

GOODS AND SERVICE TAX

B.Com. Second Year

SEMESTER – IV

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B.Com. 2nd Year Semester – IV

GOODS AND SERVICE TAX

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This book is exclusively prepared for the use of students of Three – Year, UG Programme, Centre for Distance Education, Acharya Nagarjuna University and this book is meant for limited circulation only.

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FOREWORD

Since its establishment in 1976, Acharya Nagarjuna University has been forging ahead in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining a 'A' Grade from the NAAC in the year 2014, the Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 285 affiliated colleges spread over the two districts of Guntur and Prakasam.

The University has also started the Centre for Distance Education with the aim to bring higher education within reach of all. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even housewives desirous of pursuing higher studies. With the goal of bringing education in the door step of all such people. Acharya Nagarjuna University has started offering B.A, and B, Com courses at the Degree level and M.A, M.Com., L.L.M., courses at the PG level from the academic year 2021-22 on the basis of Semester system.

To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers invited respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.

It is aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn facilitate the country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My congratulations to all the Directors, Coordinators, Editors and Lesson -writers of the Centre who have helped in these endeavours.

Prof. P.Rajasekhar
Vice –Chancellor,
Acharya Nagarjuna University

PROGRAMME: THREE-YEAR B COM

(General and Computer Applications)

Course Code:

Domain Subject: Commerce

Semester-wise Syllabus under CBCS

(w.e.f. 2020-21 Admitted Batch)

II Year B Com (Gen)– Semester – IV

406BCO21-**Course 4F:Goods and Service Taxes**

Learning Outcomes:

At the end of the course, the student will able to;

- Understand the basic principles underlying the Indirect Taxation Statutes.
- Examine the method of tax credit. Input and Output Tax credit and Cross Utilisation of Input Tax Credit.
- Identify and analyze the procedural aspects under different applicable statutes related to GST.
- Compute the assessable value of transactions related to goods and services for levy and determination of duty liability.
- Develop various GST Returns and reports for business transactions in Tally.

Syllabus:

Unit I: Introduction: Overview of GST - Concepts –Taxes Subsumed under GST – Components of GST- GST Council- Advantages of GST-GST Registration.

Unit II: GST Principles –Vijay Kelkar Sha Committee Recommendations - Comprehensive Structure of GST Model in India: Single, Dual GST – GST Rates - Taxes Exempted from GST- Taxes and Duties outside the purview of GST- Taxation of Services

Unit-III: Tax Invoice- Bill of Supply-Transactions Covered under GST-Composition Scheme- Reverse Charge Mechanism- Composite Supply -Mixed Supply.

Unit-IV: Time of Supply of Goods & Services: Value of Supply - Input Tax Credit - Distribution of Credit -Matching of Input Tax Credit - Availability of Credit in Special Circumstances- Cross utilization of ITC between the Central GST and the State GST.

Unit-V:GST Returns: Regular Monthly Filing Returns-Composition Quarterly Filing Returns-GSTR-1, GSTR-2, GSTR 2A, GSTR-3, GSTR 3B -Annual Returns GSTR-9, GSTR 9A, GSTR 9B& GSTR 9C - Records to be Maintained under GST

References:

1. T. S. Reddy and Dr. Y. Hari Prasad Reddy, Business Taxation (Goods and Services Taxes), Margham Publications.
2. Taxmann's Basics of GST.
3. Taxmann's GST: A practical Approach.
4. Theory & Practice of GST, Srivathsala, Himalaya Publishing House.
5. Goods and Services Tax in India - Notifications on different dates.
6. GST Bill 2012.
7. Background Material on Model GST Law, Sahitya Bhawan Publications.
8. The Central Goods and Services Tax Act, 2017, No. 12 of 2017 Published by Authority,
9. Ministry of Law and Justice, New Delhi, the 12th April, 2017.
10. Theory & Practice of GST: Dr. Ravi M.N, BPB Publications.

Suggested Co-Curricular Activities

- Seminars
- Show the flow chart of GST Suvidha Provider (GST).
- Practice of Terminology of Goods and Service Tax
- Prepare chart showing rates of GST
- Follow GST Council meeting updates regularly
- Creation of GST Vouchers and Tax invoices
- Visit a Tax firm (Individual and Group)
- Guest lecture by GST official
- Prepare Tax invoice under the GST Act.
- Practice on how to file a Returns
- Debate on Single GS, Dual GST
- Group Discussions on Goods and Services outside the Purview of GST

MODEL QUESTION PAPER

(406BCO21)

B. Com.(General) Degree Examination

Second Year – Fourth Semester

Part – II : Commerce

Paper – IV : GOODS AND SERVICE TAX

Time : Three hours

Maximum Marks : 70

Section – A

Answer any FIVE of the following questions. (5 × 4 = 20 Marks)

- 1) Introduction of GST.
జి. యన్. టి. పరిచయం గురించి వ్రాయండి.
- 2) Dual GST.
ద్వంద జి. యన్. టి.
- 3) Taxation of services.
సర్వీస్ పన్నుల గురించి వ్రాయండి.
- 4) Tax Invoice.
పన్ను ఇన్వాయిస్.
- 5) Composite supply.
మిశ్రమ సరఫరా.
- 6) Value of supply.
సరఫరా విలువ.
- 7) Input Tax Credit.
ఇన్ ఫుట్ పన్ను క్రెడిట్.
- 8) GSTR – I.
GSTR – I.

Section – B

Answer the following questions. (5 x 10 = 50 Marks)

- 9) (a) What is GST? Explain various concepts of GST.
జి. యస్. టి. అనగానేమి? జి. యస్. టి. యొక్క వివిధ భావనలను వివరించండి.
- Or
- (b) Explain advantages of GST.
జి. యస్. టి. యొక్క ఉపయోగాలను వివరించండి.
- 10) (a) Explain GST principles.
జి. యస్. టి. యొక్క సూత్రాలను వివరించండి.
- Or
- (b) Discuss comprehensive structure of GST model in India.
భారత దేశంలో జి. యస్. టి. నమూనా యొక్క సంగ్రహ నిర్మాణం గురించి చర్చించండి.
- 11) (a) What are the transactions covered under GST?
జి. యస్. టి. పరిధిలోకి వచ్చే లావాదేవీలు ఏమిటి?
- Or
- (b) Explain composition scheme of GST.
జి. యస్. టి. యొక్క కూర్పు పథకాన్ని వివరించండి.
- 12) (a) Explain cross utilization of ITC between the central GST and the State GST.
కేంద్ర జి. యస్. టి. మరియు రాష్ట్ర జి. యస్. టి. మధ్య ఐటిసి యొక్క క్రాస్ యూటిలైజేషన్ గురించి వివరించండి.
- Or
- (b) Discuss the availability of credit in special circumstances.
ప్రత్యేక పరిస్థితులలో క్రెడిట్ లభ్యత గురించి వివరించండి.
- 13) (a) What are the records to be maintained under GST.
GST క్రింది నిర్వహించాల్సిన రికార్డులు ఏమిటి?
- Or
- (b) Explain the procedure of filing of annual returns GSTR – 9, GSTR – 9A.
GSTR – 9 మరియు GSTR – 9A వార్షిక రిటర్నులు దాఖలు విధానాన్ని వివరించండి.
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Lesson – 1
AN OVERVIEW OF GOODS AND SERVICES TAX

Objectives :

After reading this lesson, student will be able to :

- understand the concept of Goods and Services Act (GST), its meaning and objectives of GST;
- learn about what are the various taxes submitted under GST;
- know the components of GST;
- learn about GST Council, advantages and disadvantages of GST; and
- know the process of GST registration.

Structure of the Lesson :

- 1.1 Introduction
- 1.2 Objectives of GST
- 1.3 Amendment of Indian Constitution for GST
- 1.4 Taxes subsumed under GST
- 1.5 Components of GST
- 1.6 GST Council
- 1.7 Advantages of GST
- 1.8 Disadvantages of GST
- 1.9 Critiques of the GST
- 1.10 Summary
- 1.11 Key Words
- 1.12 Self Assessment Questions
- 1.13 Suggested Readings

1.1 INTRODUCTION :

The Goods and Services Tax (GST) is an indirect federal sales tax that is applied to the cost of certain goods and services. The business adds the GST to the price of the product, and a customer who buys the product pays the sales price inclusive of the GST. The GST portion is collected by the business or seller and forwarded to the Government. The goods and services tax (GST) is a type of tax levied on most goods and services sold for domestic consumption in many countries. It is paid by consumers and remitted to the Government by

the businesses selling the goods and services. Some countries have introduced GST exemptions or reduced GST rates on essential goods and services or have implemented GST credits or rebates to help offset the impact of GST on lower-income households. The GST is often a single rate tax applied throughout a country and is preferred by Governments because it simplifies the taxation system and reduces tax avoidance. In dual GST systems, such as those in Canada and Brazil, the federal GST is applied in addition to a state sales tax. The GST has been identified by critics as regressive and can potentially place a relatively higher burden on lower-income households.

a) Definition of Goods and Services Tax (GST) :

The goods and services tax (GST) is a value-added tax (VAT) levied on most goods and services sold for domestic consumption. The GST is paid by consumers, but it is remitted to the Government by the businesses selling the goods and services.

Critics point out, however, that the GST may disproportionately burden people whose self-reported income is in the lowest and middle income brackets, making it a regressive tax. These critics argue that GST can therefore exacerbate income inequality and contribute to social and economic disparities. In order to address these concerns, some countries have introduced GST exemptions or reduced GST rates on essential goods and services, such as food and healthcare. Others have implemented GST credits or rebates to help offset the impact of GST on lower-income households.

Goods and services tax should not be confused with the generation-skipping trust, also abbreviated GST (and its related taxation, GSTT).

b) Meaning :

The goods and services tax (GST) is a tax on goods and services sold domestically for consumption. The tax is included in the final price and paid by consumers at point of sale and passed to the Government by the seller. The GST is usually taxed as a single rate across a nation. Governments prefer GST as it simplifies the taxation system and reduces tax avoidance. Critics of GST say it burdens lower income earners more than higher income earners.

c) Understanding the Goods and Services Tax (GST) :

The goods and services tax (GST) is an indirect federal sales tax that is applied to the cost of certain goods and services. The business adds the GST to the price of the product, and a customer who buys the product pays the sales price inclusive of the GST. The GST portion is collected by the business or seller and forwarded to the Government. It is also referred to as Value-Added Tax (VAT) in some countries. Most countries with a GST have a single unified GST system, which means that a single tax rate is applied throughout the country. A country with a unified GST platform merges central taxes (e.g., sales tax, excise duty tax, and service tax) with state-level taxes (e.g., entertainment tax, entry tax, transfer tax, sin tax, and luxury tax) and collects them as one single tax. These countries tax virtually everything at a single rate.

France was the first country to implement the GST in 1954; since then, an estimated 140 countries have adopted this tax system in some form or another.² Some of the countries with a GST include Canada, Vietnam, Australia, Singapore, United Kingdom, Spain, Italy, Nigeria, Brazil, and India.

1.2 OBJECTIVES OF GST :

i. To achieve the ideology of ‘One Nation, One Tax’ :

GST has replaced multiple indirect taxes, which were existing under the previous tax regime. The advantage of having one single tax means every state follows the same rate for a particular product or service. Tax administration is easier with the Central Government deciding the rates and policies. Common laws can be introduced, such as e-way bills for goods transport and e-invoicing for transaction reporting. Tax compliance is also better as taxpayers are not bogged down with multiple return forms and deadlines. Overall, it's a unified system of indirect tax compliance.

ii. To subsume a majority of the indirect taxes in India :

India had several erstwhile indirect taxes such as service tax, Value Added Tax (VAT), Central Excise, etc., which used to be levied at multiple supply chain stages. Some taxes were governed by the states and some by the Centre. There was no unified and centralised tax on both goods and services. Hence, GST was introduced. Under GST, all the major indirect taxes were subsumed into one. It has greatly reduced the compliance burden on taxpayers and eased tax administration for the Government.

iii. To eliminate the cascading effect of taxes :

One of the primary objectives of GST was to remove the cascading effect of taxes. Previously, due to different indirect tax laws, taxpayers could not set off the tax credits of one tax against the other. For example, the excise duties paid during manufacture could not be set off against the VAT payable during the sale. This led to a cascading effect of taxes. Under GST, the tax levy is only on the net value added at each stage of the supply chain. This has helped eliminate the cascading effect of taxes and contributed to the seamless flow of input tax credits across both goods and services.

iv. To curb tax evasion :

GST laws in India are far more stringent compared to any of the erstwhile indirect tax laws. Under GST, taxpayers can claim an input tax credit only on invoices uploaded by their respective suppliers. This way, the chances of claiming input tax credits on fake invoices are minimal. The introduction of e-invoicing has further reinforced this objective. Also, due to GST being a nationwide tax and having a centralised surveillance system, the clampdown on defaulters is quicker and far more efficient. Hence, GST has curbed tax evasion and minimised tax fraud from taking place to a large extent.

v. To increase the taxpayer base :

GST has helped in widening the tax base in India. Previously, each of the tax laws

had a different threshold limit for registration based on turnover. As GST is a consolidated tax levied on both goods and services both, it has increased tax-registered businesses. Besides, the stricter laws surrounding input tax credits have helped bring certain unorganised sectors under the tax net. For example, the construction industry in India.

vi. Online procedures for ease of doing business :

Previously, taxpayers faced a lot of hardships dealing with different tax authorities under each tax law. Besides, while return filing was online, most of the assessment and refund procedures took place offline. Now, GST procedures are carried out almost entirely online. Everything is done with a click of a button, from registration to return filing to refunds to e-way bill generation. It has contributed to the overall ease of doing business in India and simplified taxpayer compliance to a massive extent. The Government also plans to introduce a centralised portal soon for all indirect tax compliance such as e-invoicing, e-way bills and GST return filing.

vii. An improved logistics and distribution system :

A single indirect tax system reduces the need for multiple documentation for the supply of goods. GST minimises transportation cycle times, improves supply chain and turnaround time, and leads to warehouse consolidation, among other benefits. With the e-way bill system under GST, the removal of interstate checkpoints is most beneficial to the sector in improving transit and destination efficiency. Ultimately, it helps in cutting down the high logistics and warehousing costs.

viii. To promote competitive pricing and increase consumption :

Introducing GST has also led to an increase in consumption and indirect tax revenues. Due to the cascading effect of taxes under the previous regime, the prices of goods in India were higher than in global markets. Even between states, the lower VAT rates in certain states led to an imbalance of purchases in these states. Having uniform GST rates have contributed to overall competitive pricing across India and on the global front. This has hence increased consumption and led to higher revenues, which has been another important objective achieved.

1.3 AMENDMENT OF INDIAN CONSTITUTION FOR GST :

The Constitution contains the Union List and the State List within which the power to levy separate taxes is given to the Centre and States respectively. GST was to be levied in such a way that both the Centre and the States received the power to levy and collect it. Further, the legislation had to remain consistent across the Centre and the various State/Union Territory Legislatures. To provide for this, an amendment in the Constitution was necessary.

Constitution (101st Amendment) Act, 2016 :

In order to suitably implement the GST legislation, this Act resulted in the insertion, deletion and amendment of certain Articles of the Constitution. The following matters were dealt with as a result of these changes :

- i) The delineation of powers to levy and make laws with respect to GST
- ii) The applicability and scope of the GST law
- iii) The manner of apportionment of revenue from GST among Centre and States
- iv) The constitution, powers and duties of the GST Council
- v) The discontinuation of existing taxes to give way for GST
- vi) The manner of providing compensation to States for loss of revenue on account of the introduction of GST

1.3.1 Article 246A : Special Provision for GST

This Article was newly inserted to give power to the Parliament and the respective State/Union Legislatures to make laws on GST respectively imposed by each of them. However, the Parliament of India is given the exclusive power to make laws with respect to inter-state supplies. The IGST Act deals with inter-state supplies. Thus, the power to make laws under the IGST Act will rest exclusively with the Parliament. Further, the article excludes the following products from the scope of GST until a date recommended by the GST Council :

- i) Petroleum Crude
- ii) High-Speed Diesel
- iii) Motor Spirit
- iv) Natural Gas
- v) Aviation Turbine Fuel

1.3.2 Article 269A : Levy and Collection of GST for Inter-State Supply

While Article 246A gives the Parliament the exclusive power to make laws with respect to inter-state supplies, the manner of distribution of revenue from such supplies between the Centre and the State is covered in Article 269A. It allows the GST Council to frame rules in this regard. Import of goods or services will also be called as inter-state supplies. This gives the Central Government the power to levy IGST on import transactions. Import of goods was subject to Countervailing Duty (CVD) in the earlier scheme of taxation. IGST levy helps a taxpayer to avail the credit of IGST paid on import along the supply chain, which was not possible before.

1.3.3 Article 279A : GST Council

This Article gives power to the President to constitute a joint forum of the Centre and States called the GST Council. The GST Council is an apex member committee to modify, reconcile or to procure any law or regulation based on the context of Goods and Services Tax in India.

1.3.4 Article 286 : Restrictions on Tax Imposition

This was an existing article which restricted states from passing any law that allowed

them to collect tax on sale or purchase of goods either outside the state or in the case of import transactions. It was further amended to restrict the passing of any laws in case of services too. Further, the term 'supply' replaces 'sale or purchase'.

1.3.5 Article 366 : Addition of Important definitions

Article 366 was an existing article amended to include the following definitions:

- i) Goods and Services Tax means the tax on supply of goods, services or both. It is important to note that the supply of alcoholic liquor for human consumption is excluded from the purview of GST.
- ii) Services refer to anything other than goods.
- iii) State includes Union Territory with legislature.

1.3.6 Compensation to States under GST :

This Act also contains a provision to provide for relief to states on account of the revenue loss to the states arising due to the implementation of GST. It has a validity period of five years. The Goods and Services Tax (Compensation to States) Act, 2017 was born as a result.

1.3.7 What does the Seventh Schedule State?

The Seventh Schedule to Article 246 contains three lists, which contain the matters under which the Union and the State Governments have the authority to make laws.

List – I :

Union List : It contains the matters with respect to which the Parliament (Central Government) has the exclusive right to make laws.

List – II :

State List : It contains the matters in respect of which the state Government has the exclusive right to make laws.

List – III :

Concurrent List : It contains the matters in respect of which both the Central and State Governments have the power to make laws. The relevant entries in this list were adjusted in such a way as to provide for the following:

- i) To continue the levy of excise duty by the Centre on manufacture/production of five petroleum products namely: petroleum crude, high-speed diesel, motor spirit, natural gas, and aviation turbine fuel. In addition to the above, excise duty is also levied on tobacco and tobacco products. As a result, tobacco and tobacco products are subject to both excise duty and GST.
- ii) The power to levy taxes on the five petroleum products was given to the states too.
- iii) Entertainment tax was abolished except where it is levied by local bodies.

