

Master Summary of all Amendments in Indirect Tax Laws applicable for May 2024 Exams

Amendments in Chapter 1 – Definitions – Sec. 2

Clause	Definitions
(80A)	" online gaming " means offering of a game on the internet or an electronic network and includes online money gaming; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(80B)	" online money gaming " means online gaming in which players pay or deposit money or money's worth, including virtual digital assets, in the expectation of winning money or money's worth, including virtual digital assets, in any event including game, scheme, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(102A)	" specified actionable claim " means the actionable claim involved in or by way of betting, casinos, gambling, horse racing, lottery or online money gaming; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]
(105)	<p>"supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied:</p> <p>Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims; [Proviso inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]</p>
(117A)	" virtual digital asset " shall have the same meaning as assigned to it in clause (47A) of section 2 of the Income-tax Act, 1961; [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]

Amendments in Chapter 2 – Levy & Supply

Topic – Proviso of Sec. 5(1) of the IGST Act, 2017

Goods Imported in India: Import of goods or services are treated as inter-state supplies. As per proviso to Sec. 5(1) of IGST Act, on the goods imported into India (other than the goods as may be notified by the Government on the recommendations of the Council), the IGST shall be levied and collected as per sec. 3 of Customs Tariff Act, 1975 (as additional duty of Customs) and the value shall also be determined as per the said act. In other words, IGST shall be levied as additional duty of customs in addition to basic customs duty under the Customs Tariff Act, 1975. [As amended by IGST (Amendment) Act, 2023, w.e.f. 01.10.2023]

Analysis: W.e.f. 01.10.2023, the Government has notified the supply of "online money gaming" as the goods on import of which the proviso to sec. 5(1) of the said Act shall not apply, but on which IGST shall be levied and collected u/s 5(1) of the said Act. It means Customs duties shall not be levied on import of "online money gaming", but, IGST will be

levied on import of "online money gaming" as per provisions of Sec. 5(1) of the IGST Act, 2017. [As amended by IGST (Amendment) Act, 2023 and NN 03/2023 - IT, w.e.f. 01.10.2023]

Topic - Section 7(2)(a) read with schedule III [Negative List under GST] Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

6. Actionable claims, other than ~~lottery, betting and gambling~~ specified actionable claims. [As amended by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]

Note: As per Sec. 2(102A), "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%.

Amendments in Chapter 3 - TOS

Topic - Time of Supply of Goods [Section 12(2)]

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". [Inserted by NN 50/2023 - CT, w.e.f. 01.10.2023]

Amendments in Chapter 4 - Value

Rule 28 : Value Of Supply Of Goods Or Services Or Both Between Distinct Or Related Persons, Other Than Through An Agent

- (1) Value shall be either of the following in the given order:

- open market value
- value of supplies of like kind and quality
- value as per rule 30 or 31 in that order

Option to supplier to value goods sold as such by recipient ⇒ Value = 90% of price charged by recipient to its unrelated customer

If Recipient is eligible for ITC ⇒ invoice value = open market value (taxable value)

- (2) Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be 1% of the amount of such guarantee offered, or the actual consideration, whichever is higher. [Sub-rule (2) inserted by NN. 52/2023 - CT, w.e.f. 26.10.2023]

Rule 31B : Value Of Supply In Case Of Online Gaming Including Online Money Gaming [inserted by NN 51/2023 - CT, w.e.f. 01.10.2023]

- Notwithstanding anything contained in this chapter, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets (like Cryptocurrencies, etc.), by or on behalf of the player.
- However, any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.

Rule 31C : Value Of Supply Of Actionable Claims In Case Of Casino [inserted by NN 51/2023 – CT. w.e.f. 01.10.2023]

- Notwithstanding anything contained in this chapter, the value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for –
 - (i) purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
 - (ii) participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required.
- However, any amount returned or refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, shall not be deductible from the value of the supply of actionable claims in casino.
- Explanation.- For the purpose of rule 31B and rule 31C, any amount received by the player by winning any event, including game, scheme, competition or any other activity or process, which is used for playing by the said player in a further event without withdrawing, shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.

Note – Plz refer Question No. 14 given in RTP – May 2024 [Fortune 365 wala]

Amendments in Chapter 5 - ITC

Blocked Credit - Sec. 17(5)(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 [inserted by Finance Act, 2023, w.e.f. 01.10.2023]

Common Points for rule 42 & rule 43 :

For this purposes of rule 42 & 43, the expression ‘value of exempt supply’ shall not include the value of activities or transactions specified in Schedule III, ~~except those specified in paragraph 5 of the said Schedule~~ except, -

- (i) the value of activities or transactions specified in paragraph 5 of the said schedule (i.e sale of land, & sale of building when entire consideration is received after issuance of completion certificate by the competent authority or its first occupation, whichever is earlier); and
- (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said schedule. (i.e. Supply of warehoused goods to any person before clearance for home consumption). [Further, for this purpose, the Value of Exempt supply shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers. (Explanation inserted by NN 38/2023 – CT, w.e.f. 01.10.2023)]

[As amended by Finance Act, 2023, w.e.f. 01.10.2023]

Analysis: It means, in respect of activities & transactions which are covered under Schedule III of the CGST Act, ITC shall not be reversible, although such activities & transactions are not leviable to GST. But, transactions of “sale of land & building” and “Supply of warehoused goods to any person before clearance for home consumption” which are not chargeable to GST, will be treated as exempt supply and accordingly ITC will not be available for these particular transactions of Schedule III.

