

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

Amendments in Chapter 2 – Levy & Supply

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

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.

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 specified actionable claims.

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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%.

Amendments in Chapter 3 – Time of Supply

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 5 – Input Tax Credit (ITC)

Topic – Blocked Credits [Section 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.

Amendments in Chapter 6 – Composition Scheme

Topic – 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 – Reverse Charge Mechanism

Topic - List of services taxable under reverse charge u/s 9(3), i.e. the services where tax is payable by the recipient:

Sl.	Category of Supply of Service	Supplier of Service	Recipient of Service
1.	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</p> <p>(1) renting of immovable property, and</p> <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>		<p>Central Government, State Government or Union territory or local authority</p> <p>Business Entity</p>
5A.	<p>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</p>		<p>Central Government, State Government, Union Territory or Local Authority</p> <p>Person registered under GST</p>

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

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;**

Amendments in Chapter 8 – Place of Supply

Topic - SECTION 10 OF IGST ACT, 2017

Section	Nature of Supply	Place of Supply
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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
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Topic - Place of supply of services where location of supplier AND recipient is in India [Section 12]

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

Amendments in Chapter 9 – Exemptions under GST

Transportation Related Services	
5.	<p>Satellite launch services supplied by Indian Space Research Organisation (ISRO), Antrix Corporation Limited or New Space India Limited.</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> <p>(a) services by the Department of Posts and the Ministry of Railways (Indian Railways);</p> <p>(b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(c) transport of goods or passengers; or</p> <p>(d) any service, other than services covered under entries (a) to (c) above, provided to business entities.</p> <p>[Entry No. 6 of NN. 12/2017 CT (R)]</p>
33.	<p><u>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</u></p>



upgradation.

Amendments in Chapter 10 – Registration

Persons not liable for Registration [Section 23]

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.

Procedure for Registration

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. [The applicability of this additional procedure is also extended to the state of Puducherry]

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

- (i) 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.
- (ii) 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.

However, this rule 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:**

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

- (a) a comparison of the returns (i.e. GSTR – 3B) furnished by a registered person 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.

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.

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.

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).

Amendments in Chapter 11 – TDS & TCS

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.

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)

- (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)

- (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]

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.

Amendments in Chapter 12 – Payment of Tax & Interest

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.

Amendments in Chapter 13 – Tax Invoice, Debit Note, Credit Note, etc.

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.

E - invoice through Govt. notified website

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]

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 14 – Returns Under GST

- ✓ 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)]** : 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.
- ✓ **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.

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 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 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 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.

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