusting ITC).

Exceptions: The benefit of this provision is not available in following 2 cases (i.e. in such cases, interest will be payable on the gross total tax liability):

- (i) If return is furnished after commencement of any proceedings u/s 73 or 74 in respect of the said period.
- (ii) If any tax liability of a particular tax period is declared in the return for any subsequent tax period.

In case of utilisation of wrongly availed ITC: The interest shall be payable on the amount by which the balance in the electronic credit ledger falls below the amount of ITC wrongly availed.

Clarification on charging of interest in cases of wrong availment of IGST credit and reversal thereof [Circular]

Case 1: In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest, whether the balance of ITC available in electronic credit ledger under the head of IGST only needs to be considered or total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Clarification: Total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Case 2: Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Clarification: No, because, ITC in respect of compensation cess on supply of goods and services can be utilised only towards payment of compensation cess leviable on supply of goods and services.

11	Amount of Advance Taken	–	–	–	–	✓	–	–
12	Amount of Refund Made	–	–	–	–	–	✓	–
13	Amount Paid	–	–	–	–	–	–	✓
14	Rate of tax	✓	–	–	✓	✓	✓	✓
15	Amount of tax	✓	–	–	✓	✓	✓	✓
16	Place of supply, in case of inter-state supply	✓	–	–	–	✓	–	✓
17	Address of delivery	✓	–	–	–	–	–	–
18	Whether the tax is payable on reverse charge basis; and	✓	✓	–	–	✓	✓	–
19	Signature or digital signature of the supplier or his authorized representative	✓	✓	✓	✓	✓	✓	✓
20	Nature of Document	–	–	–	✓	–	–	–
21	Sr. No. & Date of Tax Invoice/Bill of Supply/Receipt Voucher	–	✓	–	✓	–	✓	–
22	QR Code (in case of e-invoice)	✓	–	✓	✓	–	–	–

Further, in cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an ECO or by a supplier of OIDAR services to a recipient who is un-registered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient.

Further, it is provided that a registered person whose aggregate turnover in the preceding financial year is **upto Rs. 5** crores, may **not mention** the number of digits of **HSN** Codes as specified in the table above, in a tax invoice issued by him in respect of supplies made to **unregistered persons**. Above provisions are also applicable to Bill of Supply.

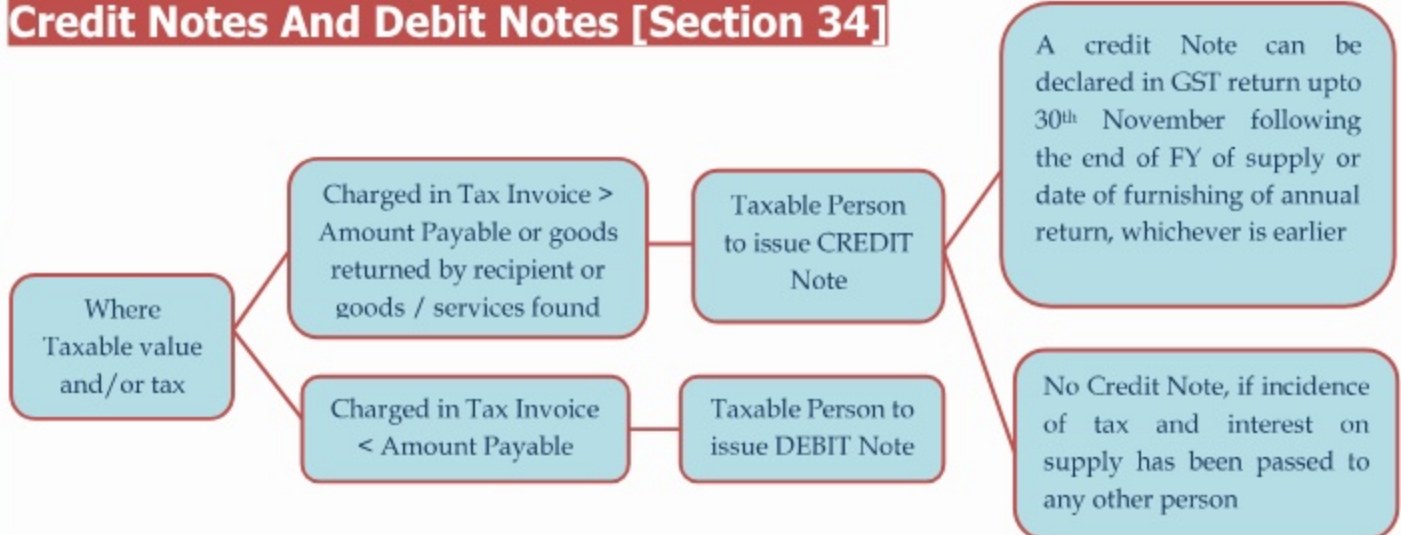
Invoice-cum-bill of supply: Where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “invoice-cum-bill of supply” may be issued for all such supplies.