Amendments in Chapter 6 – Composition Scheme

Persons, not eligible to opt for composition scheme for Goods or Services [Sec. 10(2) or 10(2A)]:

Person supplying ~~goods or~~ services through an ECO, who is required to collect TCS u/s 52. [Words “goods or” omitted by Finance Act, 2023, w.e.f. 01.10.2023]

Amendments in Chapter 7 – RCM & ECO

Section 9(3) of the CGST Act, 2017

S. N.	Category of Supply of Service	Supplier of Service	Recipient of Service
5.	Services supplied by the Central Government , State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) Services specified below - (i) services by the Department of Posts and the Ministry of Railways (Indian Railways); [As amended by NN. 14/2023 - CT (R), w.e.f. 20.10.2023] (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers. [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]	Central Government, State Government or Union territory or local authority;	Any business entity located in the taxable territory.
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 to a person registered under GST. [As amended by NN. 14/2023 - CT (R), w.e.f. 20.10.2023]	Central Government, State Government, Union Territory or Local Authority	Any person registered under GST

List of Additional services taxable under reverse charge under IGST Act (NN. 10/2017 IT (R) dated 28.06.2017)

S.N.	Category of Supply of Service	Supplier of Service	Recipient of Service
2	Services supplied by a person located in non taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non taxable territory	Importer of goods, as defined in section 2(26) of the Customs Act, 1962, located in the taxable territory. [Omitted by NN 13/2023 - IT(R), w.e.f. 01.10.2023]

Section 9(5) of the CGST Act, 2017

Following categories of services supplied through ECO are notified for the purpose of Sec. 9(5)/5(5) :-

- (i) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, ~~omnibus~~ or any other motor vehicle except omnibus (e.g. OLA, Uber, Rapido, etc.) [as amended by NN 16/2023-CT(R), w.e.f. 20.10.2023];
- (ii) services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company or [inserted by NN 16/2023 - CT(R), w.e.f. 20.10.2023];

Analysis of Amendment for Bus Operators:

The representation was filed by the bus operator's association that most of the bus operators supplying service through ECO owned one or two buses and were not in a position to take GST registration and meet GST compliances.

Therefore, w.e.f. 01.01.2022, the liability to pay GST on bus transportation services supplied through ECOs has been placed on the ECO under section 9(5) of the CGST Act, 2017. But, at the same time, due to this provision, the larger

organized entities were unable to avail Input Tax Credit (ITC) on inward goods and services, because they were not liable to pay GST on the aforesaid services.

Therefore, in order to strike a balance between the requirement for simplifying business operations for small operators and the necessity for larger organized entities to avail ITC on inward goods and services, the government specifically excluded “Company” omnibus operators from the scope of section 9(5) of the CGST Act, 2017. [Further, “Company” means Company as defined u/s 2(20) of the Companies Act, 2013.]

Amendments in Chapter 8 – IGST Act & POS

SECTION 10 - Place of Supply of Goods

Section	Nature of Supply	Place of Supply
10(1)(ca)	Supply made to unregistered person [Clause (ca) inserted by IGST (Amendment) Act, 2023, w.e.f. 01.10.2023]	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

SECTION 12 - Place of Supply of Domestic Services

Sec.12	Nature of Service	Place of Supply
(8)	Transportation of goods, including mails or courier	B2B: Location of such registered person B2C: Location at which such goods are handed over for their transportation If the goods are transported outside India: Location of the destination of goods [proviso omitted by Finance Act, 2023, w.e.f. 01.10.2023]

SECTION 13 - Place of Supply of International Services

	Nature of Service	Place of Supply
(9)	Transportation of goods, other than by way of mail or courier [Omitted by Finance Act, 2023, w.e.f. 01.10.2023]	Place of destination of such goods

Section 14 : Special Provision for Supply of OIDAR Services

- As per Sec. 2(17) of the IGST Act, 2017, “**Online information and database access or retrieval services**” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply ~~essentially automated and involving minimal human intervention and~~ impossible to ensure in the absence of information technology and includes electronic services such as, -
 - advertising on the internet;
 - providing cloud services;
 - provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
 - providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
 - online supplies of digital content (movies, television shows, music and the like);
 - digital data storage; and

(vii) ~~online gaming~~ online gaming, excluding the online money gaming as defined in section 2(80B) of the CGST Act, 2017 [As amended by IGST (Amendment) Act, 2023, w.e.f. 01.10.2023];

2. **Who is a Non-Taxable Online Recipient?** : “**Non-taxable online recipient**” means any unregistered person receiving online information and database access or retrieval services located in taxable territory.

Explanation : For the purposes of this clause, the expression “unregistered person” includes a person registered solely in terms of clause (vi) of section 24 of the CGST Act, 2017 (i.e. persons registered only for the purpose of deducting TDS u/s 51 of the CGST Act, 2017); [as amended by Finance Act, 2023, w.e.f. 01.10.2023]

Section 14A : Special Provision for Specified Actionable Claims Supplied By A Person Located Outside Taxable Territory

- (1) A supplier of online money gaming as defined in section 2(80B) of the CGST Act, 2017, not located in the taxable territory, shall in respect of the supply of online money gaming by him to a person in the taxable territory, be liable to pay IGST on such supply.
- (2) For the purposes of complying with provisions of sub-section (1), the supplier of online money gaming shall obtain a single registration under the Simplified Registration Scheme referred to in section 14(2) of this Act.

However, any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay the IGST on behalf of the supplier.

Further, if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he shall appoint a person in the taxable territory for the purpose of paying IGST and such person shall be liable for payment of such tax.

- (3) In case of failure to comply with provisions of sub-section (1) or sub-section (2) by the supplier of the online money gaming or a person appointed by such supplier or both, notwithstanding anything contained in section 69A of the Information Technology Act, 2000, any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier shall be liable to be blocked for access by the public in such manner as specified in the said Act.