1.4 TAXES SUBSUMED UNDER GST :

Taxes or levies to be submitted will be fundamentally in the way of backhanded duties, either on the supply of products or on the supply of administration. It out to be a piece of the exchange chain which starts with import/fabricate/generation of merchandise or arrangement of administrations toward one side and the utilization of products and ventures at the other. The subsumation out to bring about free stream of expense credit in intra and between State Levels. The expenses, collects and charges that are not particularly identified with supply of products and administrations ought not be subsumed under GST. Income reasonableness for both the Union and the States ought to likewise be considered.

The following Central Taxes will be subsumed under the GST :

- (i) Central Excise Duty
- (ii) Additional Excise Duties
- (iii) The Excise Duty collected under the Medicinal and Toiletries Preparation Act
- (iv) Service Tax
- (v) Extra Customs Duty, regularly known as Countervailing Duty (CVD)
- (vi) Exceptional Additional Duty of Customs – 4% (SAD)
- (vii) Surcharges
- (viii) Cesses

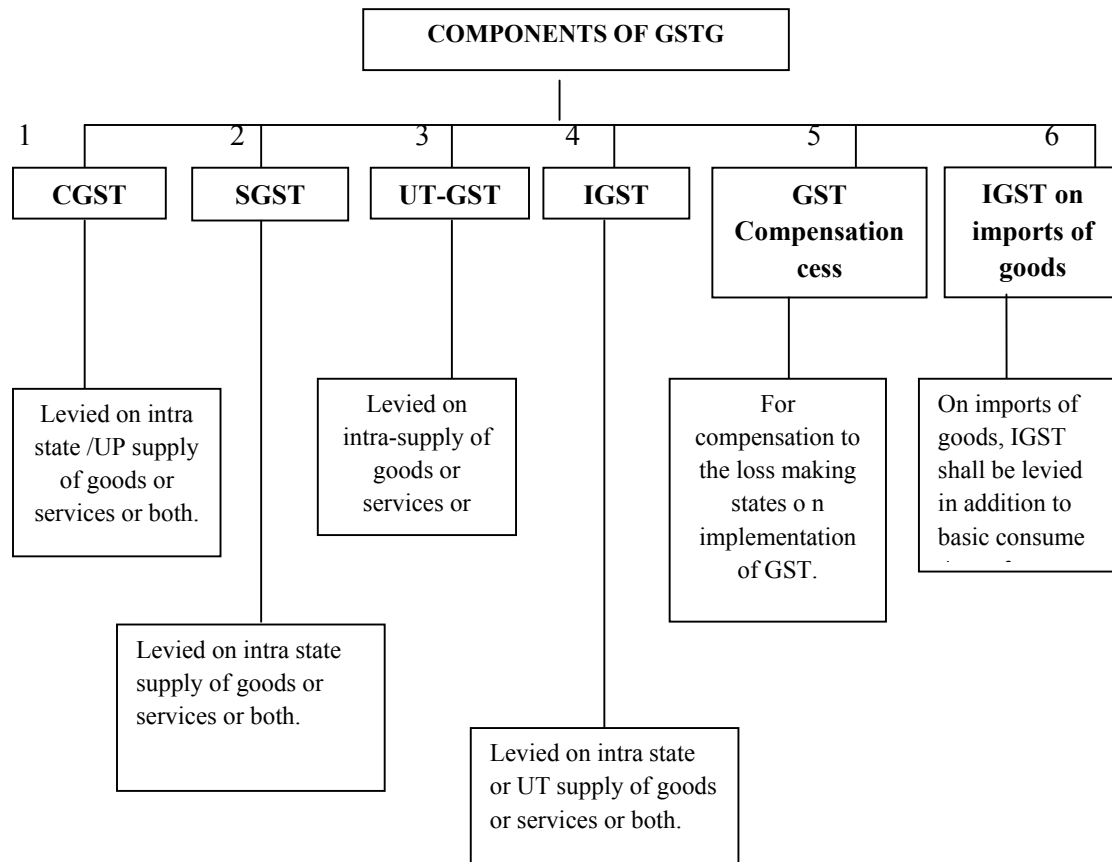
The following State Taxes will be subsumed under the GST :

- (i) VAT/Sales charge
- (ii) Entertainment impose (unless it is required to the neighborhood bodies).
- (iii) Luxury impose
- (iv) Taxes on lottery, wagering and betting.
- (v) State Cesses and Surcharges in so far as they identify with supply of merchandise and ventures.
- (vi) Entry tax not in lieu of Octroi.

1.5 COMPONENTS OF GST :

India has adopted a DUAL-GST which is imposed concurrently by the Centre and States, i.e. the Central Government and States/Union Territories simultaneously tax goods and services.

- Both Centre and the States/UT's have the power to tax Intra State Supplies (i.e. within the same state/UT)
- On Inter State Supplies (i.e. between two or more states/UT's), the Central Government has the power to levy tax.



1.5.1 Central GST (CGST) :

- Central GST is levied by the Central Government.
- Central GST is levied on Intra State or Intra UT transactions i.e. transactions that take place within the same state or same UT.
- Central GST is levied on Supply of goods or services or both.
- Taxable Event in Central GST is Intra state/UT supply of goods or services or both.
- All Central Taxes got subsumed in CGST such as Excise Duty, Service Tax, Additional Custom Duty, Special Additional Custom Duty, Central Surcharges and Cesses, etc.
- CGST is levied under CGST Act, 2017
- Income from CGST is levied and collected by the Central Government.
- Up to 200 NM (Nautical Miles) inside sea is India for the purpose of GST.

1.5.2 State GST [SGST] :

- ★ State GST is levied by the respective State Governments.
- ★ State GST is levied on Intra State transactions i.e. transactions that take place

within the same state.

- ★ State GST is levied on supply of goods or services or both.
- ★ Taxable Event in State GST is Intra state supply of goods or services or both.
- ★ All State taxes got subsumed in SGST such as VAT (Value Added Tax), Purchase Tax, Luxury Tax, Taxes on lottery & gambling, Entry tax, Entertainment Tax, etc.
- ★ SGST is levied under respective SGST Acts of different states.
- ★ Income from SGST is levied & collected by the State Government with state legislatures.
- ★ Area up to 12 NM inside sea is a part of the state which is nearest.

1.5.3 Union Territory GST [UT GST] :

- UT GST is levied by the Central Government.
- UT GST is levied on Intra UT transactions i.e. transactions that take place within the same UT.
- UT GST is levied on supply of goods or services or both.
- Taxable Event in UTGST is Intra UT supply of goods or services or both.
- The VAT that was applicable in Union Territories got subsumed in UTGST.
- UTGST is levied under the UTGST Act, 2017 applicable on all UT's except Delhi and Pondicherry, which have their own legislatures like state GST for all states.
- Income from UTGST is levied & collected by the UT's without state legislatures.
- Area up to 12 NM inside sea is a part of UT which is nearest.

1.5.4 Integrated GST [IGST] :

- ❖ IGST is levied by the Central Government.
- ❖ IGST is levied on Inter State or Inter UT transactions (i.e. transaction that take place between two or more states or UT's).
- ❖ IGST is levied on supply of goods or services or both.
- ❖ Taxable Event in IGST is Interstate/UT supply of goods or services or both.
- ❖ CST i.e. Central Sales Tax got subsumed into IGST.
- ❖ IGST is levied under the IGST Act, 2017.
- ❖ Income from IGST shall be apportioned between the centre and states on

the recommendations of the GST council.

- ❖ IGST is sum total of CGST and SGST.

1.5.5 GST Compensation Cess :

- GST Compensation cess deals with the payment of compensation to the states.
- This compensation is for any loss of revenue on account of implementation of GST.
- GST compensation cess has been implemented for a period of five (5) years.
- GST compensation cess is in accordance with the provisions of Section 18 of the GST (Compensation to States) Act, 2017.
- The revenue to be compensated will consist of revenues from all taxes earlier levied by the states (before GST) which have now been subsumed in GST.
- The compensation will be released by the Comptroller bi-monthly and provisionally, Auditor General subject of to India. Final adjustment after yearly audit.
- Examples of goods which attract Compensation Cess: Pan Masala, Tobacco products, coal, Aerated water, etc.

1.5.6 IGST on Imports of Goods :

- ✓ The Imports of Goods shall be levied by Basic Custom Duty [BCD], Education cess, [Ed. Cess] Secondary & Higher Education Cess [SHE] under the Customs Act, 1962.
- ✓ In addition to the above, IGST also will be levied on import of goods.
- ✓ GST compensation cess shall also be levied on import of goods.

1.5.7 Difference between CGST SGST and IGST :

S. No.	Particulars	CGST	SGST	IGST
1.	Meaning	CGST means Central goods and service tax to replace the existing tax like service tax, excise, etc. It is levied by Central Government.	SGST means State goods and service tax, which replaces the existing tax like sales tax, luxury tax, entry tax, etc. and it is levied by the state Government	IGST refers to the integrated goods and services tax and it is a combined form of CGST and SGST and it is levied by Central Government

2	Collection of data	Central Government	State Government	Central Government
3	Applicability	Intra state Supply	Intra state Supply	Interstate Supply
4	Composition	The dealer can use the benefit up to Rs. 1 crore under the composition scheme	The dealer can use the benefit up to Rs. 1 crore under the composition scheme	The composition scheme is not applicable in inter-state supply
5.	Registration	No registration till turnover crosses 20 lakh (10 lakh for special category states)	No registration till turnover crosses 20 lakh (10 lakh for special category states)	Registration is mandatory

1.6 GOODS AND SERVICES TAX COUNCIL :

In order to implement GST, Constitutional (122nd Amendment) Bill (CAB for short) was introduced in the Parliament and passed by Rajya Sabha on 03rd August, 2016 and Lok Sabha on 08th August, 2016. The CAB was passed by more than 15 states and thereafter Hon'ble President gave assent to "The Constitution (One Hundred and First Amendment) Act, 2016" on 8th of September, 2016. Since then the GST council and been notified bringing into existence the Constitutional body to decide issues relating to GST.

On September 16, 2016, Government of India issued notifications bringing into effect all the sections of CAB setting firmly into motion the rolling out of GST. This notification sets out an outer limit of time of one year, that is till 15-9-2017 for bringing into effect GST.

As per Article 279A (1) of the amended Constitution, the GST Council has to be constituted by the President within 60 days of the commencement of Article 279A. The notification for bringing into force Article 279A with effect from 12th September, 2016 was issued on 10th September, 2016.

Vision and Mission of the GST Council :

While discharging its functions, the Council is to be guided by the need for a harmonised structure of GST and the development of a harmonised national market for goods and services.

Further, the Council has to determine the procedure in the performance of its functions.

The vision and mission of the Council are as follows :

Vision :

To establish the highest standards of the cooperative federation in the functioning of the Council, which is the first constitutional federal body, vested with powers to take all major decisions relating to GST.

Mission :

Evolving by a process of wider consultation, a GST structure, which is information technology driven and user friendly.

Composition of the Goods and Services Tax Council :

The Council is a joint forum of the centre and the states and consists of the following members :

1. The Union Finance Minister as the Chairperson.
2. The Union Minister of State in-charge of Revenue or Finance.
3. The Minister in-charge of Finance or Taxation or any other Minister nominated by each state Government.

The members of the Council from the states have to choose one amongst themselves to be the Vice-Chairperson of the Council. They can also decide his term.

The Union Cabinet also decided to include the Chairperson of the Central Board of Excise and Customs (CBEC) as a permanent invitee (non-voting) to all proceedings of the Council.

Working of the GST Council :

The decisions of the Council are taken at its meetings. One-half of the total numbers of members of the Council is the quorum for conducting a meeting. Every decision of the Council is to be taken by a majority of not less than three-fourths of the weighted votes of the members present and voting at the meeting.

The decision is taken in accordance with the following principles :

- i) The vote of the central Government shall have a weightage of one-third of the total votes cast in the meeting.
- ii) The votes of all the state Governments combined shall have a weightage of two-thirds of the total votes cast in that meeting.

Any act or proceeding of the Council will not become invalid on the following grounds.

- (i) Any vacancy or deficit in the constitution of the Council
- (ii) Any defect in the appointment of a person as a member of the Council
- (iii) Any procedural irregularity of the Council not affecting the merits of the case.

Functions of the Goods and Services Tax Council :

The Council is required to make recommendations to the centre and the states on the following matters :

1. The taxes, cesses and surcharges levied by the centre, the states and the local bodies that would be merged in GST.
2. The goods and services that may be subjected to GST or exempted from GST.
3. Model GST Laws, principles of levy, apportionment of GST levied on supplies in the course of inter-state trade or commerce and the principles that govern the place of supply.
4. The threshold limit of turnover below which goods and services may be exempted from GST.
5. The rates include floor rates with bands of GST.
6. Any special rate or rates for a specified period to raise additional resources during any natural calamity or disaster.
7. Special provision with respect to the states of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.
8. Any other matter relating to GST, as the Council may decide.

In addition, the council shall also recommend the date on which the GST may be levied on petroleum crude, high-speed diesel, petrol, natural gas and aviation turbine fuel.

The Council also has to recommend the compensation to the states for the loss of revenue arising on account of the introduction of GST for a period of five years. Based on the recommendation, the Parliament determines the compensation.

1.7 ADVANTAGES OF GST :

Here are some of the advantages of GST :

Removal of the cascading effect of tax (tax on tax effect)- Lower cost of compliance - Simplified online process for GST – Improves efficiency in logistics – Regulation of the unorganized sector- Composition scheme for small businesses- Allows a higher number for registration.

The following points explain the advantages of GST :

i. GST Put an End to the Cascading Effect of Tax :

GST is an all-inclusive indirect tax that was introduced with the vision of bringing all the indirect taxes under one umbrella. As a result, this helped in eliminating the cascading effect that was prevalent in the previous tax structure. Let's take a look at the below example to better understand what cascading effect is and how the GST helped change it :

ii. Previous Tax Regime :

Let's assume that a supplier is offering his services for Rs. 50,000 and is charging a service tax of 15% ($50,000 \times 15\% = \text{Rs. } 7500$). Now say, he also buys supplies for his office for Rs. 20,000 and pays 5% as VAT ($20,000 \times 5\% = 1000$). This means that the supplier had to pay an output service tax of Rs. 7500 and did not receive a deduction of the VAT that he paid. This brings his total outflow to Rs. 8500.

iii. Under GST Regime :

This is what the suppliers will look under the new GST regime: GST of service of Rs. 50,000 at 18% Rs. 9,000 (-) GST paid on office supplies at 5% Rs. 1,000 Net amount to be paid as GST Rs. 8,000

iv. Lesser Compliance to be followed :

Before the GST act was implemented in 2017, we had several different indirect taxes. Naturally, there were various compliance rules associated with each of these taxes which made things complicated. Since the implementation of the new tax regime, there is only a single unified return to be filed by the taxpayers. The GST has around 11 returns, only 4 of which are basic taxes that apply to all the registered taxpayers regardless of their business type. For ease of filing these returns, only the main GSTR-1 is manually populated while GSTR-2 and GSTR-3 are automatically populated.

v. Greater Threshold for Registration :

During the VAT structure, a business having an annual average turnover of more than Rs. 5 lakh was liable to be taxed. The thing to note here is that this limit varies in different states of the country. Further, business entities with turnover less than Rs. 10 lakh were exempt from paying service tax. Under the GST tax structure; this threshold has been raised to Rs. 20 lakh, which eases the pressure from many small businesses.

vi. Improved Efficiency of Logistics :

Under the GST Act, the restrictions on inter-state movement of goods have been vastly reduced. Prior to this, the logistics industry was having to maintain multiple warehouses across states in order to avoid the related state entry taxes and CST. Further, companies were forced to operate these warehouses below their capacity, which led to an increase in operating costs. The implementation of GST meant that the restriction on inter-state movement of goods has been relaxed. As a result of these changes, companies and warehouse operators are now encouraged to set up warehouses in more strategic locations rather than every other city on their usual delivery route. This has greatly reduced unnecessary logistics costs and in improving the profit of businesses involved in the supply of goods.

vii. Easy Online Procedure :

With the advent of modern technology, everything has gone online. The online world has made things easier for all of us. GST has also followed these tracks and has a dedicated online portal. The entire process of registration to filing returns can be done online in a very

convenient way. This has greatly benefited start-ups as they do not need to go from one place to another to get various registrations such as VAT, service tax, and excise.

Growth in India's GDP :

It is believed that the implementation of GST would lead to an increase in the GDP of the country. A positive impact has been seen on the GDP.

Another additional advantage of GST is that it would decrease the plausibility of tax evasion in the country.

1.8 DISADVANTAGES OF GST IN INDIA :

The following are some of the drawbacks of the GST Act :

i. Increased Software Costs :

Before the GST regime, most businesses in India used a simple ERP or accounting software to handle their daily operations. These software and solutions were formulated in accordance with the then-existing tax laws and structures. With the implementation of GST, businesses are now required to upgrade to more expensive GST-compliant software or specialized GST software. This means an increase in operational costs in the form of software purchases and the associated training to employees.

ii. Increased Tax Burden on SMEs :

One of the main disadvantages of GST is that it has increased the tax liabilities on small to medium-sized businesses. This is so because, under the previous tax regime, excise had to be paid by businesses having an annual turnover of more than Rs. 1.5 crore. However, under the new tax structure, any business with an aggregate annual turnover of more than Rs. 20 lakh is liable to be taxed. However, this tax structure offers a composition scheme for SMEs that have a turnover of less than Rs. 1 crore. Under this scheme, SMEs are obligated to pay only 1% of their annual turnover. However, if a business decides to use this composition benefit, it cannot claim the input tax credit.

iii. Difficult Migration to Online Filing System :

Since the new tax structure came into effect, almost every aspect of the tax is handled online- from registration to submitting tax returns. With the advent of modern-day technology, the adoption of digital solutions by businesses is gradually increasing. However, little space is dedicated to such solutions for small businesses. Although the online system introduced by the Government is very convenient for business owners, it still has a steep learning curve that can prove to be challenging for small businesses.

iv. Compliance Burden :

Under the new taxation system, companies now have to register with GST in all the states that they operate in. As a part of the registration process, businesses must issue GST-compliant invoices, maintain electronic records, and file returns. The cost of all these services has massively increased the burden on the small and medium businesses in the country.

Further, several businesses find it difficult to adapt to GST because the infrastructure of all Indian states is not ready to implement e-governance.

v. Loss in the real estate sector :

There has been a major impact on the real estate market due to the implementation of the GST. It has led to an 8% increase in the price of the real estate sector. This has led to a 12% decrease in the demand for properties. But it might also be a short-term trend and might not last forever.

vi. In a nutshell :

In conclusion, we would like to say that change is slow, always has, and always will be. The Government is actively trying to tackle all the drawbacks that they have faced with the GST. It is important to note that all the global economies that have implemented the GST before us have also faced similar starting troubles. These economies have also found a way to overcome the hurdles to enjoy the advantages of GST.