Further, the said single “invoice-cum-bill of supply” shall contain the particulars as specified for Tax invoice and Bill of Supply.

Supplier permitted to issue any document other than tax invoice:

Supplier of taxable service	Document in lieu of the tax invoice
<p>Insurer/Banking company/Financial institution, including NBFC may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called for the supply of services made during a month at the end of the month. [“monthly consolidated invoice” may be issued]</p>	<ul style="list-style-type: none"> ■ Optional information <ul style="list-style-type: none"> • Serial number • Address of the recipient ■ Mandatory information <ul style="list-style-type: none"> • Other information as prescribed for a Tax Invoice u/r 46 • Such document may be issued or made available, physically/ electronically • However, the signature or digital signature of the supplier or his authorized representative shall not be required in the case of issuance of an electronic invoice.
<p>Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a goods carriage</p>	<ul style="list-style-type: none"> ■ Gross weight of the consignment ■ Name of the consignor and the consignee ■ Registration number of goods carriage in which the goods are transported ■ Details of goods transported ■ Details of place of origin and destination ■ GSTIN of the person liable for paying tax whether as consignor, consignee or GTA ■ Other information as prescribed for a tax invoice u/r 46

Credit Notes And Debit Notes [Section 34]



Note: A registered person can issue consolidated credit notes or debit notes in respect of multiple invoices issued in a Financial Year.

13.4 E - invoice through Govt. notified website

As per Rule 48(4) of the CGST Rules, the registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards **exceeds Rs. 5 crores**, shall, in respect of supply of goods or services or both to a registered person (i.e. B2B) or for exports, prepare invoice and other prescribed documents, by including such particulars contained in FORM GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common GST Electronic Portal.

However, this provision is not applicable to the following persons:

- (i) A Special Economic Zone unit [Not SEZ Developer]
- (ii) Insurer, Banking Company, financial institution including a NBFC;
- (iii) Goods Transport Agency;
- (iv) Passenger Transport Service Supplier;
- (v) Supplier of services by way of admission or exhibition of cinematograph films in multiplex screens;
- (vi) A Government Department or a Local Authority



However, the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

Further, if any person to whom provisions of e-invoice applies, issues any invoice in any manner other than e-invoice, then, such invoice shall not be treated as an invoice.

Further, the provisions of sub-rules (1) and (2) [i.e. issue of invoice in triplicate / duplicate copies] shall not apply to an e-invoice.

Further, if any person to whom provisions of e-invoice applies, issues any invoice in any manner other than e-invoice, then, the following declaration is also required to be given on the invoice:

“I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule.”