Section 16 : Zero rated supply

- (1) “Zero rated supply” means any of the following supplies of goods or services or both, namely :
- export of goods or services or both; or
 - supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone unit. [As amended by Finance Act, 2021, w.e.f. 01.10.2023]
- (2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, **notwithstanding that such supply may be an exempt supply.**
- (3) A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made there under, subject to such conditions, safeguards and procedure as may be prescribed.

However, the registered person making zero rated supply of goods shall, in case of non-realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed.

- (4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify -
- a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid;
 - a class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.

Note: As per NN 01/2023 – IT, as amended by NN 05/2023 – IT, w.e.f. 01.10.2023, the Government has notified

- (i) all goods or services (except some specified goods like Tobacco based goods, pan-masala, etc.) as the class of goods or services which may be exported on payment of integrated tax and on which the supplier of such goods or services may claim the refund of tax so paid; and
- (ii) all suppliers to a Developer or a unit in Special Economic Zone undertaking authorised operations as the class of persons who may make supply of goods or services (except some specified goods like Tobacco based goods, pan-masala, etc.) to such Developer or a unit in Special Economic Zone for authorised operations on payment of integrated tax and on which the said suppliers may claim the refund of tax so paid.

[Sub-sections (3) & (4) substituted by Finance Act, 2021, w.e.f. 01.10.2023]

Amendments in Chapter 9 – Exemptions under GST

Transportation Related Services	
8.	<p>Satellite launch services supplied by Indian Space Research Organisation (ISRO), Antrix Corporation Limited or New Space India Limited. [Entry No. 19C of NN 12/2017 CT (R), as amended by NN 07/2023 CT (R), w.e.f. 27.07.2023]</p> <p><u>Analysis of Amendment:</u> 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>

Government Related Services	
1.	<p>Services by Government : Services by the Central Government, State Government, Union territory or local authority excluding the following services –</p> <ol style="list-style-type: none"> (a) services by the Department of Posts and the Ministry of Railways (Indian Railways) by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory; [Omitted words, omitted by NN 04/2022 – CT (R), w.e.f. 18.07.2022] [As amended by NN. 13/2023 - CT (R), w.e.f. 20.10.2023] (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.
33A	<p>Services provided to a Governmental Authority by way of - (a) Water supply; (b) Public health; (c) Sanitation conservancy; (d) Solid waste management; and (e) Slum improvement and upgradation. [Entry No. 3B of NN. 12/2017 CT (R), inserted by NN. 13/2023 - CT (R), w.e.f. 20.10.2023]</p>

Miscellaneous Services	
8.	<p>Services received from a provider of service located in a non- taxable territory by –</p> <ol style="list-style-type: none"> (a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession; (b) an entity registered under section 12AA of the Income-tax Act, 1961 for the purposes of providing charitable activities; or (c) a person located in a non-taxable territory. <p>However, the exemption shall not apply to -</p>

- (i) online information and database access or retrieval (OIDAR) services received by persons specified in entry (a) or entry (b); or
- (ii) ~~services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry. [as amended by NN 12/2023 - IT (R), w.e.f. 01.10.2023]~~

Amendments in Chapter 10 – Registration, TDS & TCS

Sec. 24	Compulsory registration in certain cases
(xia)	every person supplying online money gaming from a place outside India to a person in India; and [inserted by CGST (Amendment) Act, 2023, w.e.f. 01.10.2023]; and

Persons not liable for Registration [Section 23]

- (va) Supplier of goods supplying goods through an E-Commerce operator, if such supplier is having aggregate turnover upto Rs. 20 Lakhs in the preceding & current financial year, subject to the following conditions, namely : –
- (a) Such persons shall not make any inter-State supply of goods;
 - (b) Such persons shall not make supply of goods through ECO in more than one State or Union territory;
 - (c) Such persons shall be required to have a PAN issued under the Income Tax Act, 1961;
 - (d) 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;
 - (e) Such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared as per clause (iv);
 - (f) Such persons shall not be granted more than one enrolment number in a State or Union territory;
 - (g) 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
 - (h) 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. [NN 34/2023 – CT, w.e.f. 01.10.2023]

Procedure For Registration

Rule 8(4A): Where an applicant, other than a person notified u/s 25(6D), 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, whichever is earlier.

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, other than a person notified u/s 25(6D), 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 where the applicant is an individual or of such individuals in relation to the applicant as notified u/s 25(6C) where the applicant is not an individual, 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. [Proviso inserted by NN 04/2023 – CT, w.e.f. 26.12.2022] [The applicability of this additional procedure is also extended to the state of Puducherry vide NN 31/2023 – CT, w.e.f. 31.07.2023]

@ However, where -

- (a) a person, other than a person notified u/s 25(6D), fails to undergo authentication of Aadhaar number as specified in rule 8(4A) or does not opt for authentication of Aadhaar number; or
- (aa) a person, who has undergone authentication of Aadhaar number as specified in rule 8(4A), is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- (b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business, the registration shall be granted within 30 days of submission of application, after physical verification of the place of business ~~in the presence of the said person~~, in the manner provided u/r 25 and verification of such documents as the proper officer may deem fit. [Proviso to Rule 9(1)] [Omitted words, omitted by NN 38/2023 - CT, w.e.f. 04.08.2023]

Physical verification of business premises in certain cases [Rule 25] [As substituted by NN. 38/2023 - CT, w.e.f. 04.08.2023]:

- (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.