1.9 CRITIQUES OF THE GST :

- i. A GST is generally considered to be a regressive tax, meaning that it takes a relatively larger percentage of income from lower-income households compared to higher-income households. This is because GST is levied uniformly on the consumption of goods and services, rather than on income or wealth.
- ii. Lower-income households tend to spend a larger proportion of their income on consumables, such as food and household goods, which are subject to GST. As a result, GST can disproportionately burden lower-income households.
- iii. Because of this, some countries with GST are discussing possible adjustments that might make the tax more progressive, which takes a larger percentage from higher-income earners.

a) India's Adoption of the GST : India established a dual GST structure in 2017, which was the biggest reform in the country's tax structure in decades. The main objective of incorporating the GST was to eliminate tax on tax, or double taxation, which cascades from the manufacturing level to the consumption level.

b) For example, a manufacturer that makes notebooks obtains the raw materials for, say, Rs. 10, which includes a 10% tax. This means that they pay Rs. 1 in tax for Rs. 9 worth of materials. In the process of manufacturing the notebook, the manufacturer adds value to the original materials of Rs. 5, for a total value of Rs. 10 + Rs. 5 = Rs. 15. The 10% tax due on the finished goods will be Rs. 1.50. Under a GST system, the previous tax paid can be applied against this additional tax to bring the effective tax rate to Rs. 1.50 – Rs. 1.00 = Rs. 0.50.

In turn, the wholesaler purchases the notebook for Rs. 15 and sells it to the retailer at a Rs. 2.50 mark-up value for Rs. 17.50. The 10% tax on the gross value of the good will be Rs. 1.75, which the wholesaler can apply against the tax on the original cost price from the manufacturer (i.e., Rs. 15). The wholesaler's effective tax rate will, thus, be Rs. 1.75 – Rs. 1.50 = Rs. 0.25.

Similarly, if the retailer's margin is Rs. 1.50, his effective tax rate will be (10% x Rs. 19) – Rs. 1.75 = Rs. 0.15. Total tax that cascades from manufacturer to retailer will be Rs. 1 + Rs. 0.50 + Rs. 0.25 + Rs. 0.15 = Rs. 1.90.

c) India has, since launching the GST on July 1, 2017, implemented the following tax rates :

- i. A 0% tax rate applied to certain foods, books, newspapers, homespun cotton cloth, and hotel services.
- ii. A rate of 0.25% applied to cut and semi-polished stones.
- iii. A 5% tax on household necessities such as sugar, spices, tea, and coffee.
- iv. A 12% tax on computers and processed food.
- v. An 18% tax on hair oil, toothpaste, soap, and industrial intermediaries.
- vi. The final bracket, taxing goods at 28%, applies to luxury products, including refrigerators, ceramic tiles, cigarettes, cars, and motorcycles.

The previous system, with no GST, implies that tax is paid on the value of goods and margin at every stage of the production process. This would translate to a higher amount of total taxes paid, which is carried down to the end consumer in the form of higher costs for goods and services. The implementation of the GST system in India is, therefore, a measure that is used to reduce inflation in the long run, as prices for goods will be lower.

1.10 SUMMARY :

After studying this lesson student should be able to know the concept of Goods and Services Act (GST) like Definition & Objectives of GST Advantages & Critiques of GST. Understand the Generation-Skipping Transfer Tax (GSTT), Further, it is focused on, GST Vs. GSTT, Components of GST such as: CGST, SGST IGST and UTGST. Hence, it is revealed about GST in India as well as Tax Laws before GST.

1.11 KEY WORDS :

GST :

GST (Goods and Services Tax) is one indirect tax for the whole nation. It is the resultant tax after subsuming major Central and State indirect taxes. GST is a destination based tax levied on the consumption of goods and services across the nation, thus rendering the country one unified common market.

GSTT :

The generation – skipping transfer tax (GSTT) is a federal tax that results when there is a transfer...The GSTT effectively closed the loophole that allowed wealthy individuals to legally gift money and bequeath property to their grandchildren without paying federal estate taxes.

SGST :

SGST is one of the tax components of GST in India. SGST Act expands to State Goods and Service Tax. It is one of the three categories under Goods and Service Tax (CGST, IGST and SGST) with a concept of one tax one nation. SGST falls under State Goods and Service Tax Act 2017. A simple understanding could be that, when SGST is being introduced, the present state taxes of State Sales Tax, VAT, Luxury Tax, Entertainment tax (unless it is levied by the local bodies), Taxes on lottery, betting and gambling, Entry tax not in lieu of Octroi, State Cesses and Surcharges in so far as they relate to supply of goods and services etc. are subsumed into one tax in GST called State GST.

CGST :

The Central Goods and Services Tax Act, 2017 Act No. 12 of 2017[12th April, 2017.] An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected ...

IGST :

IGST stands for Integrated Goods and Services Tax. IGST is one of the three components of Goods and Services Tax. IGS tax is levied when there is an inter-state transfer of goods and services.

1.12 SELF ASSESSMENT QUESTIONS :

1. Define GST and explain the objectives of GST.
2. What are the amendment were made to Indian Constitution regarding GST?
3. Explain about various components of GST.
4. Explain about GST Council in India.
5. What are the advantages, disadvantages and critiques of GST?
6. “E-way bills”& e – Invoicing.
7. GST Vs. GSTT

1.13 SUGGESTED READINGS :

1. Goods and Services Tax in India- Notifications on different dates.
2. GST Bill 2012.

3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017.
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Agra, 2022.
5. Paritosh Awasthi, “Goods and Service Tax in India”, Laxmi Book Publication, Solapur, 2017.

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Lesson – 2

GST REGISTRATION

Objectives :

After reading this lesson, student will be able to :

- To learn about when a person becomes liable to get registration under GST;
- To identify the scenarios where registration is compulsory; and
- To know the persons who are not liable for registration and the procedure for obtaining registration under GST.

Structure of the Lesson :

- 2.1 Introduction
- 2.2 Persons not liable for Registration
- 2.3 Compulsory Registration in Certain Cases
- 2.4 Procedure for Registration
- 2.5 Deemed Registration
- 2.6 Cancellation of Registration
- 2.7 Revocation of Registration
- 2.8 Summary
- 2.9 Key Words
- 2.10 Self Assessment Questions
- 2.11 Suggested Readings

2.1 INTRODUCTION :

Registration is the most fundamental requirement for identification of taxpayers ensuring tax compliance in the economy. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him. Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the Government and to avail input tax credit for the taxes on his inward supplies.

Advantages of Registration :

The following are advantages to a taxpayer who obtain registration under GST :

- (i) He is legally recognized as supplier of goods or services or both.

- (ii) He is legally authorized to collect taxes from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/recipients.
- (iii) He can claim Input Tax Credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services.
- (iv) Seamless flow of Input Tax Credit from suppliers to recipients at the national level.
- (v) Registered person is eligible to apply for Government bids or contracts or assignments.
- (vi) Registered person under GST can easily gain trust from customers.

Exception of One Registration for One State :

- (i) Multiple registrations permitted for separate business vertical.
- (ii) One as an input service distributor and other for outward supply.

Sec. 22 (1): Every supply shall be liable to be registered under the GST other than special category States, from where he makes a taxable supply of goods and services or both, if his aggregate turnover in a financial year exceeds Rs.20 Lakh (in case of special category States ` Rs.10 lakh).

Special Category States under GST :

As per Explanation (3) of Section 22 of CGST act 2017, “Special Category States” shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution. List of which is as follows:

1. Arunachal Pradesh
2. Assam
3. Jammu & Kashmir
4. Manipur
5. Meghalaya
6. Mizoram
7. Nagaland
8. Sikkim
9. Tripura
10. Himachal Pradesh
11. Uttarakhand

Note :

- (1) Registration is required if the aggregate turnover exceeds Rs.10 Lakh in case of special category States except Jammu & Kashmir. It means person located in Jammu & Kashmir may enjoy the benefit of minimum threshold limit of Rs. 20 lakh.
- (2) The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

Advantages of Voluntary Registration under GST :

- i) Legally recognized as supplier of goods or services;
- ii) This helps in attracting more customers.
- iii) Provide input tax credit to customers. As they can issue taxable invoices, they can collect GST. Their customers can take input credit on their purchases.
- iv) They will be more competitive than other small business as buying from them will ensure input credit.
- v) Voluntarily registered persons can take input credit on their own purchases and input services like legal fees, consultation fees, etc.
- vi) They can make inter-state sales without many restrictions.

Aggregate turnover in a Financial Year [Sec. 2(6) of CGST] :

Aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-state supplies of person having the same PAN, to be computed on all India basis but excludes Central Tax, State Tax, Union Territory Tax, integrated tax and Cess.

Aggregate turnover includes	Aggregate turnover excludes
The value of exported goods/services	Inward supplies on which the recipient is required to pay tax under Reverse Charge Mechanism (RCM).
Exempted goods/services or both which attracts nil rate of tax or wholly exempt from tax and includes nontaxable supply.	<ul style="list-style-type: none"> • Central tax (CGST), • State tax (SGST), • Union territory tax and • Integrated tax (IGST)
Inter-State supplies between distinct persons having same PAN	<ul style="list-style-type: none"> • Compensation Cess
Supply on own account and on behalf of principal.	

Important points :

- (i) The turnover will be computed PAN wise.
- (ii) The partner and partnership firm will have different PAN Nos. Thus the turnover of the partner and partnership firm will not be aggregated.
- (iii) The HUF and individual coparcener of the family have different PAN Nos. Hence, turnover of Karta of HUF in his individual capacity and turnover of Karta as a Karta of HUF will not be aggregated.
- (iv) Supply of goods, after completion of jobwork, by a registered jobworker shall be treated as the supply of goods by the principal referred to in Sec. 143 of the CGST Act, 2017, and the value of such goods shall not be included in the aggregate turnover of the registered jobworker. It will be included in the turnover of turnover of principal.

Example – 1 :

Mr. J has been involved in supplying taxable material in J&K, since, 1st July 2017. His turnover in the month of Nov 2017 exceeded the limit of Rs.20 lakh. Mr. J is required to register under GST law? Answer: Taxable turnover exceeds Rs.20 lakh, and then the supplier shall apply for registration in the month of Nov 2017. Therefore, Mr. J is required to register under GST law.

Example – 2 :

Mr. C of Calicut is trading on his own goods and also acting as an agent of Mr. B of Bengaluru. Mr. C turnover in the financial year 2017-18 is Rs.12 lakh in his own account and Rs.9 lakh on behalf of principal. Whether Mr. C is liable to register compulsorily under GST law. Answer: As per explanation 1 in computing the total turnover, both the value of supply on his own account that is Rs.12 lakh and on behalf of principal Rs.9 lakh will be aggregated. Hence, the aggregate turnover will be Rs.21 lakh. Mr. C is liable to register compulsorily under the GST law.

Registration effective w.e.f. 1st July 2017 under GST Sec. 22(2) :

Every person who, on the day immediately preceding, the appointed day, is registered or holds a licence under an existing law shall be liable to be registered under this Act with effect from the appointed day.

Registration under GST in case of transfer of going concern Sec. 22(3) :

Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as they may be, shall be liable to be registered w.e.f. The date of such transfer or succession.

Registration under GST in case of amalgamation or demerger Sec. 22(4) :

In case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an

order of High Court, Tribunal or otherwise, the transferee should be liable to be registered, w.e.f the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

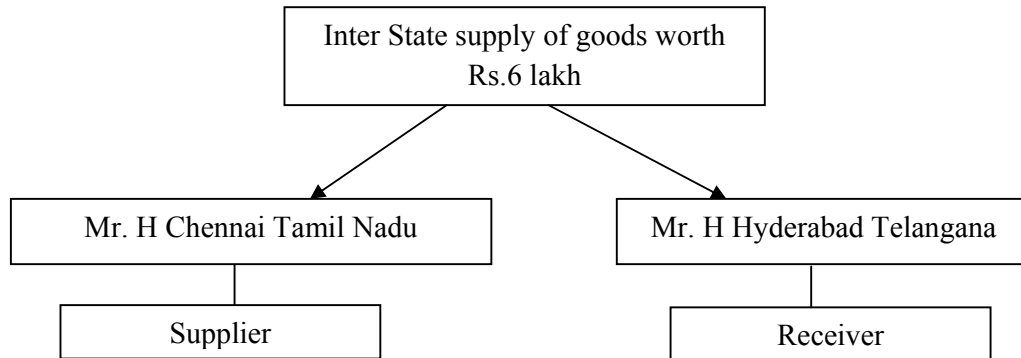
2.2 PERSONS NOT LIABLE FOR REGISTRATION :

- (i) Sec 23(1) (a) : Any person engaged exclusively in the business of supplying of goods or services or both they are not liable to tax or wholly exempt from tax under CGST or IGST.
- (ii) Sec 23(1) (b) : An agriculturist, to the extent of supply of produce out of cultivation of land.
- (iii) Sec. 23(2) : The Government may, on the recommendation of the GST Council.

2.3 COMPULSORY REGISTRATION IN CERTAIN CASES :

Sec. 24 : The following categories of persons shall be required to be registered under GST :

- i. Person making any inter-state taxable supply;
- ii. Causal taxable persons making taxable supply;
- iii. Person who are required to pay tax under reverse charge;
- iv. Person who are required to pay tax under sec. 9(5) of CGST (i.e. Electronic Commerce Operator);
- v. Non-resident taxable person making taxable supply;
- vi. Persons who are required to deduct tax under Sec 51, whether or not separately registered under this Act;
- vii. Persons who make taxable supply of goods or services or both on behalf of other taxable person whether as an agent or otherwise;
- viii. Input Service Distributor, whether or not separately registered under CGST;
- ix. Persons who supply of goods or services or both, other than supplies specified under Sec 9(5), through such electronic commerce operator who is required to collect tax at source under Sec 52;
- x. Every electronic commerce operator;
- xi. Every person supplying online information and database access or retrieval services from place outside India to a person in India, other than a registered person; and
- xii. Such other person or class of persons as may be notified by the Govt. on the recommendation of the Council.

(i) Person making any inter – state taxable supplies :

If a person makes a single inter – state supply, he will be liable to obtain registration and pay GST.

Inter State supply of services exempted from registration :

The GST Council, in its 22nd meeting held on 6th October 2017, has recommended that it has now been decided to exempt those service providers whose annual aggregate turnover is less than Rs.20 lakh (Rs.10 lakh in special category states. Rs.20 lakh for J & K) from obtaining registration even if they are making inter-State taxable supplies of services (vide Notification No. 10/2017 – Integrated Tax Dt. 13th Oct 2017).

Example – 3 :

Mr. CMA Manish, an unregistered person under GST, has place of profession in Bhubaneswar, Odisha, supplies taxable services to Infosys Ltd., a registered person under GST in Bangalore.

Answer the following :

- (a) Is it inter-State supply or intra – State supply.
- (b) Who is liable to pay GST.

Note : Mr. CMA Manish turnover in the P.Y. is Rs.18 lakh.

Answer :

Any person making inter-state supply has to compulsorily obtain registration and therefore in such cases, section 5(4) of IGST will not come into play.

However, Services providers providing aggregate supplies including inter-state services up to Rs. 20 lakh will be exempted from GST.

- (a) It is inter – State supply.
- (b) Mr. C is not liable to pay IGST. Since, registration is not made mandatory to him.

(ii) Causal taxable persons making taxable supply [Sec 2(20)] :

Causal taxable person means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business.

Registration compulsory :

A casual taxable person making taxable supply in India has to compulsorily take registration. There is no threshold limit for registration. A casual taxable person cannot exercise the option to pay tax under composition levy.

Application for Registration :

Casual taxable persons are required to obtain GST registration under a special category at least 5 days prior to the undertaking business.

There is no special form to register as a casual taxable person. Casual taxable person can use the normal form GST REG-01 which is used by other taxable persons for registration.

A casual taxable person, before applying for registration, declare his :

- Permanent Account Number,
- mobile number,
- e-mail address,
- State or Union territory

in Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

The Permanent Account Number shall be validated online by the common portal from the database maintained by the Central Board of Direct Taxes. The mobile number declared shall be verified through a one-time password sent to the said mobile number; and the e-mail address shall be verified through a separate one-time password sent to the said e-mail address.

On successful verification of the Permanent Account Number, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address. Using this reference number generated, the applicant shall electronically submit an application in Part B of FORM GST REG-01, duly signed or verified through electronic verification code, along with the documents specified in the said Form at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Advance Payment of Tax :

The Common Portal, after making the mandatory advance deposit of tax for an

amount equivalent to the estimated tax liability of such person for the period for which the registration is sought will give the applicant a temporary reference number. The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger. The amount deposited shall be credited to the electronic cash ledger of casual taxable person.

On depositing the amount, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.

The casual taxable person can make taxable supplies only after the issuance of the certificate of registration.

Validity of Registration :

The certificate of registration shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier.

The proper officer may extend registration for a period not exceeding 90 days. The casual taxable person shall make an advance deposit of tax (i.e. ADVANCE PAYMENT OF TAX) in an amount equivalent to estimated tax liability of such person for the period for which extension of registration is sought.

Returns :

The casual taxable person is required to furnish the following returns electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

- a) FORM GSTR-1 giving the details of outward supplies of goods or services to be filed on or before the tenth day of the following month.
- b) FORM GSTR-2, giving the details of inward supplies to be filed after tenth but before the fifteenth day of the following month.
- c) FORM GSTR-3 to be filed after fifteenth day but before the twentieth day of the following month.

Annual return :

However, a casual tax person shall not be required to file any annual return as required by a normal registered taxpayer.

Refund by Casual taxable person :

The casual taxable person is eligible for the refund of any balance of the advance tax deposited by him after adjusting his tax liability. The balance advance tax deposit can be refunded only after all the returns have been furnished, in respect of the entire period for which the certificate of registration was granted to him had remained in force. The refund relating to balance in the electronic cash ledger has to be made in serial no. 14 of the last FORM GSTR-3 return required to be furnished by him.

“If the estimated tax is much more than what is payable, it would be a lengthy process to obtain a refund. In the absence of output tax in the state where the goods or service has been supplied as a casual taxable person, input tax credit also cannot be claimed.”

Input Tax Credit :

Input tax credit shall be availed in respect of goods or services or both received by a casual taxable person. The taxes paid by a casual taxable person shall be available as credit to the respective recipients.

Example – 4 :

Mr. Gold runs a retail shop for handmade jewellery and is registered in Chennai. Mr. Gold is planning to sell the jewellery at an exhibition in Mumbai, to be held from 1st January 2018 to 10th January 2018. Advise time with regard to registration and payment of GST. Answer: Mr. Gold should apply for registration as a casual taxable person within 5 days prior to the date of commencing the exhibition on 1st January 2018. Mr. Gold should also make an advance deposit of the estimated tax liability for the period from 1st January 2018 to 10th January 2018.

Example – 5 :

M/s X Ltd is an advertising company located in Chennai and is registered as a normal taxable person there. Now, they have secured an assignment to manage digital marketing for the Koti Deepothsavam Festival, which will take place in Hyderabad, Telangana. This will require M/s X Ltd. to displace some resources in Hyderabad until the festival is over. Advise M/s X Ltd. to obtain for separate registration in the State of Telangana.