Clarification on applicability of e-invoicing w.r.t an entity [Circular]

Certain entities/sectors have been exempted from mandatory generation of e-invoices as per rule 48(4). It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

Clarification on applicability of e-invoice w.r.t supplies made to TDS deductors [Circular]

Government Departments or establishments / Government agencies / local authorities / PSUs, etc. registered solely for the purpose of deduction of TDS under GST, are to be treated as registered persons under the GST law as per provisions of sec. 2(94) of CGST Act. Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/Government agencies/ local authorities/ PSUs, etc u/r 48(4) of CGST Rules.

Tax invoice to have Dynamic Quick Response (QR) code

The Government has notified that an invoice issued by a registered person, whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds Rs. 500 crores, to an unregistered person (i.e. B2C invoice), shall have Dynamic Quick Response (QR) code.

However, this provision is not applicable to the following persons:

- (i) Insurer, Banking Company, financial institution including a NBFC;
- (ii) Goods Transport Agency;
- (iii) Passenger Transport Service Supplier;
- (iv) Supplier of services by way of admission or exhibition of cinematograph films in multiplex screens;
- (v) Supplier of OIDAR services located in non-taxable territory.

However, where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices [Circular]

Sl.	Issues	Clarification
1.	Whether there is a requirement of dynamic QR Code on the invoices issued for supplies made for Exports?	The supplies made for exports are treated as Business to Business (B2B) supplies, as e-invoices are required to be issued in respect of supplies for

1. **Bar on filing of GSTR-1 or using IFF [Rule 59(6)]** : Notwithstanding anything contained in this rule, a registered person shall not be allowed to furnish the details of outward supplies in FORM GSTR-1 or using the invoice furnishing facility, if -

- (i) he has not furnished the return in FORM GSTR-3B for the preceding month;
- (ii) he has not furnished the return in FORM GSTR-3B for preceding quarter (in case where a registered person is required to furnish return on quarterly basis);
- (iii) he has neither deposited the amount specified in the intimation issued u/r 88C(1) nor has furnished a reply explaining the reasons for any amount remaining unpaid;
- (iv) he has neither paid the amount equal to the excess ITC as specified in the intimation issued u/r 88D(1) nor has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid;
- (v) he has not furnished the details of the bank account as per the provisions of rule 10A.



2. **Rule 88C - Manner of dealing with difference in liability reported in FORM GSTR-1 and that reported in FORM GSTR-3B**

- (1) Where the tax payable by a registered person, in accordance with FORM GSTR-1 or IFF in respect of a tax period, exceeds the amount of tax payable by such person in accordance with GSTR-3B for that period by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference, electronically, directing him to either pay the differential tax liability, along with interest; or explain the aforesaid difference, within a period of 7 days.
- (2) Such registered person shall, either, pay the amount of the differential tax liability, along with interest or furnish a reply electronically, within a period of 7 days. Otherwise, such amount shall be recoverable in accordance with the provisions of section 79.

3. **Rule 88D - Manner of dealing with difference in ITC available in FORM GSTR-2B and that availed in FORM GSTR-3B**

- (1) Where the amount of input tax credit availed by a registered person in the return for a tax period or periods furnished by him in FORM GSTR-3B exceeds the ITC available to such person in accordance with FORM GSTR-2B in respect of the said tax period or periods, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference, electronically, directing him to, either, pay the excess ITC availed along with interest, or explain the reasons for the aforesaid difference in ITC, within a period of 7 days.
- (2) Such registered person shall, either, pay the excess ITC along with interest or furnish a reply, electronically, within a period of 7 days. Otherwise, such amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74.