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. [As amended by NN. 38/2023 - CT, w.e.f. 04.08.2023]

However, this rule (i.e. this relaxation) does not apply to the following persons:

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

Procedure for Cancellation of Registration

Rule 21A. Suspension of registration [inserted by NN 03/2019 - CT, w.e.f. 01.02.2019]:

(2A) **Analysis by Department leading to Suspension:** Where,

- (a) a comparison of the returns (i.e. GSTR - 3B) furnished by a registered person under section 39 with
 - (i) the details of outward supplies furnished in FORM GSTR-1; or
 - (ii) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1,

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. [As amended by NN. 38/2023 – CT, w.e.f. 04.08.2023]

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 under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A. [proviso inserted by NN 38/2023 – CT, w.e.f. 04.08.2023]

Revocation of cancellation of registration [Section 30 read with rule 23]:

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 in the prescribed manner. [30 days substituted by 90 days vide NN 38/2023 – CT, w.e.f. 01.10.2023]

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, as the case may be, for a further period not exceeding 180 days (i.e. 90 + 180 days). [as amended by Finance Act, 2023 read with NN 38/2023 – CT, w.e.f. 01.10.2023]

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

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. [Sec. 52(15) inserted by Finance Act, 2023, w.e.f. 01.10.2023]

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) [NN. 37/2023 – CT, w.e.f. 01.10.2023]

- (i) 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;
- (ii) the ECO shall not allow any inter-State supply of goods through it by the said person;
- (iii) the ECO shall not collect TCS u/s 52(1) in respect of supply of goods made through it by the said person; and
- (iv) 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.

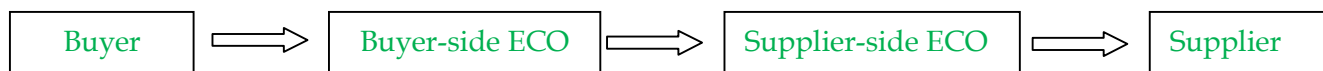
Special procedure to be followed by ECO in respect of supply of goods made through it by the persons opted for Composition Scheme (hereinafter referred to as the said person) [NN. 36/2023 – CT, w.e.f. 01.10.2023]

- (i) the ECO shall not allow any inter-State supply of goods through it by the said person;
- (ii) 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
- (iii) 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 on TCS liability in case of multiple E-commerce Operators in one transaction, in the context of Open Network for Digital Commerce (ONDC) [Circular No. 194/06/2023 - GST, dated 17.07.2023]

Issue: Which ECO should deduct TCS and make other compliances u/s 52 of CGST Act in such situations, as in such models having multiple ECOs in a single transaction, both the Buyer-side ECO and the Seller-side ECO qualify as ECOs as per Sec. 2(45) of the CGST Act.

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: In such 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 of the said goods or services, 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.

e.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and therefore will also be required to collect TCS, pay the same to the Government and also make other compliances u/s 52 of CGST Act.

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 section 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.

e.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO as per the definition in Sec 2(45) of the CGST Act). In this scenario, the Buyer-side ECO will also be required to collect TCS, pay the same to the Government and also make other compliances u/s 52 of CGST Act.

Amendments in Chapter 11 – Payment of Tax & Interest

Clarification on charging of interest in cases of wrong availment of IGST credit and reversal thereof [Circular No. 192/04/2023 - GST, dated 17.07.2023]

Issue: Clarification regarding charging of interest u/s 50(3) of the CGST Act in the cases where IGST credit has been wrongly availed by a registered person. Clarification is being sought as to whether such wrongly availed IGST credit would be considered to have been utilized for the purpose of charging of interest u/s 50(3) of CGST Act, read with rule 88B of CGST Rules, in cases where though the available balance of IGST credit in the electronic credit ledger of the said registered person falls below the amount of such wrongly availed IGST credit, the total balance of input tax credit in the electronic credit ledger of the registered person under the heads of IGST, CGST and SGST taken together remains more than such wrongly availed IGST credit, at all times, till the time of reversal of the said wrongly availed IGST credit.

Case 1: In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B of CGST Rules, whether the balance of input tax credit available in electronic credit ledger under

the head of IGST only needs to be considered or total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Clarification: Since, the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total input tax credit available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest u/r 88B of CGST Rules and for determining as to whether the balance in the electronic credit ledger has fallen below the amount of wrongly availed input tax credit of IGST, and to what extent the balance in electronic credit ledger has fallen below the said amount of wrongly availed credit.

Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability u/s 50(3) of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. However, when the balance of ITC, under the heads of IGST, CGST and SGST of electronic credit ledger taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in electronic credit ledger under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest.

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 u/r 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Clarification: As per proviso to section 11 of GST (Compensation to States) Act, 2017, input tax credit in respect of compensation cess on supply of goods and services leviable under section 8 of the said Act can be utilised only towards payment of compensation cess leviable on supply of goods and services. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.

Accordingly, credit of compensation cess available in electronic credit ledger cannot be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest u/r 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Amendments in Chapter 12 –Tax Invoice

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 and address of the recipient along with its PIN code and~~ the name of the State of the recipient and the same shall be deemed to be the address on record of the recipient.

E-invoice through Govt. notified website [Rule 48(4)]

E-invoice - Aggregate Turnover limit reduced to Rs. 5 crores.

Clarification on applicability of e-invoice w.r.t supplies made to TDS deductors [Circular no. 198/10/2023 - GST, dated 17.07.2023]

Issue: Whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments / Government agencies / local authorities / PSUs which are registered solely for the purpose of deduction of TDS as per provisions of sec. 51 of the CGST Act?

Clarification: 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.