Answer :

In this case, since M/s X Ltd does not have too many assignments coming from Hyderabad, they can register as a Casual Taxable Person in Telangana for 90 days. This will enable the organizers of the festival to take input credit on all GST paid to M/s X Ltd.

(iii) Person who are required to pay tax under sec. 9(5) of CGST (i.e., Electronic Commerce Operator) :

Electronic commerce operator: shall include every person who, directly or indirectly, owns, operates or manages an electronic platform that is engaged in facilitating the supply of any goods and / or services or in providing any information or any other services incidental to or in connection there with but shall not include persons engaged in supply of such goods and/or services on their own behalf.

However, Titan Company supplying watches and jewels through its own website would not be considered as an e-commerce operator for the purpose of this provision.

(iv) Non – resident taxable person making taxable supply :

Sec 2(77) : non-resident taxable person means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.

A non-resident taxable person cannot exercise the option to pay tax under composition levy.

Registration compulsory :

A non – resident taxable person making taxable supply in India has to compulsorily take registration. There is no threshold limit for registration.

Application for Registration :

Non – resident taxable person has to apply for registration at least five days prior to commencing his business in India using a valid passport (and need not have a PAN number in India).

A non – resident taxable person is not required to apply in normal application for registration being filed by other taxpayers. A simplified form GST REG-09 is required to be filled. A non-resident taxable person has to electronically submit an application, along with a self-attested copy of his valid passport, for registration, duly signed or verified through electronic verification code (EVC), in FORM GST REG-09, at least five days prior to the commencement of business at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

In case the non – resident taxable person is a business entity incorporated or established outside India, the application for registration shall be submitted along with its tax identification number or unique number on the basis of which the entity is identified by the Government of that country or its PAN, if available.

The application for registration made by a non-resident taxable person has to be signed by his authorized signatory who shall be a person resident in India having a valid PAN. On successful verification of PAN, mobile number and e-mail address the person applying for registration as a non-resident taxable person will be given a temporary reference number by the Common Portal for making the mandatory advance deposit of tax for an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought.

The registration certificate shall be issued electronically only after the said deposit appears in his electronic cash ledger. The amount deposited shall be credited to the electronic cash ledger of the Non-resident person. The non-resident taxable person can make taxable supplies only after the issuance of the certificate of registration.

Advance tax :

A non – resident taxable person has to make an advance deposit of tax in an amount equivalent to his estimated tax liability for the period for which the registration is sought.

Validity of Registration :

The certificate of registration shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier. In case the non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in FORM GSTREG-11 shall be submitted

electronically through the Common Portal, either directly or through Facilitation Centre notified by the Commissioner, before the end of the validity of registration granted to him. The validity period of 90 days can be extended by a further period not exceeding ninety days. The extension will be allowed only on payment of the amount of an additional amount of tax equivalent to the estimated tax liability for the period for which the extension is sought has to be deposited.

Input Tax Credit :

Input tax credit shall not be available in respect of goods or services or both received by a non-resident taxable person except on goods imported by him. The taxes paid by a non-resident taxable person shall be available as credit to the respective recipients.

Returns :

The non – resident taxable person shall furnish a return in FORM GSTR-5 electronically through the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, including therein the details of outward supplies and inward supplies and shall pay the tax, interest, penalty, fees or any other amount payable under the Act or these rules within 20 days after the end of a calendar month or within 7 days after the last day of the validity period of registration, whichever is earlier.

Refund :

The amount of advance tax deposited by a non-resident taxable person under, will be refunded only after the person has furnished all the returns required in respect of the entire period for which the certificate of registration granted to him had remained in force. Refund can be applied in the serial no. 13 of the FORM GSTR -5.

(v) Persons who are required to deduct tax under Sec 51 whether or not separately registered under this Act :

As per 22nd GST Council meeting of 6th October 2017 Provisions of TDS deferred to 1st April 2018.

(vi) Persons who make taxable supply of goods or services or both on behalf of other taxable person whether as an agent or otherwise :

Clearing and forwarding (C&F) Agent receives the goods on behalf of the principal. Subsequently he supplies goods to the customer as an agent of the principal. He maintains the stock and report to the principal. If so such an agent shall be liable to obtain the registration compulsorily irrespective of the aggregate turnover of such agent.

(vii) Input Service Distributor whether or not separately registered under CGST :

As per Sec. 2(61) of the CGST Act, 2017, Input Service Distributor (ISD) means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 of the CGST Act, 2017 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax (CGST), State tax (SGST)/

Union territory tax (UTGST) or integrated tax (IGST) paid on the said services to a supplier of taxable goods or services or both having same PAN as that of the ISD.

It is important to note that the ISD mechanism is meant only for distributing the credit on common invoices pertaining to input services only and not goods (i.e. inputs or capital goods).

Registration compulsory :

An ISD will have to compulsorily take a separate registration as such ISD and apply for the same in form GST REG-1. There is no threshold limit for registration for an ISD. The other locations may be registered separately.

Distribution of input tax credit by ISD :

The Head Office would be procuring certain services which would be for common utilization of all units across the country. The bills for such expenses would be raised on the Head Office. But the Head Office itself would not be providing any output supply so as to utilize the credit which gets accumulated on account of such input services. ISD mechanism enables such proportionate distribution of credit of input services amongst all the consuming units.

For the purposes of distributing the input tax credit, an ISD has to issue an ISD invoice, as prescribed in rule 54(1) of the CGST Rules, 2017, clearly indicating in such invoice that it is issued only for distribution of input tax credit.

The input tax credit available for distribution in a month shall be distributed in the same month and details furnished in FORM GSTR-6. Further, an ISD shall separately distribute both the amount of ineligible and eligible input tax credit.

Manner of Distribution of ITC by ISD :

- (i) The credit has to be distributed only to the unit to which the supply is directly attributable to. For example, if an ISD has 4 units across the country. However, if a particular input service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units.
- (ii) If input services are attributable to more than one recipient of credit, the distribution shall be in the pro-rata basis of turnover in the State/Union Territory. For example, if an ISD has 4 units across the country. If the input services are common for all units, then it will be distributed according to the ratio of turnover of all the units.

Return :

An ISD will have to file monthly returns in GSTR-6 within 13 days after the end of the month and will have to furnish information of all ISD invoices issued.

The details in the returns will be made available to the respective recipients in their GSTR 2A. The recipients may include these in its GSTR-2 and take credit.

Annual Return : An ISD shall not be required to file Annual return.

Important Note :

An ISD cannot accept any invoices on which tax is to be discharged under reverse charge mechanism. This is because the ISD mechanism is only to facilitate distribution of credit of taxes paid. The ISD itself cannot discharge any tax liability (as person liable to pay tax) and remit tax to Government account. If ISD wants to take reverse charge supplies, then in that case ISD has to separately register as Normal taxpayer.

(viii) Persons who supply of goods or services or both, other than supplies specified under Sec 9(5) through such Electronic Commerce Operator (ECO) who is required to collect tax at source under Sec 52 :

As per 22nd GST Council meeting of 6th October 2017 Provisions TCS deferred to 1st April 2018.

(ix) Every electronic commerce operator :

As per section 2(45) of the CGST Act, 2017, Electronic Commerce Operator (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

Registration compulsory :

As per Section 24(x) of the CGST Act, 2017 the benefit of threshold exemption is not available to e-commerce operators and they are liable to be registered irrespective of the value of supply made by them.

A person supplying goods or services through e-commerce operator would not be entitled to threshold exemption (i.e. Rs.20 lakh or Rs.10 lakh as the case may be). This requirement is, however, applicable only if the supply is made through such electronic commerce operator who is required to collect tax at source under section 52 of the CGST Act, 2017.

Hence, any person who intends to sell on Flipkart or Amazon or Snapdeal must obtain GST registration.

An e-commerce operator is any online business that operates using a marketplace model. Under the marketplace model, an organization sets up an online portal where several small suppliers put up their products for sale. The organization that runs the portal collects payments, takes a percentage as a convenience fee, and sends the rest of the payment to the suppliers (like Flipkart, Amazon, and Snapdeal, etc.).

However, where the e-commerce operators are liable to pay tax on behalf of the suppliers under a notification issued under section 9 (5) of the CGST Act, 2017, the suppliers of such services are entitled for threshold exemption.

(x) Every person supplying online information and database access or retrieval services from place outside India to a person in India, other than a registered person :

Sec. 2(17) of 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 :

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming;

2.4 PROCEDURE FOR REGISTRATION :

Registration Procedure under GST [u/s 25 of CGST] :

Every person who is liable to be registered shall apply for registration within 30 days from the date on which he becomes liable to registration, before applying for registration declare his

1. Legal name of business
2. PAN,
3. Mobile number,
4. e-mail address,
5. State or Union territory

in Part A of Form GST REG -01 on Common Portal.

On successful verification of these numbers, a reference number will be generated. Applicant shall submit Part B of Form GST REG-01, duly signed, along with documents specified in the said Form at the Common Portal.

Form GST REG – 02 :

Acknowledgement of Application If these documents are found to be in order, the

Proper Officer shall approve the registration within 3 working days from the date of submission.

2.5 DEEMED REGISTRATION :

If the Proper Officer fails to take action in 3 working days from the date of submission, the registration is deemed to have been approved.

Form GST REG – 03 and GST REG – 04 :

The Proper Officer is satisfied with the clarification; he may approve the grant of registration to the applicant within 7 working days on receipt of such clarification.

If no reply is furnished by applicant in response to notice issued or Proper Officer is not satisfied with the clarification, he shall reject such application with reasons in writing and inform the applicant in Form GST REG-05. Where no action is taken in 7 working days on the clarification received from the applicant, the registration is deemed to have been granted.

Certificate of Registration :

Certificate of registration shall be granted in Form GST REG – 06.

Certification of registration contains Goods and Service Tax Identification Number (GSTIN):

- Two characters for the State code
- Ten characters for the PAN
- Two characters for the entity code; and
- One checksum character

Structure of GSTIN :

Each taxpayer is assigned a state-wise PAN-based 15 - digit Goods and Services Taxpayer Identification Number (GSTIN).

2.6 CANCELLATION OF REGISTRATION :

Cancellation of GST Registration [Section 29 of the CGST Act, 2017]:

The following persons are allowed to cancel GST registration :

- 1) The registered person himself
- 2) By a GST officer
- 3) The legal heir of the registered person

1) Cancellation by the registered person himself [Sec. 29(1)] :

Registered person under GST can himself/herself cancel their registration in any one of the following cases:

- Business has been discontinued.

- The business has been sold or transferred to some other party. That other party needs to register under GST.
- There is any change in the constitution of the business (like Partnership firm now converted into Private Limited Company and so on).
- Turnover is not more than Rs.20 lakh (` 10 lakh in the case of special category States except J&K).

2) Cancellation by a GST officer [Section 29(2)] :

GST registration of a person or business can be cancelled by a proper GST officer in one of the following cases :

- If the registered person has violated any of GST provisions or laws.
- A composition registered person has not filed tax returns for three consecutive quarters.
- A normal registered person who has not filed returns consecutively for six months.
- A voluntarily registered person who has not commenced any business in the six months from the registration date.
- If the registration is obtained by fraud methods, the proper officer has the right to cancel the registration with retrospective effect.

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

Section 29(3) of the CGST Act, 2017, the cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

Section 29(4) of the CGST Act, 2017, the cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

Section 29 (5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and

machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(3) The legal heir of the registered person :

The legal heir of the registered person can request cancellation through an application, in case of death of the person.

Procedure for Cancellation of Registration under GST :

GST registration can be cancelled by using the forms below :

Particulars	Relevant Form
Application for cancellation Note: The voluntary registrations can only be cancelled after one year or more from the date of GST registration.	GST REG 16
A proper officer can send the show cause / cancellation notice to a registered person	GST REG 17
The concerned person must reply back in this form within 7 days of notice explaining why his/her registration should not be cancelled	GST REG 18
This form will be used by the proper officer to issue a formal order for cancellation of registration. The order is to be sent within 30 days from the application date or from the date of response in GST REG 18 form.	GST REG 19
If the proper officer is satisfied with the explanation, he can use this form to drop the cancellation proceeding and pass a formal order.	GST REG 20

2.7 REVOCATION OF REGISTRATION :

Revocation of cancellation of registration [Section 30 of the CGST Act, 2017] :

As per section 30(1) of the CGST Act, 2017, subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within 30 days from the date of service of the cancellation order.

As per section 30(2) of the CGST Act, 2017, the proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

As per Section 30(3) of the CGST Act, 2017, the revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and

Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

Procedure for Revocation of Cancellation of Registration as per Rule 23 of the CGST Rules, 2017 :

Particulars	Relevant Form
Application for revocation of cancellation of registration within 30 days from the date of service of the order of cancellation of registration	GST REG-21 Note: Application for revocation cannot be filed if cancellation is on account of failure to furnish returns or failure to pay liability unless such return is filed / liabilities are discharged.
For justified reasons, proper officer shall revoke cancellation of registration within 30 days of application or receipt of clarification by passing an order	GST REG – 22
For unjustified reasons, proper officer shall issue show cause notice	GST REG – 23
Reply shall be filed in within 7 days.	GST REG – 24
For justified reasons, proper officer shall revoke cancellation of registration within 30 days of application or receipt of clarification by passing an order	GST REG – 22
For unjustified reasons, proper officer shall reject the application for revocation of cancellation of registration by passing an order.	GST REG – 05

2.8 SUMMARY :

Registration legally recognises a person as supplier of goods or services or both and legally authorises him to collect taxes from his customers and pass on the credit of the taxes paid on the goods and services supplied to the purchasers/recipients. Registration ensures the seamless flow of input tax credit from suppliers to recipients at the national level.

Under GST law, a supplier is required to obtain State-wise registration. There is no concept of a centralised registration under GST like the erstwhile service tax regime. A supplier has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.

Registration under GST is not tax specific, which means that there is single registration for all the taxes, i.e., CGST, SGST / UTGST, IGST and GST compensation cess.

Chapter-VI – Registration (Section 22 to 30) of the CGST Act and Chapter-III Registration (Rules 8-26) of the CGST Rules contain the provisions relating to registration. State GST laws also prescribe identical provisions in relation to Registration.

2.9 KEY WORDS :

Registered Person :

A person who is registered under Section 25, but does not include a person having a Unique Identify Number (Section-2(94)).

Common Portal :

The common goods and services tax electronic portal referred to in Section-146 [Section 2(26)].

Aggregate Turnover :

It is a crucial parameter for deciding the eligibility of a supplier to avail the benefit of threshold exemption from registration, eligibility for composition scheme.

Threshold Limit :

The Threshold Limit prescribed U/s-22(1) is Rs.20 Lakh in a Financial Year, i.e., every supplier, whose aggregate turnover in a financial years exceeds Rs.20 lakh, is liable to be registered under GST in the State/UT from where he makes the taxable supply of goods and/or services.

Special Category States :

As per Article-279A(4)(g) of the Constitution, there are 11 Special Category States, viz., Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

2.10 SELF ASSESSMENT QUESTIONS :

1. What are the advantages of taking GST Registration?
2. At the time of registration, will the assessee have to declare all his places of business?
3. The persons who are not liable for Registration?
4. Explain about certain cases which are belongs to compulsory registration of GST.
5. Explain the procedure for Registration of GST.
6. The persons who are allowed to cancel GST registration? Explain.

2.11 SUGGESTED READINGS :

1. Goods and Services Tax in India- Notifications on different dates.

2. GST Bill, Government of India, 2012.
3. Jitendra Kumar Saxena, Vishnu Shankar Agrahari, & Narendra Kumari, 'Goods and Services Tax', Thakur Publication Pvt. Ltd., Lucknow, 2023.
4. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017.
5. Background Material on Model GST Law, Sahitya Bhavan Publications, Agra-383 003

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Lesson – 3

GST PRINCIPLES

Objectives :

After reading this lesson, student will be able to :

- know the concept of Tax reform, objectives and Types of Tax Reforms;
- learn about effects of Tax reform, achievement and challenges of Tax Reforms;
- Understand the comprehensive structure and components of GST; and
- know various Models of GST proposed in India.

Structure of the Lesson :

- 3.1 Tax Reforms – Introduction
- 3.2 Objectives of Tax Reforms
- 3.3 Types of Tax Reforms
- 3.4 Effects of Tax Reforms
- 3.5 Tax Reforms in India: Achievements and Challenges
- 3.6 Vijay Kelkar Committee on Tax Reforms
- 3.7 Comprehensive Structure of GST in India
- 3.8 Components of GST
- 3.9 Difference between CGST, SGST and IGST
- 3.10 Models of GST proposed in India
- 3.11 Single GST Vs. Dual GST
- 3.12 Multiple Rates of GST
- 3.13 Summary
- 3.14 Key Words
- 3.15 Self Assessment Questions
- 3.16 Suggested Readings

3.1 TAX REFORMS – INTRODUCTION :

Tax reform, as the name suggests, is a kind of reform made in the tax system of a nation that can help the government of the same in minimizing the chances of tax evasion and avoidance. It brings sustainability in the revenue levels, addresses issues and conflicts

concerning inequality employing behaviour change and redistribution, and also aids in the development of a nation. Tax reform is a policy implementation by the government through which few alterations are made into the tax system in order to overcome the loopholes and enhance the effectiveness of the tax administration in the country in order to generate higher revenues from taxes as compared to the overall spending.

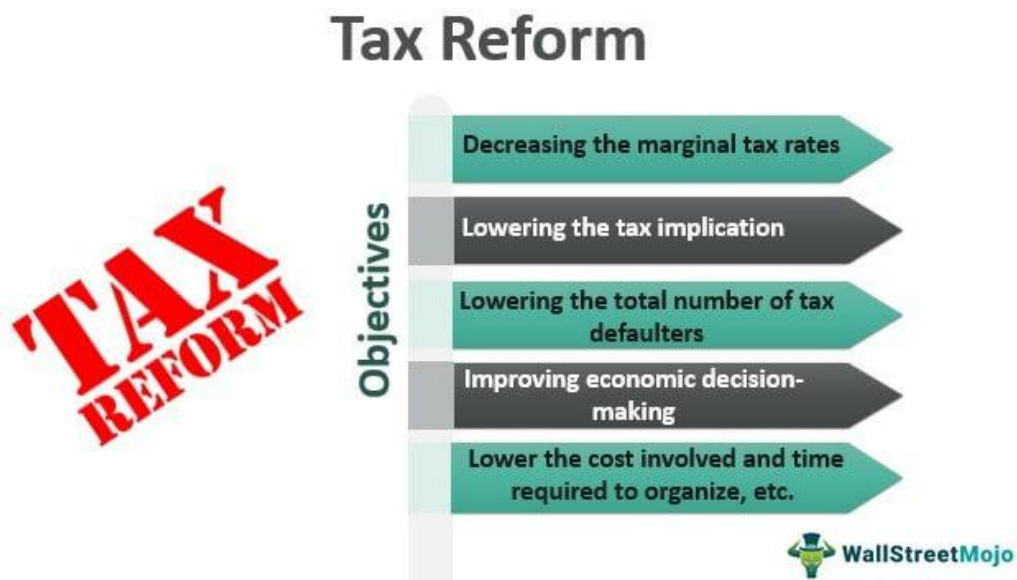
Purpose :

Tax reform is introduced for multiple purposes. The first and foremost purpose is to minimize the slightest of probabilities of avoidance and evasion of the tax from the economy. Another purpose is to induce a higher rate of sustainability in the revenue levels and directing the public investments into desired avenues by means of providing tax deductions, tax breaks, and tax exemptions. The ultimate purpose is to enhance the overall functioning of the tax system and bring economic growth in the country.