4. **What kind of details of outward supplies are required to be furnished in GSTR-1 ?**

S. N.	Invoice-wise Details of ALL	Consolidated Details of ALL	Debit and Credit Notes
(i)	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
(ii)	Inter-State supplies with invoice value exceeding Rs.	State-wise Inter-State supplies with invoice value	

	2,50,000 made to Unregistered persons	to	upto Rs. 2,50,000 made to unregistered persons for each rate of tax	
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5. **FORM GSTR-2B:** An auto-generated statement containing the details of ITC shall be made available to the registered person in FORM GSTR-2B, for every month, electronically through the common portal, and shall consist of -

- (i) the details of outward supplies furnished by his supplier (other than a supplier who has opted for QRMP Scheme) in form GSTR - 1, between 12th of the previous month to the 11th of the current month;
- (ii) the details of invoices furnished by a NRTP in FORM GSTR- 5 and details of outward supplies furnished by his supplier (who has opted for QRMP Scheme) in FORM GSTR-1 or using the IFF, -
 - (a) for the 1st month of the quarter, between 14th of the 3rd month of the preceding quarter to 13th of the 1st month of the quarter;
 - (b) for the 2nd month of the quarter, between 14th of the first month of the quarter to the 13th of the 2nd month of the quarter;
 - (c) for the 3rd month of the quarter, between 14th of the second month of the quarter to the 13th of the 3rd month of the quarter.

The Statement in FORM GSTR-2B for every month shall be made available to the registered person on 14th of the next month.

Example : If a supplier opting for QRMP files an invoice dated 15th July on 13th August, it will get reflected in GSTR-2B of July (generated on 14th August).

6. Notes:

- Furnishing of GSTR-1 for the current tax period is not allowed, if GSTR-1 for any of the previous tax periods has not been furnished except where the Government allows.
- Further, the registered person shall not be allowed to furnish GSTR - 1 for a tax period after the expiry of a period of 3 years from the due date of furnishing the said statement, except where the Government allows.
- 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

Furnishing of Returns [Section 39]

2. Option to file GSTR-3B on Quarterly basis:

Registered Persons having an aggregate turnover of upto Rs. 5 crores in the preceding financial year and who have opted to furnish return (i.e. GSTR-3B) on quarterly basis have been notified as the class of persons who shall be required to furnish return for every quarter, subject to fulfillment of the following conditions, namely :

- (i) The return for the preceding month, as due on the date of exercising such option, has been furnished;

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:

- 30th November following the end of the financial year to which such details pertain; or
- Actual date of filing of the relevant annual return

Whichever is earlier.

6. **Nil GSTR-1/GSTR-3B:** Filing of GSTR-1/GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-1/GSTR-3B is required to be filed.
7. **Rule 67A :** A registered person who is required to furnish a Nil GSTR-3B or a Nil GSTR-1 or a Nil GST CMP-08 for a tax period, can furnish the same through an SMS using the registered mobile number and it shall be verified by a registered mobile number based One Time Password (OTP) facility.

Explanation – For the purpose of this rule, a Nil GSTR-3B or a Nil GSTR-1 or a Nil GST CMP-08 shall mean a GSTR-3B or a GSTR-1 or a GST CMP-08, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1 or FORM GST CMP-08.

8. **Sec. 39(10):** A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods or the details of outward supplies u/s 37(1) for the said tax period has not been furnished by him except where the Government allows.
9. **Sec. 39(11):** A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of 3 years from the due date of furnishing the said return, except where the Government allows.

Special Returns

1. Filing of Statements / Returns by Composition Supplier

- (a) **Auto-population of inward supplies:** The inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in **FORM GSTR-4A**.
- (b) The return furnished in **FORM GSTR-4** shall include the –
 - (i) **invoice wise** inter-State and intra-State **inward** supplies received from registered and un-registered persons; and
 - (ii) **consolidated** details of **outward** supplies made.
- (c) **Statements/returns for the period prior to opting for composition scheme :** A registered person who has opted to pay tax under composition scheme (goods/services) from the beginning of a financial year shall, where required, furnish GSTR-1 & GSTR-3B relating to the period prior to opting for the composition scheme.
- (d) **Statements/returns for the period prior to exiting from composition scheme :** Such registered person shall furnish FORM GST CMP-08 for the period for which he has paid tax under the composition scheme till the 18th of month next to the relevant quarter and furnish a return in FORM GSTR-4 for the said period till the 30th day of April following the end of the relevant financial year during which such withdrawal falls.