Amendments in Chapter 13 – Returns under GST

Sr. No.	Section and Rule No.	Type of Taxable Person	Form No.	Periodicity	Due Date
5.	Rule 64	Supplier of OIDAR services or online money gaming services located outside India	GSTR-5A	Monthly	20 th of the next month

- The registered person shall not be allowed to furnish GSTR - 1, GSTR - 3B, GSTR - 8 & GSTR - 9 for a tax period after the expiry of a period of 3 years from the due date of furnishing the respective statement/return, except where the Government allows.
- **Bar on filing of GSTR-1 or using IFF [Rule 59(6) of the CGST Rules, 2017]:** 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.
- **Rule 88D - Manner of dealing with difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return [Inserted by NN. 38/2023 - CT, w.e.f. 04.08.2023]**
 - (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 input tax credit available to such person in accordance with the auto-generated statement containing the details of input tax credit in 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, highlighting the said difference and directing him to, either,
 - (a) pay an amount equal to the excess ITC availed in the said FORM GSTR-3B, along with interest, or
 - (b) explain the reasons for the aforesaid difference in ITC, within a period of 7 days.
 - (2) Such registered person shall, either,
 - (a) pay an amount equal to the excess ITC, fully or partially, along with interest and furnish the details thereof, or
 - (b) furnish a reply, electronically, incorporating reasons in respect of the amount of excess ITC that has still remained unpaid, if any, within a period of 7 days.
 - (3) Where any amount remains unpaid within the period of 7 days and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is

not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74.

Amendments in Chapter 14 – Refunds under GST

Grant of provisional refund [Section 54(6) read with rule 91]

The PO may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, refund on a provisional basis, 90% of the total amount so claimed, ~~excluding the amount of ITC provisionally accepted.~~ [as amended by Finance Act, 2023, w.e.f. 01.10.2023]

No Refund of Advance tax by casual or NR persons [Section 54(13)]

Refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him u/s 27 at the time of registration, shall be claimed ~~only after the last return required to be furnished by him has been so furnished in the last return required to be furnished by him.~~

Interest On Delayed Refunds [Section 56 of CGST Act]

C. **Rule 94(2):** Further, the following periods shall not be included in the period of delay, namely:-

- (a) any period of time beyond 15 days of receipt of notice (i.e. notice for rejecting the amount of refund claimed) that the applicant takes to furnish a reply or submit additional documents or reply; and
- (b) any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant.

Zero Rated Supply [Section 16(3) of IGST]

Explanation. – For the purposes of this sub-rule, the value of goods exported out of India shall be taken as lower of the followings –

- (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export; or
- (ii) the value declared in tax invoice or bill of supply

Note: “The value of goods exported out of India” to be included while calculating “adjusted total turnover” will be same as being determined as per the aforesaid Explanation inserted in the said sub-rule. [Circular]

Clarification in respect of admissibility of Refund where an exporter applies for refund subsequent to compliance of the provisions of rule 96A(1) [Circular No. 197/09/2023 - GST, dated 17.07.2023]

Issue: References have been received citing the instances where exporters have voluntarily made payment of due integrated tax, along with applicable interest, in cases where goods could not be exported or payment for export of services could not be received within time frame as prescribed in clause (a) or (b) of rule 96A(1) of CGST Rules. Clarification is being sought as to whether subsequent to export of the said goods or realization of payment in case of export of services, the said exporters are entitled to claim not only refund of unutilized input tax credit on account of export but also refund of the IGST and interest so paid in compliance of the provisions of rule 96A(1) of CGST Rules.

Clarification: The above clarifications imply that as long as goods are actually exported or payment is realized in case of export of services, even if it is beyond the time frames as prescribed in rule 96A(1), the benefit of zero-rated supplies cannot be denied to the concerned exporters. Accordingly, it is clarified that in such cases, on actual export of the goods or on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of section 54(3) of the CGST Act, if otherwise admissible.

It is also clarified that in such cases subsequent to export of the goods or realization of payment in case of export of services, the said exporters would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or the payment not being realized for export of services. It is further being clarified that no refund of the interest paid in compliance of rule 96A(1) shall be admissible.

Amendments in Chapter 15 – Assessment under GST

Assessment of Non-Filers of Return [Best Judgement Assessment by Proper Officer] (Sec 62)

- If return is not furnished even after service of notice u/s 46
- Proper officer shall assess the liability of tax within a period of 5 years from the due date specified u/s 44 for furnishing of annual return.
- Where the registered person furnishes a **valid return within 30 days 60 days** of the service of the assessment order), the said **assessment order shall be deemed to have been withdrawn** but the liability for payment of **interest** or for payment of **late fee** shall continue.

However, where the registered person fails to furnish a valid return within 60 days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of 60 days on payment of an additional late fee of Rs. 100 for each day of delay beyond 60 days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest u/s 50(1) or to pay late fee u/s 47 shall continue. [as amended by Finance Act, 2023, w.e.f. 01.10.2023]

Amendments in Chapter 22 – Appeals & Revision

Sec. 107 - Appeals to Appellate Authority

- **Filing of appeal by Assessee [Sec. 107(1) read with Rule 108]:**
An appeal to the Appellate Authority may be filed manually in FORM GST APL-01, along with the relevant documents, only if-
 - (i) the Commissioner has so notified, or
 - (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,
 and in such case, a provisional acknowledgement shall be issued to the appellant immediately. [Inserted by NN. 38/2023 – CT, w.e.f. 04.08.2023]
- **Filing of appeal/application by the Department [Sec. 107(2) & (3) read with Rule 109]:**
 - (i) The Commissioner of Central / State or any Union territory with a view to satisfying himself about the legality or propriety of any order or decision direct a subordinate officer to file an application before the Appellate Authority within **6 months** from the date of communication of decision or order *in Form APL GST 03* electronically along with relevant documents and a provisional acknowledgement shall be issued to the appellant immediately.
However, an appeal to the Appellate Authority may be filed manually in FORM GST APL-03, along with the relevant documents, only if-
 - (i) the Commissioner has so notified, or
 - (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