3.2 OBJECTIVES OF TAX REFORMS :

Tax reform is introduced to fulfill multiple objectives. It aims at improving the efficiency of the tax administration and allowing it to become more systematic by :

- i) Decreasing the marginal tax rates.
- ii) Lowering the tax implication of savings and investment;
- iii) Lowering the occurrence and probabilities of tax avoidance and tax evasion;
- iv) Lowering the total number of tax defaulters;
- v) Improving economic decision-making;
- vi) Lowering the cost involved and time required to organize, plan and implement the change in the tax system;
- vii) Uniform treatment in the case of industries, investments, and properties.

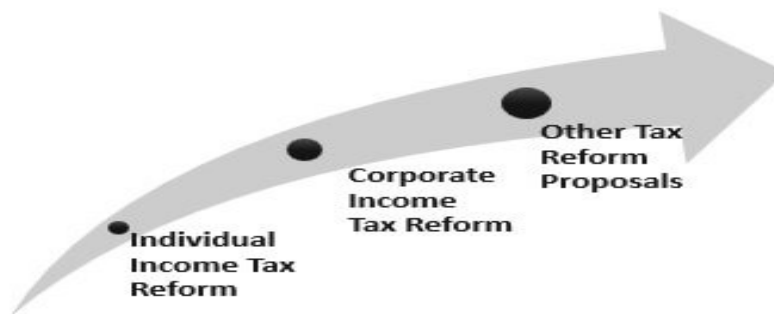


Need for Tax reform :

There has always been an undying need for the changes in the tax system. The collection of taxes is necessary for funding the services that are arranged and provided by the government of a country. The tax system must be efficient enough for the collection of a sufficient amount of revenues and boosting the economic growth of a country. No matter how systematic the tax system of a country is, the taxpayers will find a way by identifying and taking advantage of the loopholes in the system and avoiding/ evading taxes. As a result of this, the need has risen and ensures that the tax administration of a nation is totally organized.

3.3 TYPES OF TAX REFORMS :

Basically three different types include :



3.3.1 Individual Income Tax Reform can be learned as a strategy that is used for eliminating the income expenditures and payroll taxes incurred by an individual.

3.3.2 Corporate Income Tax Reform can be learned as a strategy that is used for administering the corporate income taxes and avoid distortions that take place on account of special provisions and also boosts the economic growth and development of an economy.

3.3.3 Other Reform Proposals are used to create and introduce new types of taxes in the tax system for replacing or supplementing the current taxes.

Example :

The introduction of Carbon taxes is one of the prominent examples of tax reform. Some of the people suggest that with the introduction of the carbon taxes in any economy, two goals can be achieved that includes firstly the raising of the revenue of the government as the person who uses the carbon content of the fuel will have to pay the taxes to the government of the country, and another goal is discouraging the use of the carbon-intense energy as with this Government is ultimately trying to reduce the negative effect of carbon content in the environment thereby creating positive environmental effects.

3.4 EFFECTS OF TAX REFORMS :

The effects of such reform may not be the same for all taxpayers and economies too. On the one hand, It might enhance the functioning of the tax system while, on the other hand,

it paves ways for political pressures that are short term in nature. These reforms have somehow contributed to the creation of certain tax incentives that has ultimately led to the distortion in the economy and have even marginalized not just the efficiency of the tax system but has also allowed it to become more fair and transparent as compared to what it used to be earlier.

3.4.1 Benefits :

- i) Reduces marginal tax rates;
- ii) Ensures that there is a same treatment for all, whether it's a property, industry, or an investment.
- iii) Tax reform ensures that the rate of tax evasion and avoidance gets lowered.
- iv) It ensures that the tax structure gets fully organized.
- v) It simplifies tax laws and encourages compliance.
- vi) It widens the tax base and reduces per capita tax by dividing the tax burden by bringing more and more taxpayers under the umbrella.

3.4.2 Limitations :

- i) Ignores the fact that the impact of the overall tax administration that is important and not just individual taxes.
- ii) It makes the tax system more complicated.
- iii) It ignores the fact that the slightest change in the tax system can have a huge impact on the masses.

3.5 TAX REFORMS IN INDIA:

ACHIEVEMENTS AND CHALLENGES :

There have been major changes in tax systems in several countries over the last two decades for a variety of reasons. The objective of this paper is to analyse the evolution of the tax system in India since the early 1990s. The paper describes and assesses the introduction of new forms of direct and indirect taxes, their revenue and equity implications and the successes achieved in their implementation. The paper concludes that after eight years of reform improving the tax system remains a major challenge in India. There have been major changes in tax systems of countries with a wide variety of economic systems and levels of development during the last two decades. The motivation for these reforms has varied from one country to another and the thrust of reforms has differed from time to time depending on the development strategy and philosophy of the times. In many developing countries, the immediate reason for tax reforms, has been the need to enhance revenues to meet impending fiscal crises.

As Bird (1993) states, "...fiscal crisis has been proven to be the mother of tax reform". Such reforms, however, are often ad hoc and are done to meet immediate exigencies of

revenue. In most cases, such reforms are not in the nature of systemic improvements to enhance the long run productivity of the tax system. One of the most important reasons for recent tax reforms in many developing and transitional economies has been to evolve a tax system to meet the requirements of international competition.

The transition from a predominantly centrally planned development strategy to market based resource allocation has changed the perspective of the role of the state in development. The transition from a public sector based, heavy industry dominated, import substituting industrialization strategy to one of allocating resources according to market signals has necessitated systemic changes in the tax system. In an export-led open economy, the tax system should not only raise the necessary revenues to provide the social and physical infrastructure but also minimize distortions. Thus, the tax system has to adjust to the requirements of a market economy to ensure international competitiveness

3.6 VIJAY KELKAR COMMITTEE ON TAX REFORMS :

Vijay Kelkar suggests single GST rate of 10 % as the ideal reform of the indirect tax structure. Kelkar and Ajay Shah argued that a single GST rate of 10 per cent applied to 70 per cent of India's produce would have earned the Centre and States 7 per cent of the country's GDP.



As the Government gears up to find ways to earn more money from the nation-wide GST tax whose collections have been below par now for more than two years, experts are again raising questions on why a low single rate of GST was not introduced.

Former Finance Secretary Vijay Kelkar and economist Ajay Shah in their book, *In Service of the Republic*, have argued that a single GST rate of 10 per cent applied to 70 per cent of India's produce would have earned the Centre and States 7 per cent of the country's GDP and would have been easier to administer.

“A single 10 per cent rate applied on 70 per cent of the economy yields 7 per cent of GDP as tax revenues and even if we actually obtain a part of this, we are broadly okay,” Kelkar and Shah say in their book, adding “At this low rate it would have been able to possible to avoid all exclusions. Petroleum products could have gone in, real estate could have gone in.”

India currently has a multi-rate GST system with goods being taxed at 0, 5, 12, 18 and 28 per cent besides some goods such as petroleum products and liquor being left out of the GST set up. The complexity of the system and frequent changes are often blamed for poor collections. Till November-end, the total GST collections have been just over Rs 8 lakh crore, a shortfall of nearly rs 1 lakh crore against the target.

Kelkar and Shah argue that for sin goods such as tobacco and liquor, there could have been layers of non-Vatable 'sin taxes' on top of basic GST imposed by states. States could also choose to impose carbon tax such as a tax on plastics used, layered on top of the GST.

With India turning into a near \$ 3 trillion economy in 2019, a basic 10 per cent GST on 70 per cent of the economy would have translated into about \$200 billion or Rs 14.4 lakh crore in GST revenues. Sin taxes on top of that on a select few articles could have got states some extra revenues.

May economists have argued in the past that a single low GST tax would have proven easier to administer and given a fillip to consumer demand as prices would have gone down, encouraging buyers to come to the marketplace. The former finance secretary and his co-author says "in the first two years significant resource allocation would have started taking place, with firms discovering more efficient ways of working, This would have fed back into higher GDP growth and thus tax revenues."

Kelkar adds that "the Government at all levels is an important buyer of goods and services ad low rate would have generated a beneficial impact on the budget."

However till now the NDA Government has taken a stand that multiple rates were best for the country. Famously, late finance minster Aru Jaitley had said "a 'hawai chappal' (rubber slippers) and a Mercedes car cannot be taxed at the same rate."

Other economists within the Government including Bibek Deb Roy, chairman of the PM's Economic Advisory Council have argued for reducing the number of rates by merging some of them, something which the current finance ministry seems to be in favour of but by increasing the tax burden on some products.

3.7 COMPREHENSIVE STRUCTURE OF GST IN INDIA :

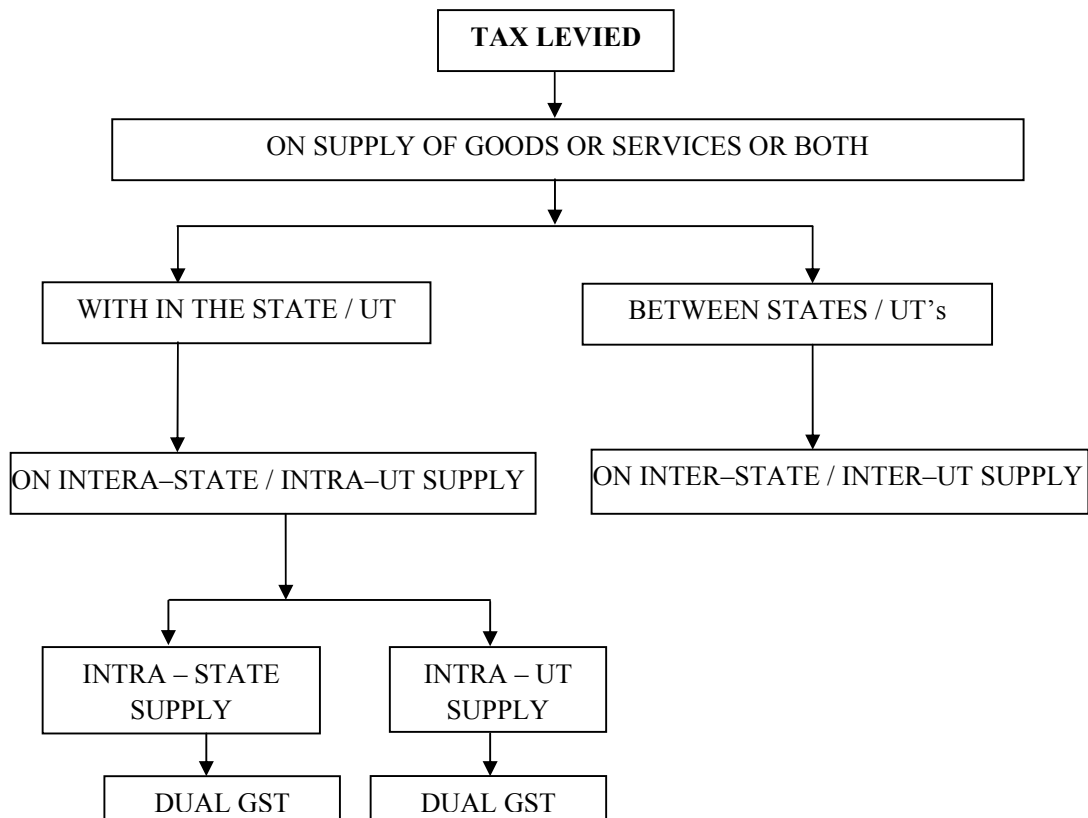
Previously, the Central Government levied tax on manufacturing (Central Excise duty), provision of services (Service Tax), interstate sale of goods (CST levied by the Centre but collected and appropriated by the States) and states levied tax on retail sales (VAT), entry of goods in the State (Entry Tax), Luxury Tax, Purchase Tax, etc. It is clearly discernible that this fractured mandate of taxation between the Central and State Governments leaves a lot of gaps in the supply chain. There is cascading of taxes as taxes levied by Central Government are not available to set off against the taxes being levied by the State Governments. Further, the variety of VAT tax laws in the country with disparate.

Tax rates and dissimilar tax practices divides the country into separate economic

spheres creation of tariff and non- tariff barriers such as Octroi, Entry Tax, and Check posts, etc., hinder the free flow of trade throughout the country. Besides that, the large number of taxes creates high compliance cost for the taxpayers in the form of number of return payments etc. In fact, it is said that our tax laws have created a situation where business decisions are based on tax considerations rather than logical economical factors. All these issues created a need for one tax that will be able to mitigate number of these problems to a large extent.

All the taxes mentioned earlier have been subsumed in a single tax called the **Goods and services Tax (GST) which will be levied on supply of goods or services or both at each stage of supply chain starting from manufacture or import and till the last retail level.** GST is proposed to be a dual levy where the Central Government will levy and collect Central GST (CGST) and the states will levy and collect the state GST (SGST). The Centre will also levy and collect Integrated GST (IGST) for inter-state supply of goods and services.

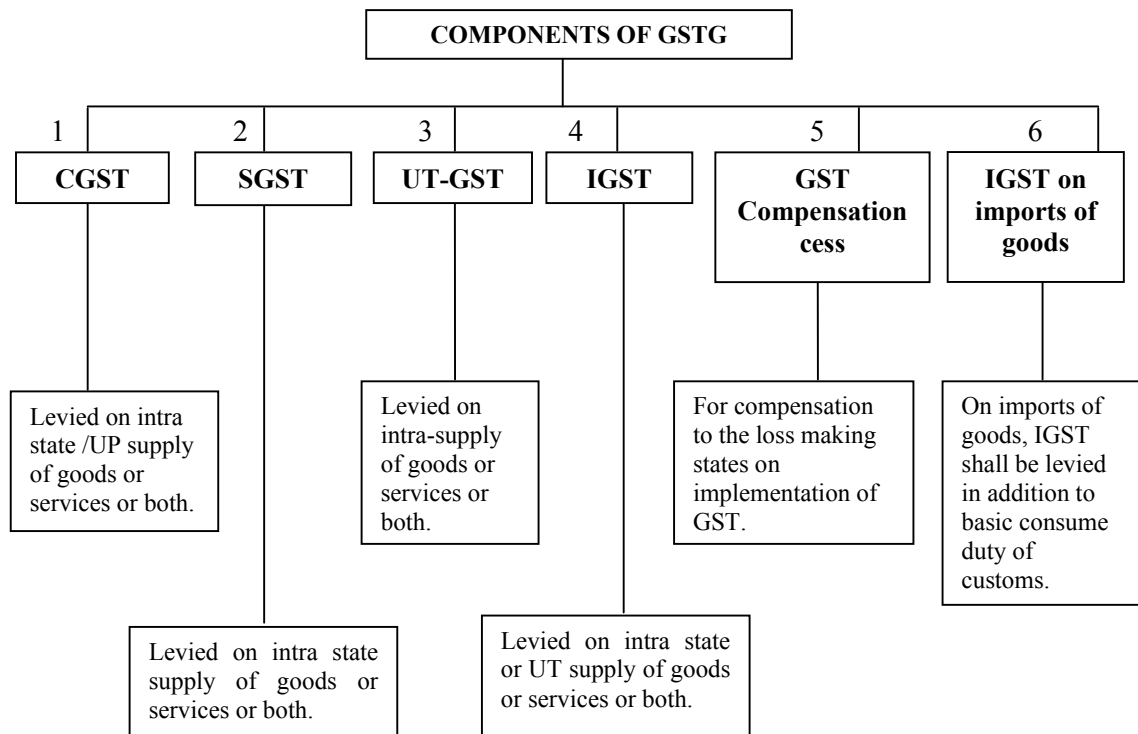
DUAL – GST STRUCTURE IN INDIA :



Integrated GST (IGST) shall be levied on inter – state or inter – UT supply of goods or services or both between Two States, Two UT's, State and UT.

3.8 COMPONENTS OF GST :

India has adopted a DUAL – GST which is imposed tax concurrently by the Central Government and States / Union Territories simultaneously on goods and services.



- Both Centre and the States/UT's have the power to tax Intra State Supplies (i.e. within the same state/UT)
- On Inter State Supplies (i.e. between two or more states/UT's), the Central Government has the power to levy tax.

3.8.1 Central GST (CGST) :

- ★ Central GST is levied by the Central Government.
- ★ Central GST is levied on Intra State or Intra UT transactions i.e. transactions that take place within the same state or same UT.
- ★ Central GST is levied on Supply of goods or services or both.
- ★ Taxable Event in Central GST is Intra state/UT supply of goods on services or both.
- ★ All Central Taxes got subsumed in CGST such as Excise Duty, Service Tax, Additional Custom Duty, Special Additional Custom Duty, Central Surcharges and Cesses, etc.
- ★ CGST is levied under CGST Act, 2017
- ★ Income from CGST is levied and collected by the Central Government.
- ★ Up to 200 NM (Nautical Miles) inside sea is India for the purpose of GST.

3.8.2 State GST [SGST] :

- State GST is levied by the respective State Governments.
- State GST is levied on Intra State transactions i.e. transactions that take place within the same state.
- State GST is levied on supply of goods or services or both.
- Taxable Event in State GST is Intra state supply of goods or services or both.
- All State taxes got subsumed in SGST such as VAT (Value Added Tax), Purchase Tax, Luxury Tax, Taxes on lottery & gambling, Entry tax, Entertainment Tax, etc.
- SGST is levied under respective SGST Acts of different states.
- Income from SGST is levied & collected by the State Government with state legislatures.
- Area up to 12 NM inside sea is a part of the state which is nearest.

3.8.3 Union Territory GST [UT GST] :

- ❖ UT GST is levied by the Central Government.
- ❖ UT GST is levied on Intra UT transactions i.e. transactions that take place within the same UT.
- ❖ UT GST is levied on supply of goods or services or both.
- ❖ Taxable Event in UTGST is Intra UT supply of goods or services or both.
- ❖ The VAT that was applicable in Union Territories got subsumed in UTGST.
- ❖ UTGST is levied under the UTGST Act, 2017 applicable on all UT's except Delhi and Pondicherry, which have their own legislatures like state GST for all states.
- ❖ Income from UTGST is levied & collected by the UT's without state legislatures.
- ❖ Area up to 12 NM inside sea is a part of UT which is nearest.