2. **Details of inward supplies of persons having UIN :** Such persons 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.**

First Return [Section 40]

When a person becomes liable to registration after his turnover crossing the threshold limit for registration, 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. Therefore, 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.

Annual Return [Section 44]

1. Who are required to furnish Annual Return...?

Every registered person shall furnish an annual return for every financial year. However, the following persons are not required to furnish annual return:

- (i) Casual Taxable Persons;
- (ii) Non-resident taxable person;
- (iii) Input Service Distributors;
- (iv) Persons authorized to deduct/collect tax at source under section 51/52;
- (v) 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; and
- (vi) Persons supplying online information and data base access or retrieval services from a place outside India to a person in India.

Further, the Commissioner may, exempt any class of registered persons from filing annual return.

2. Self-certified Reconciliation Statement:

Every registered person who is required to furnish annual return and whose aggregate turnover during a financial year exceeds Rs. 5 Crores, shall also furnish a self-certified reconciliation statement in Form GSTR-9C along with the annual return on or before 31st December of the next financial year electronically through the common portal.

Reconciliation statement reconciles the value of supplies declared in the annual return furnished for the financial year with the audited annual financial statement.

3. Further, the registered person shall not be allowed to furnish an annual return for a financial year after the expiry of a period of 3 years from the due date of furnishing the said annual return, except where the Government allows.

Default in Furnishing Return [Section 46 & 47]

1. **Notice to return defaulters [Sec. 46]:** A notice 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]. Such notice shall require such registered person to furnish such return within 15 days.
2. **Late fees levied for delay in filing return [Sec. 47(1)]:** Any registered person who fails to furnish following by the due date:
 - (A) Statement of Outward Supplies [Section 37]



No person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01, in respect of any outward movement of goods of a registered person, who,—

- (a) being a person paying tax under Composition levy scheme, has not furnished the statement in FORM GST CMP-08 for 2 consecutive quarters; or
- (b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of 2 tax periods; or
- (c) being a person other than a person specified in clause (a), has not furnished GSTR-1 (statement of outward supplies) for any 2 months or quarters, as the case may be; or
- (d) being a person, whose registration has been suspended under the provisions of rule 21A.

However, the Commissioner (jurisdictional Commissioner) may, on receipt of an application from a registered person, on sufficient cause being shown and for reasons to be recorded in writing, by order, allow furnishing of the said information in PART A of FORM GST EWB 01.

Further, no order rejecting the aforesaid request of such person shall be passed without affording the said person a reasonable opportunity of being heard.

Important Note : Blocking of e-waybill generation facility means disabling a taxpayer from generating the e-way bill. 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.

Rule 138F : Information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof

Not in ICAI

(1) Where -

- (a) a particular state government or union territory mandates furnishing of information regarding intra-State movement of gold, precious stones, etc. specified against serial numbers 4 and 5 in the Annexure appended to rule 138(14), and
- (b) the consignment value of such goods exceeds Rs. 2,00,000 or any other higher limit, as may be notified by the respective states or union territories,



then, notwithstanding anything contained in Rule 138, every registered person who causes intra-State movement of such goods, -

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



shall, before the commencement of such movement within that State or Union territory, furnish information relating to such goods electronically, as specified in Part A of FORM GST EWB-01, against which a unique number shall be generated.

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

- (2) Further, the information as specified in PART B of FORM GST EWB-01 shall not be required to be furnished in respect of movement of these goods and after furnishing information in Part-A, the e-way bill shall be generated in FORM GST EWB-01, electronically on the common portal.
- (3) Further, remaining all other provisions of e-way bill rules, as they apply in case of other goods, shall also apply in respect of these goods also.

Tax Invoice or bill of supply to accompany transport of goods [Rule 55A]

The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

Illustration 2 : In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?