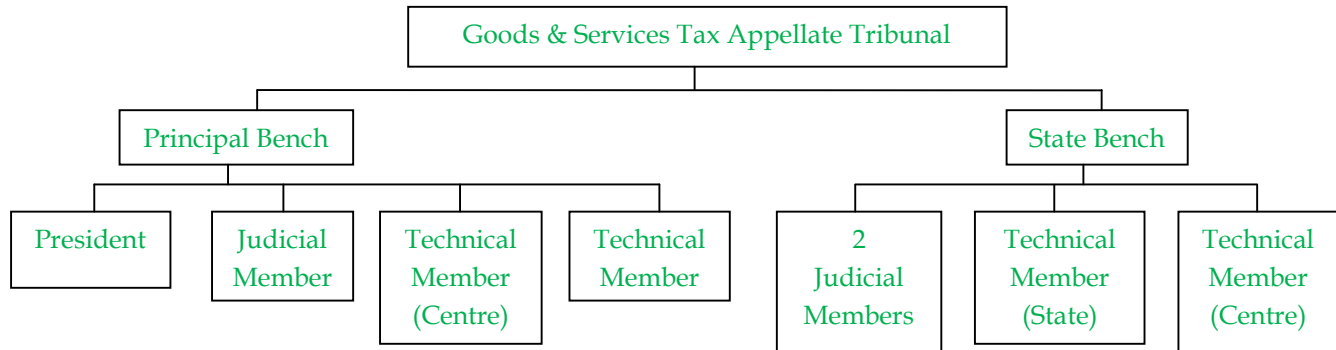
and in such case, a provisional acknowledgement shall be issued to the appellant immediately. [Inserted by NN. 38/2023 - CT, w.e.f. 04.08.2023]

Sec. 109 : Constitution of Appellate Tribunal and Benches thereof

[Sec. 109 substituted by Finance Act, 2023, w.e.f. 01.08.2023] The Government shall establish an Appellate Tribunal known as the GST Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

The jurisdiction, powers and authority conferred on the Appellate Tribunal shall be exercised by the Principal Bench and the State Benches.

Composition of the Appellate Tribunal:



Single member bench:

The cases can be heard by a bench consisting of a single member, if following conditions are fulfilled:

- Amount of tax or ITC involved or the amount of fine, fee or penalty determined does not exceed Rs. 50,00,000,
- Matter does not involve any question of law and
- Prior approval of the President has been obtained

And all other cases shall be heard together by one Judicial Member and one Technical Member.

Majority rule in case of difference of opinion

If, after hearing the case, the Members differ in their opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing, –

- where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;
- where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench,

and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.

Defect in constitution not to render proceedings invalid

No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a **civil court** under the Code of Civil Procedure, 1908.

All the proceedings before the Appellate Tribunal shall be deemed to be **judicial proceedings** within the meaning of Section 193, 228 & 196 of IPC.

Amendments in Chapter 23 – Offences & Penalties

Sec 122(1B) [inserted by Finance Act, 2023, w.e.f. 01.10.2023]: Any electronic commerce operator who –

- allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
- allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or
- fails to furnish the correct details in GSTR-8 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of Rs. 10,000, or an amount equivalent to the amount of tax involved had such supply been made by a registered person (other than a person paying tax u/s 10), whichever is higher.

Sec. 132 : Punishment of Certain Offences

➔ In this section the law makers have identified situations whereby there can be a leakage or revision of government revenue. This section enables institution of prosecution proceedings against all those persons whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences:

- Supply of goods/services without invoice with intend to evade tax
- Issue of invoice or bill without actual supply leading to wrongful availment or utilisation of ITC or refund of tax
- avails ITC on the basis of invoice or bill referred to in clause (b) or fraudulently avails ITC without any invoice or bill
- Collection of taxes without payment to the government for a period beyond 3 months of due date
- Evasion of tax, or obtaining refund with an intent of fraud where such offence is not covered under clause (a) to (d) above
- Falsifying records/production of false documents → with intent to evade tax
- ~~Obstructs or prevents any officer from doing his duties under the act~~
- Acquires/transports/deals with goods liable for confiscation
- Receives/deals with services in contravention of this law
- ~~Tampers/destroys any material evidence or document~~
- ~~Fails to supply information or supply false information~~
- Attempts to commit or abets the commission of any of the offences mentioned above.

[Clauses (g), (j) & (k) omitted by Finance Act, 2023, w.e.f. 01.10.2023]

Amount of tax evaded/ erroneous refund/ wrong ITC availed or utilized	Fine	Imprisonment*
Exceeding Rs. 5 Crore	Yes	Upto 5 Yrs
Exceeding Rs. 2 crore – upto Rs. 5 Crore	Yes	Upto 3 Yrs
Exceeding Rs. 1 crore – upto Rs. 2 Crore [in the case of an offence specified in clause (b)] [As amended by Finance Act, 2023, w.e.f. 01.10.2023]	Yes	Upto 1 Yr

*The imprisonment referred to shall be for a **term not less than 6 months** in the absence of special and adequate reasons to the contrary to be recorded in the judgement of the court.

➔ If any person commits any offence specified in clause (f), ~~(g) or (j)~~ above, he shall be punishable with imprisonment for a term which may extend to **6 months** or with fine or with both.

Sec. 138 : Compounding of Offences

1. Compounding means payment of money instead of undergoing prosecution. Any offence may be compounded by the **Commissioner, either before or after the institution of prosecution**, upon payment of such compounding amount.