3.8.4 Integrated GST [IGST] :

- IGST is levied by the Central Government.
- IGST is levied on Inter State or Inter UT transactions (i.e. transaction that take place between two or more states or UT's).
- IGST is levied on supply of goods or services or both.
- Taxable Event in IGST is Interstate/UT supply of goods or services or both.
- CST i.e. Central Sales Tax got subsumed into IGST.
- IGST is levied under the IGST Act, 2017.
- Income from IGST shall be apportioned between the centre and states on the recommendations of the GST council.

- IGST is sum total of CGST and SGST.

3.8.5 GST Compensation Cess :

- ✓ GST Compensation cess deals with the payment of compensation to the states.
- ✓ This compensation is for any loss of revenue on account of implementation of GST.
- ✓ GST compensation cess has been implemented for a period of five (5) years.
- ✓ GST compensation cess is in accordance with the provisions of Section 18 of the GST (Compensation to States) Act, 2017.
- ✓ The revenue to be compensated will consist of revenues from all taxes earlier levied by the states (before GST) which have now been subsumed in GST.
- ✓ The compensation will be released by the Comptroller bi-monthly and provisionally, Auditor General subject of to India. Final adjustment after yearly audit.
- ✓ Examples of goods which attract Compensation Cess: Pan Masala, Tobacco products, coal, Aerated water, etc.

3.8.6 IGST on Imports of Goods :

- ▶ The Imports of Goods shall be levied by Basic Custom Duty [BCD], Education cess, [Ed. Cess] Secondary & Higher Education Cess [SHE] under the Customs Act, 1962.
- ▶ In addition to the above, IGST also will be levied on import of goods.
- ▶ GST compensation cess shall also be levied on import of goods.

3.9 DIFFERENCE BETWEEN CGST, SGST AND IGST :

Sl. No.	Particulars	CGST	SGST	IGST
1.	Meaning	CGST means Central goods and service tax to replace the existing tax like service tax, excise, etc. It is levied by Central Government.	SGST means State goods and service tax, which replaces the existing tax like sales tax, luxury tax, entry tax, etc. and it is levied by the state Government.	IGST refers to the integrated goods and services tax and it is a combined form of CGST and SGST and it is levied by Central Government.
2	Collection of data	Central Government	State Government	Central Government
3	Applicability	Intra state Supply	Intra state Supply	Interstate Supply

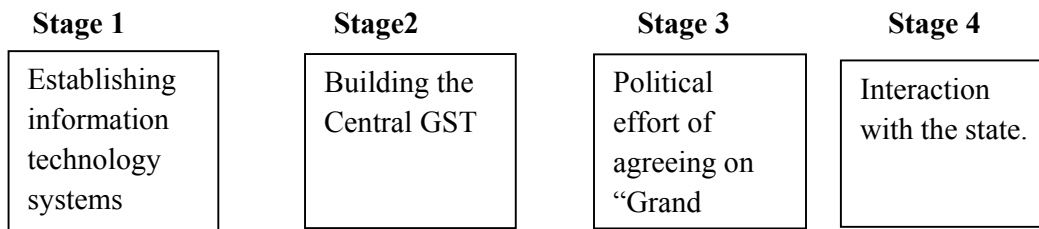
4	Composition	The dealer can use the benefit up to Rs. 1 crore under the composition scheme	The dealer can use the benefit up to Rs. 1 crore under the composition scheme	The composition scheme is not applicable in inter-state supply
5.	Registration	No registration till turnover crosses 20 lakh (10 lakh for special category states)	No registration till turnover crosses 20 lakh (10 lakh for special category states)	Registration is mandatory

3.10 MODELS OF GST PROPOSED IN INDIA :

a) Kelkar Shah model of GST :

The concept of goods and services tax or GST was mooted by Dr. Vijay Kelkar, former finance secretary in 2004. Kelkar shah model of GST is a unified GST model which is based on grand bargain to merge the central excise; service tax and state VAT to make it a common base for GST. As per this model, two different rates of tax are to be levied by the centre and the states. This is like the HST (Harmonised sales tax) model in Canada.

The Kelkar Shah model suggested implementation of GST in four stages.



The Kelkar Shah model intended to merge central excise (CENVAT), service tax and state VAT into one common base.

- Three ad-valorem rates proposed (in addition to zero rate)
 - – At Centre-6%, 12% and 20%
 - – At States-4%, 8% and 14%.
- This model is similar to the HST model in Canada.
- GST to be levied both by the Centre and the States.
- The model also proposed that the Centre shall collect tax revenue from the big industries and the states will collect from the smaller industries.
- This model did not consider the provisions of the constitution (as it proposed centre and states to collect tax revenues on the basis of size of industries), hence was not considered appropriate.
- Imports to be liable to both central GST and state GST.

b) The Bagchi Poddar Model of GST :

This model like Kelkar- Shah model, proposes to combine Central excise, Service tax and State VAT to make a common base of GST. These models also proposed that the GST shall be levied by both centre and the states separately. By abolishing the central excise, service tax and state VAT, The taxable event under this model shall be the act of sale of goods or services or both. The model clearly envisages that a constitutional amendment shall be necessary to bring the taxing powers on goods and services under the concurrent list and also to abolish the present division of taxing power between the centre and states.

Features of the Bagchi Poddar model of GST :

- Combination of central excise, service tax and VAT as a common base for GST.
- Levied by both centre and the states separately.
- Single RNR (Revenue neutral rate) of 6%.
- If more than one rate, then two rate system to be adopted comprising standard rate and lower rate (Lower rate for basic necessities).
- Envisages constitutional amendment by bringing the taxing powers on goods and services under the concurrent list.
- Envisages national harmonisation agreement.

c) Comprehensive Model of GST :

- ✓ The GST shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GST or SGST). Rates for Central GST and State GST would be approved appropriately, reflecting revenue considerations and acceptability.
- ✓ The CGST and the SGST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services.
- ✓ Cross utilization of ITC both in case of inputs and capital between the CGST and the SGST would not be permitted except in the case of inter State supply of goods and services (i.e., IGST).
- ✓ The Center and the States would have concurrent jurisdiction for the entire value chain and for all tax payers on the bases of thresholds for goods and services prescribed for the State and the Center.

d) Dual GST Model :

A “Dual GST” Model has been adopted in view of the federal structure of our country. Center and States will simultaneously levy GST on every supply of goods or services or both which, takes place within a State or Union Territory. Thus, there shall be two components of GST :

- I. Central tax (CGST) (Levied and collected under the authority of CGST Act, 2017 passed by the parliament).

- II. State Tax (SGST) (Levied and collected under the authority of SGST Act, 2017 passed by respective state).

a) Non Concurrent Dual GST :

Under this model, GST on goods can be levied by the states only and on services by the center only. The states already have the power of levy the tax on the sale and purchase of goods (and also on immovable property), and the Center for taxation of services. No special effort would be needed for levying a unified Center tax on inter-state services. This model of Dual GST would not be acceptable to the Center as well the states. Hence, the Government has already announced its intention to follow the concurrent the Dual GST.

b) Concurrent Dual GST:

It consists of both the Central GST and State GST levied on the same base. Under this model, GST will be levied by both tiers of Governments concurrently. There will be Central GST to be administered by the Central Government and there will be State GST to be administered by State Governments. In this model, both goods and services would be subject to concurrent taxation by the Centre and the States. All types of goods and services will be brought under this proposed GST structure except few exceptions. India and Canada follow the Concurrent dual GST model.

For example, if a product has a cost of Rs.10,000 and rate of CGST and SGST are 9% then in such case both CGST and SGST will be charged on ? 10,000 i.e. CGST will be? 900 and SGST will be Rs 900.

e) Central and State GST :

Dual GST : Many countries in the world have a single unified GST system i.e., a single tax applicable throughout the country. However, in federal countries like Brazil and Canada, a dual GST system is prevalent whereby GST is levied by both the federal and state or provincial governments. In India, a dual GST is proposed whereby a Central Goods and Services Tax (CGST) and a State Goods and Services Tax (SGST) will be levied on the taxable value of every transaction of supply of goods and services.

3.10.1 Features of Proposed Indian Dual GST :

1. Single Registration :

Registration under GST is pan based which means PAN is mandatory for all assesses. The respective assesses are required to take registration for each premises in each state from which supplies are made. Under GST, each assesses are treated as separate assesses and the concept of separate legal entity is totally wiped out.

2. Destination principle :

The GST structure would follow the destination principle. Accordingly, imports would be subject to GST, while exports would be zero-rated. In the case of inter-

state transactions within India, State tax would apply in the state of destination as opposed to that of origin.

3. Uniform Method :

Procedures for collection of Central and State GSTs would be uniform. Payment of tax is totally online through net-banking thereby encouraging ease of doing business.

4. Returns :

There are eight GST returns which need to be filled by the persons. As per the proposal, the returns can be filed on a specific date of a month, like on 10th of next month for outward supplies, 15th for inward supplies and 20th in case of monthly returns. There is a provision for filing of GST returns by non-resident tax payers in form GSTR-5. Non-resident tax payers could include taxi aggregators like Uber. There will be a defaulters list of those who will be failing to file returns periodically and such details would be forwarded to GST authorities for necessary action.

5. Administration :

Harmonization of center and state tax administrations, which would reduce duplication and compliance costs. Elimination of multiplicity of taxes and their cascading effects.

6. Classification of goods & services :

HSN (Harmonized System of nomenclature) will form the basis of product classification for Central GST and State GST and Service tax accounting codes (commonly known as SAC) for services.

3.10.2 Benefits of Dual GST :

The Dual GST is expected to be a simple and transparent tax with one or two CGST and SGST rates. The dual GST is expected to result in :

1. Reduction in the number of taxes at the Central and State level.
2. Decrease in effective tax rate for many goods.
3. Removal of the current cascading effect of taxes.
4. Reduction of transaction costs of the taxpayers through simplified tax compliance.
5. Increased tax collections due to wider tax base and better compliance.

3.10.3 Model of GST with example :

- a) The GST shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GST or SGST). Rates for Central GST and State GST would be approved

- b) ISPECIAL services made for a consideration except the exempted goods and services. appropriately, reflecting revenue considerations and acceptability.
- c) The CGST and the SGST would be applicable to all transactions of goods and Services made for a consideration excepted the exempted goods and services.
- d) Cross utilization of ITC both in case of Inputs and capital goods between the CGST and the SGST would not be permitted except in the case of inter-State supply of goods and services (i.e. IGST).
- e) The Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre.

3.11 SINGLE GST Vs. DUAL GST :

1. Simple and transparent tax :

Dual GST is the best solution for countries like India because it will reduce the number of taxes at central and state level. This will also be easy to implement and create accountability for.

2. Decreasing tax rate :

Dual GST will also result in reduction in the effective tax rates for many goods.

3. Removal of cascading effect of taxes :

The implementation of GST will reduce the cascading effects of the present taxation system

4. Simplified tax compliance :

By reducing the transaction costs of taxpayers, dual GST will bring about simplified tax compliance.

5. Increase in the amount of tax collection :

Better compliance and a wider tax base will lead to increased tax collections

6. India is a federal country with disparate states :

Dual GST is ideally suited for a country like India to ensure unity through diversity. Single point GST is neither desirable economically nor practical administratively, because it means central excise duty, sales tax and service tax will be merged to be collected as a single tax.

7. Questions about the Constitution :

The Constitution of India does not permit the Centre to be in charge of sales tax and states similarly are not permitted to levy central excise duty and service tax. If the Constitution is amended to combine all taxes in 1 list (whether Union/State/Concurrent), present federal structure will change fundamentally. This

is because the Centre will levy everything if it goes to the Union List and the States would not agree to this. If this goes to the State List, Centre will protest against loss of fiscal power. Concurrent list would be even bigger problem with no one being able to control the power of states to increase taxation rates.

8. Upset fiscal federalism :

If dual GST is not adopted and a unified GST system is preferred, this will upset the notion of fiscal federalism which is the fundamental cornerstone of India polity. Moreover, the fundamental structure of the Constitution cannot be changed through an amendment.

9. Unified GST would therefore go against the spirit of the Constitution :

Unified GST does not exist in most federal States :

With the exception of Australia, unified GST system does not exist in any nation with a federal structure. Countries that have combined GST are unitary states mostly. Though Canada has a single federal GST, it also has states sales taxes and Brazil does not follow a pure single GST system either.

10. Who will collect the GST ?

This becomes an issue if single point GST is implemented. States will not allow Centre to be sole tax authority. System will malfunction further if tax collection services at Union and State level are merged.

11. Dual GST most practical for federal India :

As Centre already levies CENVAT and tax services, CGST will work well with some harmonization as will SGST with symmetry in a dual GST system.

12. Easily attainable :

The dual GST system is easy to attaining the current given that India is following an indirect taxation system. Certain may be required, but on the whole, the transition will be easier.

13 Good Balance :

The dual GST will strike a good balance between harmonisation and fiscal autonomy of Centre and States. Government will be able to apply taxes to goods and services at various the supply chain.

14. Least changes, most benefits :

Dual GST will provide a competitive for companies to work on an international scale. Moreover, single will also reduce costs to customers

15. Single point GST will impair Centre's revenues :

Dual GST will in the Centre's revenue. Reduction in fiscal transfers will offset losses will also have access to revenue resources for future needs. Any other not be revenue

neutral for state

16. Better for business :

Single GST will mean that businesses will have with different task laws for different states and this will affect business

17. Undermines States powers, is not workable :

Unhealthy competition among states using tax structures to attract industries if implemented. Dual GST is more workable and a complete withdrawal from State's taxation could impair the ability of the latter to collect symmetrical manner.

3.11.1 Single GST is better :

1. Dual GST not an ideal model :

It can only be a transitional model be levied at two levels and compliance costs may not lessen significantly.

2. Comprehensive model of Single GST better :

This GST comprehensive model for taxation of inter and intra state transactions and goods.

3. Taxation of services at State level a challenge in dual GST :

For services that are provided nationwide such as telecommunications transportation.

4. Prevent economic distortions :

A single/unified GST would be levied rate thereby doing away with classification disputes and economic distortion.

5. Freeing up of resources :

Reduction in compliance costs would open for more productive pursuits besides making India a one tax nation markets a reality. There would also be free distribution of goods and lack of checkpoint or internal tax frontiers and other barriers to trade.

6. One rate, one base :

One set of tax rules rates, will form the essence of a unified GST. It will also promote harmonization of tax rates, bases and administration.

7. Inter has been state less variations than positive to For lessen :

Example Indian there experience is substantial with diversion inter-state of variation gold and silver would sales be problematic in areas where in terms VAT is of lower taxation compared of service to other elements states. of Such a unified variations GST would also be ideal from a business perspective as stability in decision making will result.

8. Minus the cascading effects :

Cascading effects would be contained as there would be no tax at two levels.

9. Increase customer awareness :

Customer will know how much is the indirect tax burden in goods and services consumed by him.

3.12 MULTIPLE RATES OF GST :

The primary GST slabs for regular taxpayers are currently 0% (nil-rated), 5%, 12%, 18%, and 28%. There are a few GST rates that are less commonly used, such as 3% and 0.25%. Furthermore, the taxable composition persons are required to pay General Service Tax at lower or nominal rates such as 1.5%, 5%, or 6% on their turnover.

GST Rates in 2023 - List of Goods and Service Tax Rates, Slab & Revision

GST rates list is crucial for every Indian business and consumer to know. When the GST Council revises GST rates, it hits respective industries, trade bodies and end consumers, impacting the economy. Everyone tends to evaluate their position as a result of this change. Our HSN cum GST rates finder helps you identify the accurate and latest GST rate applicable for the product/service.

3.12.1 Meaning of GST Rates :

GST rates refer to the percentage rates of tax imposed on the sale of goods or services under the CGST, SGST and IGST Acts. A business registered under the GST law must issue invoices with GST amounts charged on the value of supply. The GST rates in CGST and SGST (For intra-state transactions) are approximately the same. Whereas, the GST rate in the case of IGST (For inter-state transactions) is approximately the sum total of CGST and SGST rate.

3.12.2 Types of GST Rates and GST Rate structure in India :

The primary GST slabs for any regular taxpayers are presently pegged at 0% (nil-rated), 5%, 12%, 18% & 28%. There are a few lesser-used GST rates such as 3% and 0.25%. Also, the composition taxable persons must pay GST at lower or nominal rates such as 1.5% or 5% or 6% on their turnover. There is a concept of TDS and TCS under GST as well, whose rates are 2% and 1% respectively.

These are the total GST rate of IGST for interstate supply or the addition of both CGST and SGST for intrastate supply. The GST rates shall be multiplied by the assessable value of the supply to arrive at the GST amounts in a tax invoice. Further, the GST law levies cess in addition to the above GST rates on the sale of some items such as cigarettes, tobacco, aerated water, petrol, and motor vehicles, rates widely varying from 1% to 204%. The GST rate structure for some of the commonly-used consumable products is given in the below table. For more items, type in the item you wish to know the GST rate of by visiting our HSN code & GST rates finder.

3.12.3 What are the GST rates in India 2023?

The year 2023 has begun with key changes in GST rates passed during the last week of December 2022. During its meetings, the GST Council also revised the GST rates of some key items across 2022. Some were done to correct the prevailing inverted tax structure, whereas a few were revised for revenue augmentation. The following sections cover the summarised details of changes to GST rates in India with the new GST rates 2023.

Here is a summarised version of the list of rate cuts on both Goods and Services :

S. No.	List of Goods/Services	Changes in Tax Rate
1.	Vegetables preserved but unsuitable for immediate consumption	5% to Nil
2	Vegetables cooked/uncooked via steamed, frozen or boiled (branded)	5% to Nil
3	Music Books	12% to Nil
4	Parts for mfg. renewable energy devices falling under chpt. 84, 85 or 94 of Tariff	5%
5	Natural cork	12% to 5%
6	Fly ash blocks	12% to 5%
7	Walking sticks	12% to 5%
8	Marble rubble	18% to 5%
9	Agglomerated cork	18% to 12%
10	Cork roughly squared or debugged	18% to 12%
11	Articles of Natural cork	18% to 12%
12	Movie Tickets < or = Rs 100	18% to 12%
13	Premium on Third party insurance on Vehicles	18% to 12%
14	Accessories for Handicapped Mobility Vehicles	28% to 5%
15	Power banks	28% to 18%
16	Video game consoles, equipments used for Billiards and Snooker and other sport related items of HSN code 9504	28%to18%
17	Retreated & used pneumatic Rubber Tyres	28% to 18%
18	Colour Television Sets & monitors up to “32 Inches”	28% to 18%
19	Digital & Video Camera recorders	28% to 18%
20	Pulleys, transmission shafts, cranks and gear boxes under HSN 8483	28% to 18%
21	Tax rate on Air travel of pilgrims reduced*	28% to 18%

*For travel by non-scheduled/chartered operations for religious pilgrimage which are facilitated by GoI under bi-lateral agreements.

Others :

GST on the composite supply of goods attracting 5% GST rate where it is supplied along with the supply of construction services and other goods for solar power plant is now

levied as follows: 70% of value is considered as supply of goods and taxed at 5% GST. Remaining 30% of the EPC contract value is supply of service and attracts standard tax rate for service. -Rate of 5%/18% to be applied based on transaction value of footwear. -Uniform GST rate of 12% on Flexible Intermediate Bulk Container (FIBC) from existing 5%/12% (depending on the value).