Solution : As per proviso to rule 138(2A) of the CGST Rules, 2017, the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery. [Circular]

Illustration 3 : Whether e-way bill is required in the following cases (assuming value of goods exceeding Rs. 50,000) -

- (i) Where goods transit through another State while moving from one area in a State to another area in the same State.
- (ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.

Answer : [Circular]

- (i) It may be noted 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.
- (ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted u/r 138(14)(d) & if it is not exempted u/r 138(14)(d), then, the e-way bill will be required to be generated.

Latest Selected Circulars issued under GST

Clarification on taxability of shares held in a subsidiary company by the holding company [Circular]

Issue: Whether the activity of holding shares by a holding company of the subsidiary company will be treated as a supply of service or not and whether the same will attract GST or not.

Clarification: Securities are considered neither goods nor services under GST. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services. Therefore, the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

Clarification regarding applicability of GST on certain services [Circular]

Clarification 1: Services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate.

Clarification 2: Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as:

- a. the food or beverages are supplied by way of or as part of a service, and
- b. supplied independent of the cinema exhibition service.

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Clarification on issues pertaining to taxability of personal guarantee and corporate guarantee in GST [Circular]

Clarification on personal guarantee:

Not in ICAI

1. The activity of providing personal guarantee by the Director to the banks/ financial institutions for securing credit facilities for their companies is to be treated as a supply of service, even when made without consideration because director and company are related persons.
2. Rule 28 of CGST Rules prescribes value of the supply between related parties, which is the open market value of such supply.

3. As per mandate provided by RBI, no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits.
4. Therefore, there is no question of such supply/ transaction having any open market value. Accordingly, the open market value of the said transaction/ supply may be treated as zero and therefore, no tax is payable on such supply of service by the director to the company.

Clarification on corporate guarantee:

Clarification:

1. Where the corporate guarantee is provided by a company (say, holding company) to the bank/financial institutions for providing credit facilities to the other company (say, subsidiary company), where both the companies are related, the activity is to be treated as a supply of service between related parties as per provisions of Schedule I of CGST Act, even when made without any consideration.
2. The taxable value of such supply of services, will be determined as per the provisions of the sub-rule (2) of Rule 28 of CGST Rules, irrespective of whether full ITC is available to the recipient of services or not.

Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period [Circular]

S.N.	Issue	Clarification
1	Whether GST would be payable on such replacement of parts or supply of repair services by original equipment manufacturer, without any consideration from the customer, as part of warranty?	<p>The value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods. Therefore, no further GST is chargeable on such replacement of parts and/ or repair service during warranty period.</p> <p>However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p>
2	Whether in such cases, the manufacturer is required to reverse the ITC in respect of such replacement of parts or supply of repair services as part of warranty, in respect of which no additional consideration is charged from the customer?	<p>In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period.</p> <p>Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer is not required to reverse the ITC in respect of the said replacement parts or on the repair services provided.</p>

<p>3</p>	<p>Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?</p>	<p>In such cases, as no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity of providing replacement of parts and/ or repair services to the customer.</p> <p>However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.</p>
<p>4</p>	<p>In the above scenario where the distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor and the manufacturer and whether the distributor would be required to reverse the ITC in respect of such replacement of parts?</p>	<p>a. There may be cases where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, GST would be payable by the distributor and the manufacturer would be entitled to avail the ITC of the same. In such case, no reversal of ITC by the distributor is required in respect of the same.</p> <p>b. There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty.</p> <p>In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer in respect of the parts so replaced by the distributor under warranty.</p> <p>c. There may be cases where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of section 34(2) of the CGST Act. Accordingly, the tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.</p>

5	Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?	Yes, GST would be payable on such provision of service by the distributor to the manufacturer and the manufacturer would be entitled to avail the ITC of the same.
6	Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?	<p>a. If a customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply, then the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.</p> <p>b. However, in case where a consumer enters into an agreement of extended warranty at any time after the original supply, then the same is a separate contract and GST would be payable by the service provider, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services)</p>

Clarification regarding Place of supply in case of supply of services in respect of advertising sector [Circular]

Issue: Advertising companies are often involved in procuring space on hoardings/ bill boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients. There may be variety of arrangements between the advertising company and its vendors as below:

Case 1: There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure. What will be the place of supply of services provided by the vendor to the advertising company in such case?