However, the compounding of offence is **not permissible** in case of the following offences:

- (a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132; [as amended by Finance Act, 2023, w.e.f. 01.10.2023]
- ~~(b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any SGST Act or the UTGST Act or the IGST Act in respect of supplies of value exceeding Rs. 1 crore; [Omitted by Finance Act, 2023, w.e.f. 01.10.2023]~~
- ~~(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132; [as substituted by Finance Act, 2023, w.e.f. 01.10.2023]~~
- (d) a person who has been **convicted** for an offence under this Act by a court;
- ~~(e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132; [Omitted by Finance Act, 2023, w.e.f. 01.10.2023] and~~
- (f) any other class of persons or offences as may be prescribed.

Further, any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law.

Furthermore, compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

2. The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than 25% of the tax involved and the maximum amount not being more than 100% of the tax involved [as amended by Finance Act, 2023, w.e.f. 01.10.2023].

As per Rule 162(3A), the Commissioner shall determine the compounding amount as per the Table below:-

Sl.	Offence	Compounding amount if offence is punishable u/s 132(1)(i)	Compounding amount if offence is punishable u/s 132(1)(ii)
1.	Section 132(1)(a)	Minimum 50% and Maximum 75% of the amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.	Minimum 40% and Maximum 60% of the amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.
2.	Section 132(1)(c)		
3.	Section 132(1)(d)		
4.	Section 132(1)(e)		
5.	Section 132(1)(f)	Amount equivalent to 25% of tax evaded.	Amount equivalent to 25% of tax evaded.
6.	Section 132(1)(h)		
7.	Section 132(1)(i)		
8.	Attempt to commit the offences or abets the commission of offences mentioned in clause (a), (c) to (f) and clauses (h) and (i) of Sec. 132(1)	Amount equivalent to 25% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.	Amount equivalent to 25% of such amount of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken.

However, where the offence committed by the person falls under more than one category specified in the Table above, the compounding amount, in such case, shall be the amount determined for the offence for which higher compounding amount has been prescribed.

Further, the applicant shall pay the compounding amount as ordered by the Commissioner within a period of 30 days from the date of the receipt of the compounding order and shall furnish the proof of such payment to him.

3. On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Amendments in Chapter 24 – Miscellaneous

Sec. 158A : Consent based Sharing of Information furnished by Taxable Person [inserted by Finance Act, 2023, w.e.f. 01.10.2023]

- (1) The following details furnished by a registered person may be shared by the common portal with such other systems as may be notified by the Government, namely :—
 - (a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;
 - (b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;
 - (c) such other details as may be prescribed.
- (2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of —
 - (a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and
 - (b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient.
- (3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return.

Rule 163 : Consent based sharing of information

- (1) Where a registered person opts to share the information furnished in—
 - (a) FORM GST REG-01 as amended from time to time;
 - (b) return in FORM GSTR-3B for certain tax periods;
 - (c) FORM GSTR-1 for certain tax periods, pertaining to invoices, debit notes and credit notes issued by him, as amended from time to time,with a requesting system referred to in section 158A(1), the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods to the common portal.
- (2) The registered person shall give his consent for sharing of information under clause (c) of sub-rule (1) only after he has obtained the consent of all the recipients, to whom he has issued the invoice, credit notes and debit notes during the said tax periods, for sharing such information with the requesting system and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.
- (3) The common portal shall communicate the information referred to in sub-rule (1) with the requesting system on receipt from the said system-
 - (a) the consent of the said registered person, and
 - (b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.

Note [NN. 33/2023 - Central Tax, w.e.f. 01.10.2023]: The Central Government has notified "Account Aggregator" as the systems with which information may be shared by the common portal based on consent u/s 158A of the CGST Act, 2017.

Explanation : For the purpose of this notification, "Account Aggregator" means a non-financial banking company which undertakes the business of an Account Aggregator in accordance with the policy directions issued by the RBI u/s 45JA of the RBI Act, 1934 and defined as such in the Non-Banking Financial Company - Account Aggregator (Reserve Bank) Directions, 2016.

Latest Selected Circulars issued under GST

Clarification on taxability of shares held in a subsidiary company by the holding company [Circular No. 196/08/2023 - GST, dated 17.07.2023]

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 No. 201/13/2023 - GST, dated 01.08.2023]

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 No. 204/16/2023 - GST, dated 27.10.2023]

Issue 1: Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.

Clarification:

1. As per Explanation (a) to section 15 of CGST Act, the director and the company are to be treated as related persons. As per section 7(1)(c) of the CGST Act, 2017, read with S. No. 2 of Schedule I of CGST Act, supply of goods or services or both between related persons, when made in the course or furtherance of business, shall be treated as supply even if made without consideration. Accordingly, 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.

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.

Issue 2: Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the bank/ financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.

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 regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons [Circular No. 199/11/2023 – GST, dated 17.07.2023]

S.N.	Issues	Clarification
1.	Whether HO can avail the ITC in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs, issue tax invoices u/s 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the Input Service Distributor ('ISD') mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs?	HO has an option to distribute ITC in respect of such common input services by following ISD mechanism. It is not mandatory to distribute such ITC by ISD mechanism. HO can also issue tax invoices u/s 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs and the BOs can then avail ITC on the same.
2.	Whether the HO is mandatorily required to issue invoice to BOs for internally generated services, and/or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full ITC is available to the concerned BOs.	In cases where full ITC is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice (2 nd proviso to rule 28). Further, in such cases where full ITC is available to the recipient, <u>if HO has not issued a tax invoice to the BO</u> in respect of any particular services being rendered by HO to the said BO, the <u>value</u> of such services may be deemed to be declared as <u>NIL</u> by HO to BO, and may be deemed as open

		market value in terms of second proviso to rule 28.
3.	In respect of internally generated services provided by the HO to BOs, in cases where full ITC is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.	Such costs are <u>not mandatorily</u> required to be included while computing the taxable value of the supply of such services, even in cases where full ITC is not available to the concerned BO.