3.12.4 Goods recommended for exemption :

Supply of gold by Nominated Agencies to exporters of article of gold Jewellery. Proceeds received by Government from auction of gifts received by President, Prime Minister, Governor or Chief Minister of a State and public servants, the proceeds of which is used for public or charitable cause. Vehicles imported for temporary purposes under the Customs Convention on the Temporary importation of Private Road Vehicles (carnet de passages-entouane) will be exempt from IGST and Compensation cess.

3.12.5 Services recommended for exemption :

Services supplied by banks to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).

Services supplied by rehabilitation professionals recognised under Rehabilitation Council of India Act, 1992 at hospitals, schools or rehabilitation centres established by Government or charitable institute registered under Section 12AA of The Income tax Act, 1961.

Loan guarantee services provided by Government to its undertakings and PSUs for bank loans.

3.12.6 GST Rate revision in 28th GST council meeting :

28th GST Council Meeting was held on 21st July 2018. GST Rates for 45 Goods and 2 Services has been revised*.

Recent GST Rate Changes on Goods :

S. No.	Items	New Rate	Old Rate
1	Rakhi (other than that of precious or semi-precious material)	Nil	18%
2	Sanitary Napkins	Nil	12%
3	Circulation and commemorative coins	Nil	5%
4	Raw material for broom	Nil	12%
5	Stone/Marble/Wood Deities	Nil	5%
6	Sal leaves and its products	Nil	18%
7	Khali dona	Nil	18%
8	Coir pith Compost	Nil	5%
9	Chenille fabrics and other fabrics under 5801	5%	12%
10	Handloom dari	5%	12%

11	Phosphoric Acid (fertilizer grade only)	5%	12%
12	Handmade Carpets, Textile Floor, Coverings	5%	12%
13	Knitted cap/topi having retails sale value exceeding Rs. 1000	5%	12%
14	Kota Stones and Similar Stones (other than polished)	5%	18%
15	Ethanol for sale to oil marketing companies for blending with fuel	5%	18%
16	Solid Bio fuel pellets	5%	18%
17	Marine Engine	5%	28%
18	Bamboo Flooring	12%	18%
19	Hand Operated Rubber Roller	12%	18%
20	Brass Kerosene Pressure Stove	12%	18%
21	Zip and Slide Fastener	12%	18%
22	Handicrafts (Excluding handmade)	12%	18%
23	Handbags including pouches and purses; jewellery box	12%	18%
24	Fuel Cell vehicle	12%	28%
25	Televisions upto 68 cm	18%	28%
26	Glaziers' putty, grafting putty, resin cements	18%	28%
27	Refrigerators, freezers, water cooler, milk coolers, ice cream freezer	18%	28%
28	Washing Machines	18%	28%
29	Food Grinders & mixer	18%	28%
30	Vacuum Cleaners	18%	28%
31	Paints and Varnishes (including enamels and lacquers)	18%	28%
32	Shavers, Hair Clippers	18%	28%
33	Hair Cleaners	18%	28%
34	Storage water heaters	18%	28%
35	Immersion heaters	18%	28%
36	Hair Dryers, Hand Dryers	18%	28%
37	Electric Smoothing irons	18%	28%
38	Scent Sprays	18%	28%
39	Toilet Sprays	18%	28%
40	Pads for application of cosmetics or toilet preparations	18%	28%
41	Lithium-ion batteries	18%	28%
42	Powder Puffs	18%	28%
43	Special purpose motor vehicles	18%	28%

44	Work Trucks (Self-propelled, not fitted with lifting or handling)	18%	28%
45	Trailers & Semi trailers	18%	28%

3.12.7 List of Services Exempt :

Senior Citizens :

1. Services provided by Coal Mines provident fund organisation to the PF subscribers.
2. Services provided by Old age home run by state government / central government to the citizens aged more than 60 years up to Rs. 25000. GST exempted on the administrative fee collected by National Pension System Trust.
3. Services provided by an unincorporated body or non profit entity registered under any law to own members up to Rs. 1000 per year of membership fees.

3.12.7.1 Agriculture / Farmers :

1. Services by way of artificial insemination of livestock (other than horses)
2. Services provided by FSSAI to food businesses.
3. Services provided by way of warehousing minor forest produce.
4. Services provided by the installation and commissioning by DISCOMS for extending electricity distribution network for agricultural use.

3.12.7.2 Banking / Finance / Insurance :

1. Reinsurance services provided to insurance scheme such as Pradhan Mantri Rashtriya Swasthya Suraksha Mission

Government :

1. Guarantees given by central/state government to their undertakings/PSUs.
2. Services provided by government to ERCC by assigning the right to collect royalty to mining lease holders.

3.12.7.3 Miscellaneous :

1. Import of services by foreign diplomatic missions / UN other international organizations.
2. GST rate slabs will apply on the actual rate for hotel services instead of declared tariff. GST Rate revision in 25th GST council meeting. 25th GST Council meeting on 18th January 2018. GST council has made the much-awaited announcements around tax rates on various categories of goods on 18th January 2018 at Vigyan Bhavan, Delhi. There has been hype around these rates for a while and now these GST rates are finally in the public domain!

3.13 SUMMARY :

After studying this lesson student should be able to know the concept of Tax reform and Types of Tax Reforms, Objectives of Tax reform, understand the various tax avoidance strategies, Importance of Constitutional Amendments. Further it is revealed about Tax reform focuses on strengthening the current tax system and widens out the tax base. Tax reform aims at enhancing the efficiency of the overall tax system by lowering marginal tax rate to reducing taxation on investment and savings, boosting the economic development of the nations, lowering the number of tax defaulters, etc.

The primary GST slabs for regular taxpayers are currently 0% (nil-rated), 5%, 12%, 18%, and 28%. There are a few GST rates that are less commonly used, such as 3% and 0.25%. Furthermore, the taxable composition persons are required to pay General Service Tax at lower or nominal rates such as 1.5%, 5%, or 6% on their turnover.

3.14 KEY WORDS :

Tax reform:

Tax reform is a policy implementation by the government through which few alterations are made into the tax system in order to overcome the loopholes and enhance the effectiveness of the tax administration in the country in order to generate higher revenues from taxes as compared to the overall spending.

Constitution:

In simple words, we can say a Constitution is the constitutional law of the state. Constitutional law enjoys the position of being the supreme and fundamental law of the state. It lays down the organisation and functions of the government of state. The Government can use only those powers which the Constitution grants to it.

CGST:

CGST means Central goods and service tax to replace the existing tax like service tax, excise, etc. It is levied by Central Government.

SGST:

SGST means State goods and service tax, which replaces the existing tax like sales tax, luxury tax, entry tax, etc. and it is levied by the state Government.

IGST:

IGST refers to the integrated goods and services tax and it is a combined form of CGST and SGST and it is levied by Central Government.

3.15 SELF-ASSESSMENT QUESTIONS :

1. What do you know about Tax Reforms?
2. Explain its objectives and types of Tax Reforms.

3. Write a note on tax reforms in India and achievements and challenges of reforms.
4. Critically examine the Vajay Kelkar Committee on Tax Reforms.
5. Describe the comprehensive structure of GST in India and components of GST.
6. Explain different models of GST in India.

3.16 SUGGESTED READINGS :

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003.

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Lesson – 4
TAXES EXEMPTED FROM GST

Objectives :

After reading this lesson, student will be able to :

- know about various taxes & duties outside the purview of GST;
- learn about Taxation of services under GST and Rate of GST on Taxable Services; and
- understand the Intra-State and Inter-State supply of services and also about service providers.

Structure of the Lesson :

- 4.1 Taxes & Duties outside the Purview of GST
- 4.2 Taxation of Services under GST
- 4.3 Rates of GST on Taxable Services
- 4.4 Intra-State supply of Services
- 4.5 Inter-State supply of Services
- 4.6 Goods / Materials supplied by Service Provider
- 4.7 Major – Services
- 4.8 Practical Problems relating to valuation of various services
- 4.9 Summary
- 4.10 Key Words
- 4.11 Self Assessment Questions
- 4.12 Suggested Readings

4.1 TAXES & DUTIES OUTSIDE THE PURVIEW OF GST :

The taxes subsumed in GST include Central Excise Duty, Service Tax, VAT, and several other taxes. However, direct taxes such as income tax, customs duty on imports and taxes on petroleum products are not subsumed in GST. The State-level Taxes Replaced by GST: Purchase tax.-Central sales tax.- VAT.- Surcharge and CESS- Entry tax.- Taxes on lottery, gambling and betting.-Taxes on advertisements.

GST (goods and services tax) is an Indirect Tax which replaced many Indirect Taxes in India. The good and services tax act was passed in 2017 and has been implemented since then. Before GST, taxes such as service taxes, state vats, entry taxes, luxury taxes were applied on goods. These taxes have been absorbed under GST. Similarly, Service tax,

entertainment tax were levied on services. Now there is only a single tax, that is, GST. Under GST, tax is levied directly at every point of sale. Below taxes are not subsumed in GST.

4.1.1 Custom Duty :

The Countervailing Duty (**CVD**) and Special Additional Duty (**SAD**) will subsumed under GST, but the Basic Customs Duty (**BCD**) will be charged according to current law only and not GST. Customs duties are charges levied on goods when they cross international borders. Customs duties are charged by special authorities and bodies created by local governments and are meant to protect local industries, economies, and businesses. Customs taxes are imposed on the import and export of commodities all over the world in order to generate income and/or protect domestic institutions from foreign competitors. Custom duties are taxed on consumers for harmful products such as tobacco and alcohol to discourage public use. In practice, import duty is levied when imported goods first enter the country. For example, in the United States, when a shipment of goods reaches the border, the owner, purchaser or a Customs broker (the importer of record) must file entry documents at the port of entry and pay the estimated duties to Customs.

Customs duty is a form of indirect tax which is imposed at the time of both import and export of goods and services. The tax which is imposed on the import of goods and services are known as Import duty and for export of goods and services are known as Export duty. All goods imported into India are subject to duty. The duty is levied at the time of import and is paid by the importer of the goods. The main purpose of import duty is to protect Indian industries from cheaper foreign goods. According to Customs Act, 1962 section 27 and 26 deals with the eligibility of importers and exporters to claim a refund and if the refund is not paid within the stipulated time interest is payable on the amount of refund at the rate of 15 p.a. as per the section 27A of the Customs Act 1962. Under GST, these multiple taxes have been replaced by just one tax known as IGST (Integrated Goods and Services Tax). Only the integrated tax and the basic customs duty will be chargeable on the import of goods.

4.1.2 Stamp Duty :

The buyer has to pay stamp duty for the registration of the property, and GST will not cover Stamp duty and will be subsumed as per the tax levied by the government. Stamp duty is a tax imposed on the sale of property/property ownership by the state government. It is payable under Section 3 of the Indian Stamp Act, 1899. The duration of the stamp duty at the time of registration shall be based on the value of the house/property. A penalty is levied if the charges are not paid. Stamp duty is the evidence that a property has been bought either in the buyer's or seller's name and is valid for 6 months. It is levied on all legal property transactions. Several documents require stamp duty. Stamp duty is a government indirect tax, which is levied on all legal property transactions. Stamp duty is, therefore, a tax which is evidence, as it were, of any purchase or sale of a property between two or more parties. Stamp papers, which have to be bought either in the name of the seller or buyer, are valid for 6 months, provided the stamp duty is paid without any delay. Stamp Duty Act: Stamp duty is

paid as per the provisions of Section 3 of the Indian Stamp Act, 1899. Stamp duty is levied to boost revenue for local governments besides lending legality to a document.

Stamp Duty Payment :

It is important to note that stamp duty should be paid in full and without any delay, failing which, a penalty is levied. A stamp duty document is a legal instrument that has evidentiary value (admissible in a court of law as evidence). Stamp duty has to be paid before execution (signature by an individual's party) of a given document, the next day, or on the day of document execution. Stamp duty is paid by a buyer in most cases. However, both the seller and the buyer have to bear the burden of stamp duty for property exchange cases. As per Section 13 of the Indian Stamp Act, 1899, an individual executing a given instrument has to cancel the stamp (adhesive) by writing his initials or name across it. If a stamp is not canceled in the aforementioned method, the document is considered unstamped. In other words, the stamp should be visible on the face of an instrument and therefore, cannot be applied to another instrument.

Stamp Duty Charges :

Stamp duty rates differ in various states across the country as stamp duty in India, is a state subject. However, the central government fixes the stamp duty rates of specific instruments. As mentioned above, a delay in the payment of stamp duty will attract a penalty of 2% every month (up to 200% of the remaining amount). Stamp Duty on Property Registration: Legal evidence of ownership or transfer of a property is mandatory. In the end, the buyer, in most cases, has to register his or her name in the municipal records. The buyer has to pay stamp duty at the time of registration. The amount of stamp duty may vary from one state to another. Stamp duty also depends on whether a given property is new or old.

Stamp Duty Registration Factors :

Age of the Property – Value of the Property- City or location of the Property-Gender and age of the Property owner-Usage of Property-Documents which require for Stamp Duty. Some of the documents which require stamp duty are listed below: Transfer instruments- Deed of partition - Reconveyance of mortgaged property- Mortgage deed-Certificates of sale-Gift deed- Exchange deed-Tenancy agreement- Power of attorneys-License agreement- Lease deeds

4.1.3 Vehicle Tax :

GST does not cover road tax, so the Vehicle Tax will not be charged under GST, and will remain under the **Motor Vehicle Act**. Andhra Pradesh is known for its easy interstate connectivity facilitated by its rail and road network. The Motor Vehicles Act, 1988 includes a separate provision for the state that mandates the payment of road tax by all vehicle owners in the state. The State Government invests the revenue collected through road tax in new roads and infrastructure maintenance. While you can pay the tax at the RTO office, new Andhra Pradesh (AP) road tax payment online portals have made it very easy to complete this process at home. Hence, if you own a vehicle or are planning on buying one, there are some

fundamentals about RTO tax in Andhra Pradesh you should know. Why Does the State Government Levy Road Tax? The State Government is responsible for the construction and maintenance of roads in the state. They recover the cost to maintain the infrastructure of these roads in the form of road tax from the vehicle owners. The government then uses these funds to expand the network of roadways in the state and provide its citizens with basic amenities like street lights and road signs. How to Pay Road Tax Online in Andhra Pradesh (AP)? Vehicle owners in Andhra Pradesh can pay the road tax at their local RTO office or at the place of vehicle registration. Thanks to the digitalization of Government-mandated formalities, you can also complete the vehicle tax payment online in AP. In order to complete the AP road tax online payment, you can follow these simple steps:

Visit the AP road tax payment online portal on the AP transport department's official website or the Pragathi portal. Go to the 'Tax and Fees Payment' section- Enter your vehicle registration number and chassis number. Then, click on the 'Get Taxation Search' button- The screen will display your application details. Navigate to 'Pay Tax'. Here, you will be able to view the last date for your RTO tax payment and validity- From the given options of quarterly, half-yearly and yearly, select your payment type and then proceed to payment- The fee details will be displayed; tick the agreement box. Select the payment options for AP transport road tax online payment- Once the Andhra Pradesh road tax online payment has been completed successfully, a receipt will be generated which you can download and print

How is Road Tax Calculated in Andhra Pradesh? The RTO manages road tax collection in Andhra Pradesh and is in charge of calculating the road tax. Here are some of the main factors that are taken into account while determining the Vahan tax charges: Vehicle type- Engine capacity- Age of the vehicle- Purpose of Vehicle Usage

4.1.4 Excise on Liquor :

For the time being, Liquor has been kept outside the GST. Under the Chapter, various types of beverages, including juices and mineral water, are specified. Alcoholic drinks would be taxable at 18% GST rate under ethyl alcohol and other spirits, denatured, of any strength. Even though liquor hasn't been brought under the purview of Goods and Services Tax, it still falls under other taxes that contribute to its rising prices. These taxes are: Excise Duty. Excise duty from alcohol has increased at a Compound Annual Growth Rate (CAGR) of 13.3%, whereas other sources of revenue for the states registered a growth rate of 12.1 %. Last year, when the Delhi government announced its new liquor policy, it expected one in five rupees it collects would come from excise duties. Under the Chapter, various types of beverages, including juices and mineral water, are specified. Alcoholic drinks would be taxable at 18% GST rate under ethyl alcohol and other spirits, denatured, of any strength.

4.1.5 Tax on Sale and Consumption of Electricity :

The exclusion of electricity from GST means that there is no mechanism to get an input tax refund for taxes paid on the inputs used for generating electricity. Supply of 'Electrical energy' is exempted from GST as per Serial No. 104 of Notification No. Electricity

(Duty) Act, 1963. (2) There shall be levied for and paid to the Government the electricity duty at the rate of 1[four paise] per unit also by a person generating energy for his own use or consumption on the energy used or consumed by him in a month 1 Lakh. Currently, certain category of person e.g. Individual, HUF are required to file a tax return only if his total income exceeds maximum amount not chargeable to tax. Apart from electricity, currently, petrol, diesel, jet fuel, tobacco and land do not fall in the ambit of the indirect tax that came into effect in 2017.

4.1.6. Entry Taxes and Toll :

GST will not cover the Toll Tax as such taxes like road tax, toll tax, environment tax and others are directly paid by users and will be levied by States directly. Toll tax is a user fee for vehicles using certain roads or bridges. It is a mechanism that generates revenue to finance the maintenance and upkeep of the infrastructure. Toll tax collection typically occurs at a designated toll plaza or toll booth. Toll tax is a type of indirect tax (levied on services). Hence, it is not charged to the individuals (their income, capital gains, revenue, etc.) Toll tax is used for road construction and maintenance purposes. Road tax is collected by the RTO for using roads within a state. Toll tax is collected for using inter-state highways. Is GST applicable on the collection of higher/double toll charges? NO. Collection of higher toll charges whether double or more will be treated at par with toll charges i.e., exempt service. Once a highway is built, Fee is to be collected to recover the cost. Once cost is recovered the fee is collected at reduced rate of 40% as the road is to be maintained in good condition for the travelers.

4.1.7. Entertainment Tax (Levied by Local Bodies) :

Entertainment tax is levied by the government on commercial shows, movie tickets, sporting events, music festivals, amusement parks, exhibitions, theatre shows, and other private festivals. Entertainment tax varies from state to state. Entertainment tax comes under the category of indirect tax. Note: Entertainment tax has been replaced by the Goods and Services Tax (GST) starting 1 July, 2017. Taxation is an essential feature of the governance model of any country. Various kinds of taxes are applicable on goods and services bought and sold by individuals and enterprises. Tax is also levied on income earned by different individuals and business houses. Entertainment tax is a sort of tax levied by the Government on movie tickets, commercial shows (large scale) and other private festival celebrations.