Case 2: There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the

advertisement of the advertisement company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

Clarification:

Place of supply in Case 1: The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of IGST Act. Therefore, the place of supply of service provided by way of supply of sale of space on hoarding/ structure for advertising or for grant of rights to use the hoarding/ structure for advertising in this case would be the location where such hoarding /structure is located.

Place of supply in Case 2: In this case, as the service is being provided by the vendor to the advertising company and there is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property. Accordingly, the place of supply of the same shall not be covered under section 12(3)(a) of IGST Act. Vendor is infact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of Section 12(2) of IGST Act.

Clarification regarding Place of supply in case of supply of the "co-location services" [Circular]

Issue: Co-location is a data center facility in which a business/company can rent space for its own servers and other Computing hardware along with various other bundled services related to Hosting and information technology (IT) infrastructure.

A business/company who avails the co-location services primarily seek security and up keep of its server/s, storage and network hardware; operating systems, system software and may require to interact with the system through a web- based interface for the hosting of its websites or other applications and operation of the servers.

In this respect, various doubts have been raised as to

- i. whether supply of co-location services are renting of immovable property service (as it involves renting of space for keeping /storing company's hardware/servers) and hence the place of supply of such services is to be determined in terms of provision of clause (a) of sub- section (3) of Section 12 of the IGST Act which is the location where the immovable property is located; or
- ii. whether the place of supply of such services is to be determined by the default place of supply provision under sub-section (2) of section 12 of the IGST Act as the supply of service is Hosting and Information Technology (IT) Infrastructure Provisioning services involving providing services of

hosting the servers and related hardware, security of the said hardware, air conditioning, uninterrupted power supply, fire

Clarification:

It is clarified that the Co-location services are in the nature of "Hosting and information technology (IT) infrastructure provisioning services" (S.No. 3 of Explanatory notes of SAC- 998315). Such services do not appear to be limited to the passive activity of making immovable property available to a customer as the arrangement of the supply of co-location services not only involves providing of a physical space for server/network hardware along with air conditioning, security service, fire protection system and power supply but it also involves the supply of various services by the supplier related to hosting and information technology infrastructure services like network connectivity, backup facility, firewall services, and monitoring and surveillance service for ensuring continuous operations of the servers and related hardware, etc. which are essential for the recipient business/company to interact with the system through a web based interface relating to the hosting and operation of the servers.

In such cases, supply of co-location services cannot be considered as the services of supply of renting of immovable property. Therefore, the place of supply of the co-location services shall not be determined by the provisions of clause (a) of sub-section (3) of Section 12 of the IGST Act but the same shall be determined by the default place of supply provision under sub-section (2) of Section 12 of the IGST Act i.e. location of recipient of co-location service.

However, in cases where the agreement between the supplier and the recipient is restricted to providing physical space on rent along with basic infrastructure, without components of Hosting and Information Technology (IT) Infrastructure Provisioning services and the further responsibility of upkeep, running, monitoring and surveillance, etc. of the servers and related hardware is of recipient of services only, then the said supply of services shall be considered as the supply of the service of renting of immovable property. Accordingly, the place of supply of these services shall be determined by the provisions of clause (a) of sub-section (3) of Section 12 of the IGST Act which is the location where the immovable property is located.

चलो अपनी तकदीर को एक नया मोड देते हैं,
जी तोड़ मेहनत से मंजिल की कठिनाई को
तोड़ देते हैं...!!