Clarification relating to Export of Services - Section 2(6)(iv) of the IGST Act 2017 [Circular No. 202/14/2023 - GST, dated 27.10.2023]

Issue: Various representations have been received requesting for clarification regarding admissibility of export remittances received in Special INR Vostro account, as permitted by RBI, for the purpose of consideration of supply of services to qualify as export of services [Sec. 2(6)(iv) of IGST Act].

Clarification: It is clarified that when the Indian exporters, undertaking export of services, are paid the export proceeds in INR from the Special Rupee Vostro Accounts of correspondent bank(s) of the partner trading country, opened by Authorised Dealer (AD) banks, the same shall be considered to be fulfilling the conditions of sec. 2(6)(iv) of IGST Act.

Clarification regarding determination of Place of Supply in various cases [Circular No. 203/15/2023 - GST, dated 27.10.2023]

Matter 1: Place of supply in case of supply of service of transportation of goods, including through mail and courier

Issue: Sub-section (9) of section 13 of IGST Act has been omitted vide section 162 of Finance Act, 2023 w.e.f. 01.10.2023. After the said amendment, doubts have been raised as to whether the place of supply in case of service of transportation of goods, including through mail and courier, in cases where location of supplier of services or location of recipient of services is outside India, will be determined as per sub-section (2) of section 13 of IGST Act or will be determined as per sub-section (3) of section 13 of IGST Act.

Clarification: The place of supply of services of transportation of goods, other than through mail and courier, will be determined by the default rule u/s 13(2) of IGST Act and not as performance based services u/s 13(3) of IGST Act.

Further, the place of supply in case of service of transportation of goods by mail or courier will continue to be determined by the default rule under section 13(2) of IGST Act.

Matter 2: Place of supply in case of supply of services in respect of advertising sector

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 advertising 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 in fact 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.

Amendments in Chapter 26 – General Provisions under Customs**Section 20 : Goods Exported from India brought back to India**

Re-imports are entitled for following concessions as have been notified by the Government:

S.N	Condition	Importer will be liable to pay customs duties equal to
1A.	Goods exported under claim for RoDTEP (Remission of Duties and Taxes on Exported Products) or RoSCTL (Rebate of State and Central Taxes and Levies as notified by the Ministry of Textiles) under Foreign Trade Policy and re-imported within 3 years (extendable to 5 years) without being re-manufactured/re-processed through melting, recycling or recasting abroad.	Amount of RoDTEP or RoSCTL allowed at the time of export. [inserted by NN 46/2023 - Cus, w.e.f. 27.07.2023]

Amendments in Chapter 27 – Importation & Exportation**Section 47 : Removal**

■ **Deferred Payment of Import Duty Rules, 2016**

Due dates for deferred payment of import duty [Rule 4] :

Sr. No.	Goods corresponding to bill of entry returned for payment from	Due date of payment of duty, inclusive of the period (excluding holidays) as mentioned in section 47(2)
1	1 st day to 15 th day of any month	16 th day of that month
2	16 th day till the last day of any month other than march	1 st day of the following month
3	16 th day till the 31 st day of march	31 st march

However, the Central Government may, under exceptional circumstances, and for reasons to be recorded in writing, allow payment to be made on a different due date. [Proviso inserted by NN 58/2023 - Customs (N.T.), w.e.f. 03.08.2023]

The eligible importer shall pay the duty electronically.

If there is default in payment of duty by due date more than once in 3 consecutive months, this facility of deferred payment will not be allowed unless the duty with interest has been paid in full.

However, the eligible importer shall be permitted to make the deferred payment if he has-

1. paid the duty for a bill of entry within due date in terms of rule 4; and
2. paid the differential duty for the same bill of entry along with the interest on account of reassessment within 1 day (excluding holidays).

[Proviso inserted by NN 58/2023 – Customs (N.T.), w.e.f. 03.08.2023]

The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the Bill of Entry.

Section 51A : Payments Through Electronic Cash Ledger

Specified deposits exempted from provisions of Electronic Cash Ledger

The CBIC has exempted following deposits from all of the provisions of Sec. 51A (i.e. exempted from payment through electronic cash ledger):

- (i) deposits with respect to goods imported or exported in customs stations where customs automated system is not in place;
- (ii) deposits with respect to goods imported or exported in International Courier Terminals [exempted only till 30.11.2023] (In other words, payments relating to Courier shipments would be required to be done through ECL from 01.12.2023 onwards);
- (iii) deposits with respect to accompanied baggage;
- (iv) deposits other than those used for making electronic payment of,-
 - (a) any duty of customs, including cesses and surcharges levied as duties of customs;
 - (b) IGST;
 - (c) GST Compensation Cess;
 - (d) interest, penalty, fees or any other amount payable under the Customs Act, or the Customs Tariff Act, 1975.

Amendments in Chapter 32 – Exemptions under Customs

Section 25 : EXEMPTIONS

- **Sec. 25(4A):** Where any conditional exemption is granted, such exemption shall, unless otherwise specified or varied or rescinded, be valid upto 31st day of March falling immediately after 2 years from the date of such grant or variation.

However, nothing contained in this sub-section shall apply to any such exemption granted to, or in relation to, –

- (a) any multilateral or bilateral trade agreement;
- (b) obligations under international agreements, treaties, conventions or such other obligations including with respect to United Nations agencies, diplomats and international organisations;
- (c) privileges of constitutional authorities;
- (d) schemes under the Foreign Trade Policy;
- (e) the Central Government schemes having validity of more than 2 years;
- (f) re-imports, temporary imports, goods imported as gifts or personal baggage;
- (g) any duty of customs under any law for the time being in force, including IGST leviable u/s 3(7) of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.

[Proviso inserted by Finance Act, 2023, w.e.f. 01.04.2023]