Features of Entertainment Tax in India: Entertainment tax forms a part of the tickets that we buy for watching movies or big entertainment shows.- Some of most prominent features of term insurance plans are listed below: Entertainment tax is applicable to some or the other form of entertainment throughout the country and is a part of the various costs borne by customers- State governments are the authorities responsible for collection of entertainment tax from customers- Entertainment tax in the country is different for different states since it is under the purview of the state governments. Article 246 of the Indian constitution lists down all rules and guidelines that are applicable to the entertainment tax in India. Paid television services like Dish TV and Tata Sky have led to further taxes being levied on entertainment.

Entertainment tax applies to the following categories of entertainment too: Exhibitions-Activities related to sports- Amusement Parks-Arcades- Celebrity Stage Shows-Theatre Shows-Video Games- Entertainment tax was launched when the British Government ruled India, in order to curb public gatherings. However, the levying of the tax continued in the post-independence era too and still exists in all states of the country.

4.1.8. Road Tax :

GST will not cover the Road Tax as such taxes like toll tax, road tax, environment tax and others are directly paid by users and will be levied by States directly. The road tax in Andhra Pradesh is a one-time payment. Vehicle owners can choose to pay the payment in one go or break it down into a quarterly or half-yearly plan. The price of the road tax depends on the following factors: 1. Type of vehicle, 2. Engine capacity, 3. Place of manufacturing, 4. Vehicle age, 5. Purpose of the vehicle. How can one check the validity of the vehicle registration number in Andhra Pradesh? The validity registration period for vehicles is 15 years. The vehicle owner must be physically present with the vehicle at the RTO office to check the validity of the registration number or renew it. Is it possible to drive an Andhra Pradesh vehicle in Hyderabad? You can easily drive a vehicle bought in Andhra Pradesh in Hyderabad for 30 days. After 30 days, you will have to change the address on the registration card to the new address in Hyderabad to continue driving. Additionally, if your stay exceeds 12 months, you will be required to get your vehicle re-registered in Hyderabad, Telangana. Are vehicle owners expected to pay any road tax while entering Andhra Pradesh? Personal vehicle owners are not expected to pay any road tax while entering Andhra Pradesh. However, commercial vehicles entering with goods have to pay a road tax. The amount of the road tax depends on the duration of the stay.

4.2 TAXATION OF SERVICES UNDER GST :

The GST Council, on the second day of its 2-day meeting in Srinagar, has considered and finalised GST to be applicable for different types of services. Some key aspects related to services of the meeting have been captured below: As against expectations, the Government has finalised four tax rates that will apply to services, namely 5%, 12%, 18% and 28%.

- i. Education and Healthcare services to be exempt under GST
- ii. Transportation services to be taxed at 5%
- iii. Aggregators like Ola and Uber to be taxed at 5%
- iv. Economy class air travel to attract 5% GST and business class 12%
- v. Complications which currently exist at the time of charging tax on Works Contract should be eased with Works Contract set to be taxed at 12%.

5 Star and AC restaurants to attract higher taxes :

- i. Restaurants with a turnover of INR 5 million or less will levy 5% GST

- ii. Restaurants without a liquor license and with a turnover higher than INR 5 million will be charged 12% GST.
- iii. AC restaurants and restaurants with a liquor license to fall under the 18% tax slab.

5 Star hotels to levy 28% GST :

- i. Hotels with tariff below INR 1000 to be exempt
- ii. Hotels with tariff of INR 1000-2500 will levy 12% GST
- iii. Hotels with tariff above INR 2500 but below INR 5000 would attract 18% GST.
- iv. Hotels with tariff above INR 5000 to charge 28% GST.
- v. Telecom and Financial services to attract 18% GST

The highest tax slab i.e. 28% would be reserved for luxury services like cinemas, betting, etc.

No consensus on the fixation of rate on gold List of exemptions which are in existence as per the current legislation being grandfathered are likely to continue in the GST regime. Valuation of services also computed u/s 15 of CGST Act. Whole of the amount charged by service provider, while rendering a service is the taxable value of service provided, upon which GST is levied. Out of the gross amount charged for supply of service, no deduction is allowed regarding the expenses/costs incurred while rendering such service.

For example :

While getting a photocopy of a document, what you pay is for the service received by you and not for the paper used. Likewise, a photographer charges for the service of photography and not for the cost incurred. Therefore, whole of the consideration received by the service provider is the taxable value for GST purpose, therefore, not deduction is allowed for provision of services. In a nutshell, in case of a provision of service, gross consideration is the taxable value of such service, without any deduction there from for the cost/expenses incurred in rendering such services.

4.3 RATES OF GST ON TAXABLE SERVICES :

W.e.f. 1 July, 2017, GST is levied on services, instead of earlier service tax charged. General rate of GST on services is 18%, though certain lower rates also charged on specified services listed below :

1.	Restaurant services by all categories	5%
2.	(2) First class in A.C. coach, railways passenger services. Transportation of goods by railway except exempted categories, road transportation services, AC Bus services, Air services in economy class, inland water transportation services	5%
3.	Non-economy air services	12%
4.	General rate on other services	18%

4.4 INTRA STATE SUPPLY OF SERVICES :

If the place of provision of services and place of provider of services is in the same state/UT, is called intra-State supply of services, upon which general rate of GST shall be charged as follows: 9% CGST on Taxable Value. 9% SGST on Taxable Value.

4.4.1. Intrastate Meaning in GST :

Intrastate supply is where the supplier of goods or services and the place of supply is within the same state. Intrastate supplies are liable to CGST (Central Goods and Services Tax) and SGST/UTGST (State Goods and Services Tax/Union Territory Goods and Services Tax). They are levied by the Central and State/UT governments, respectively. The Intra-state GST rate varies depending on the type of good or service being supplied. The vendors need to collect both CGST and SGST from the customers in intrastate transactions.

4.4.2. Intrastate GST Rate Example :

ABC Ltd. is located in Jaipur, Rajasthan supplies mobiles worth Rs.2,00,000 to another entity located in Udaipur, Rajasthan. The GST is charged at 18%, which is apportioned as 9% CGST and 9% SGST. CGST/SGST calculation: Rs.2,00,000 X 18% = Rs.36,000. Here, Rs. 18,000 is CGST and Rs. 18,000 is SGST. The dealer collects Rs. 36,000. Out of this, Rs. 18,000 is paid as CGST to the Central Government, and Rs.18000 is paid to the Rajasthan Government. CGST/SGST is levied by both the Central Government and the state government, respectively. However, the rate of CGST and SGST together sum up to the IGST rate levied. Hence, the total tax amount remains the same irrespective of whether it is an interstate or intrastate supply. The only difference lies in the levy.

4.5 INTER – STATE SUPPLY OF SERVICES :

If the place of provision of services and the place of provider of services are in two different States/UT/IGST shall be charged on such services @ 18% as IGST. Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory.

4.5.1. Interstate Meaning in GST :

Interstate supply is where the goods or services provider is in a different state or Union Territory, and the place of supply is in a different state or Union Territory. The supplies involving import, export, or supply to or from a Special Economic Zone (SEZ) unit or Export-oriented Unit (EOU) are also considered interstate supplies. The Central Government levies integrated GST (IGST) on the interstate supply of goods and services in India. When goods and services are supplied from one state to another, the IGST is levied by the central government and then distributed to the destination state. The revenue generated from IGST is shared between the central and state governments according to a predetermined formula. This ensures that the tax revenue is shared between the central and state Governments and avoids the need for multiple taxes to be paid by businesses operating in different states.

Parameters	Interstate Supplies	Intrastate Supplies
Applicable on	Supply of goods and services between different states and Union Territories.	Supply of goods and services within the same state or union territory.
Levied by	Central Government	CGST by the Central Government and SGST/UTGST by the state/Union Territory Government
Tax rate	IGST rate is applicable at the rates in force based on the good or service	CGST and SGST rates are applied equally and separately at the applicable rate in force based on the good or service
Destination state	Receives a share of the IGST collected	Receives the full amount of SGST collected
Place of supply	Different state than the location of the supplier	Same state as the location of the supplier
Input Tax Credit	The input tax credit of IGST can be used to set off IGST liability and, thereafter, CGST/SGST liabilities in any order	Once IGST credit has been exhausted fully, CGST credit and SGST credit can be utilised to set off CGST liabilities and SGST liabilities, respectively, and for setting off IGST liabilities. Inter-utilisation between CGST and SGST is not allowed.

4.5.2 Interstate GST Rate Example :

A company ABC Ltd is located in Jaipur, Rajasthan, and it supplies mobiles worth Rs.1,00,000 to Mumbai, Maharashtra. This supply will be considered an interstate supply. The goods supplied fall under the GST slab of 18%. IGST, or Integrated GST, is levied by the Central Government, a share of which is paid to the destination state. IGST Calculation: $1,00,000 \times 18\% = \text{Rs.}18,000$. The dealer will charge Rs.18,000 as IGST. This amount is paid to the Centre and then split in a predetermined ratio between the Centre and the destination state, i.e. Maharashtra. As an exception, if the goods are supplied from Jaipur, Rajasthan, to a Special Economic Zone (SEZ) unit in Rajasthan, it will also be considered an interstate supply. All the goods and services supplied to or from an SEZ unit are considered interstate supplies.

4.5.3 Difference between Interstate and Intrastate in GST :

Here is a tabular format that highlights the key differences between interstate GST and intrastate GST in India: Overall, Interstate GST and Intrastate GST are two different

types of GST in India that are applied depending on the location of the supplier and the place of supply. The key difference between the two lies in the levy of the tax.

4.6 GOODS / MATERIALS SUPPLIED BY SERVICE PROVIDER :

Under GST regime provision of services or supply of goods, both are called supply and shall be chargeable at the applicable rates of goods and services. Such supply of goods is chargeable separately at prevailing rates of GST.

Examples of Supply of Goods along with Services :

1. Unexposed films or CD supplied by photographer.
2. Supply of spare parts along with repair or maintenance services.
3. Supply of cosmetic product along with beauty treatment.
4. Supply of lubricant, stores etc. by service station.

4.6.1 Unexposed films or CD supplied by photographer :

Not exposed. A sheltered area unexposed to the wind. Especially, not subjected to radiant energy. unexposed film. obscure, uncharted, undetected, undiscovered, unexplored, unfamiliar, unheard-of, unknown, untraveled. Non-exposure prone procedures (non-EPPs) are procedures where the hands and fingers of the healthcare worker (HCW) are visible and outside of the body at all times and procedures or internal examinations that do not involve possible injury to the HCW's hands by sharp instruments and/or tissues, provided routine ... A candid photograph is a photograph captured without creating a posed appearance.

Cinematography is the art and craft of making motion pictures by capturing a story visually. Though, technically, cinematography is the art and the science of recording light either electronically onto an image sensor or chemically onto film. Exposure in film photography is defined as the quantity of light that is allowed through the camera lens and onto the photo film controlled by the intensity of light (through the aperture) and length of time (determined by the shutter speed).

4.6.2 Supply of spare parts along with repair or maintenance services :

As per Section 13(2), generally the place of supply of services shall be the location of the recipient of service. However, if the location of the recipient of service is not available in the ordinary course of business, the place of supply shall be the location of the supplier of service. Other maintenance, repair and installation (except construction) services are taxable @18% with Input Tax Credit. Maintenance services are classified under SAC code 9987 and are subject to GST (Goods and Services Tax) in India. The GST rate for maintenance services is 18% for most services. Automobile spare part GST rates are now taxed at 28%. Common repair and maintenance expenses include costs incurred for: Replacing broken or worn-out parts with comparable parts.-Repairing HVAC units, toilets, and faucets.-Cleaning building structures and systems.-Pool cleaning (residential properties)-Routine inspections and checks. Changing fleet engine oils. Examples of MRO items include: Industrial Equipment (e.g.,

pumps, motors, belts)-Consumables (e.g., cleaning supplies, office supplies)-Maintenance Supplies (e.g., lubricants, gaskets, repair tools)

4.6.3 Supply of cosmetic product along with beauty treatment :

Cosmetics are constituted mixtures of chemical compounds derived from either natural sources ... Those designed for personal care and skin care can be used to cleanse or .. They include: Hair dyes.- Makeup.-Perfumes- Skin-care creams. Specifically, there are seven categories of cosmetics and personal care products - oral care, skin care, sun care, hair care, decorative cosmetics, body care and perfumes. Some of the best Cosmetics brands in India are: Lakme.-L'Oreal India. Colorbar.-Maybelline.-Lotus- Biotique - Mamaearth.- Sugar Cosmetics. What are the most important skincare products? Cleanser - A face wash removes dirt and impurities from skin to help prevent dullness, clogged pores and breakouts, plus prep skin for leave-on products like serums and moisturizers.-Serum-Moisturizer. - Sunscreen.

4.6.4 Supply of lubricant, stores, etc. by service station :

Most common methods used for lubrication in conventional methods are: Drip oil feed lubrication; Splash oil feed lubrication; Force oil feed. An automatic lubrication system consists of a pump with reservoir, a controller, metering devices, hose and fittings and accessories. All automatic lubrication systems have a similar set-up. The pump and reservoir provide a steady flow of lubricant. A controller is necessary to activate and monitor the system. The lubrication system of an engine provides a supply of lubricating oil to the various moving parts in the engine. Its main function is to enable the formation of a film of oil between the moving parts, which reduces friction and wear. The lubricating oil is also used as a cleaner and in some engines as a coolant. Lubricants are classified in several ways; these could be liquid, semisolid (greases), and solids such as graphite, molybdenum disulfide, boron nitride, tungsten disulfide, and polytetrafluoroethylene. There are three different types of lubrication: boundary, mixed and full film. Each type is different, but they all rely on a lubricant and the additives within the oils to protect against wear. Reduce friction (rubbing or deformation) Prevent pieces from wear. Absorb/reduce shocks. Protect from corrosion. In most automobiles, which lubrication system is commonly used? Explanation: Pressure type lubrication is used commonly in most automobiles. In this system, oil is drawn in from the sump and forced to all the main bearings of the crankshaft through distributing channels.

Section-7-Scope of supply.: (1) For the purposes of this Act, the expression - "supply" includes- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business; 1[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. Explanation .-For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;] (b) import of services for a consideration whether or not in the course or

furtherance of business; 2[and] (c) the activities specified in Schedule I, made or agreed to be made without a consideration; 3[****] d) 4[****]. 5[(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.] (2) Notwithstanding anything contained in sub-section (1),- (a) activities or transactions specified in Schedule III; or (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services. (3) Subject to the provisions of 6[sub-sections (1), (1A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as - (a) a supply of goods and not as a supply of services; or (b) a supply of services and not as a supply of goods.

4.7. MAJOR – SERVICES

A. Construction-Service :

Works contract service is a species of construction service, which is defined u/s 2(119) of CGST Act. Under Para 6(a) of schedule II of CGST Act, it is a supply of service and GST is payable on such service. Works contract is essentially and inherently a contract of service, irrespective of legal fiction created by Article 366(29A) of Constitution of India, as deemed sale. Basically, works contract is a contract for work, where supply of material is incidental to the contract.

General Rate of GST on Works Contract Service :

General rate of GST on works contract service is 18% (9% CGST and 9% SGST) or 18% IGST.

B. Distributive Trade Services :

- (a) Trading and hospitality services –
 - (i) Trading Services-Wholesale trade, retail trade,
 - (ii) Hospitality Services-Accommodation, food and beverage services.
- (b) Services of commission agent-In whole sale trade, in retail trade. General Rate is 18% (9% CGST and 9% SGST) or 18% IGST

C. Passenger Transport Service :

- (i) By Rail-In first class or air conditioned coach, GST rate is 5% (2.5% CGST and 2.5% SGST or 5% IGST)
- (ii) Services of transport by air in metro, monorail or tramway and in railways in class other than first class or A. C. Coach, are exempt from GST.
- (iii) Road transport of passengers in the following categories is taxable :
 - (a) A. C. contract carriage

- (b) A. C. stage carriage
- (c) Radio Taxi. GST rate is 5% (2.5% CGST and 2.5% SGST) or 5% IGST.
- (iv) **Transport of Passenger by Water:** General rate is 18% while inland water transportation of passengers is exempt.
- (v) **Transport of Passenger by Air:** Economy Class-GST rate 5%. Other Classes-GST rate 12%, North East area services are exempt.

D. Goods Transport Service :

(i) Goods Transport by Road :

All such services are exempt from GST, except GTA and courier services, which are taxable @ 5% (2.5% CGST and 2.5% SGST) or 5% IGST.

Reverse charge in respect of GTA services :

In case of services of Goods Transport Agency (GTA), the recipient of services is liable to GST located in taxable territory. Thus, GTA itself is liable to pay GST in the following cases: (a) Recipient is unregistered individual. (b) Transportation of household goods when freight is paid unregistered individual. (c) Services supplied to a person located in non-taxable territory, (like transport to Bhutan, Nepal, Bangladesh) where recipient is paying freight there.

(ii) Exemption in Respect of Specified Goods :

Services provided by GTA by way of transport in a goods carriage are exempt from GST: (a) Agricultural produce. (b) Where consideration for single carriage does not exceed Rs.1,500, (c) Where consideration charged for single consignee does not exceed 750. (d) Milk, salt and foods, rice, pulses. (e) News papers and magazines. (f) Relief materials. (g) Defence equipments.

E. Financial Services :

(i) Services of Banking and NBFC :

The main service of banks is payment of interest to depositors. Services by way of extending deposits, loans or advances, in so far as the consideration is by way of interest of discount, is exempt from GST.

(ii) Foreign Exchange Conversion Services :

For a currency, when exchanged from or to, Indian Rupees (INR), value of service shall be equal to the difference in the buying rate or the selling rates, as the case total units of the currency. If RBI reference rate is not available for a currency the value shall be 1% of the gross amount of INR.

(iii) Supply of Money is neither Goods nor Services :

u/s 2(52) and 2(102) of CGST Act, which specifically excluded money from

definition of goods and services.

(iv) Chit Fund Service :

Services provided by foreman of a chit fund in relation to chit are subject to GST @ 12% (6% CGST and 6% SGST).

(v) Insurance Services :

GST rate is 18% (9% CGST and 9% SGST) or 18% IGST.

Exemption to service of general insurance and life insurance under specified schemes of public interest implemented by government, vide notification No. 9/2017 and 12/2017 both dated 28.06.2017, effective from 01-07-2017.

F. Real Estate Service :

Renting or Leasing Services: GST is 18% (9% SGST and 9% CGST). Since place of supply is the location of immovable property, IGST is not applicable. Renting for residential purposes is exempted.

G. Leasing and Licensing Services :

- (a) Hire and licensing services:
 - (i) Leasing and rental of machinery
 - (ii) Leasing and rental of goods.
 - (iii) Licensing services for right to use IPR and other products.
- (b) Leasing or renting of land and building is 'supply of service'.
- (c) Transfer of right to use goods is supply of service.
- (d) Leasing of air craft for operating scheduled air transport service or cargo service. Subject to GST of 5% (2.5% CGST and 2.5% SGST) to 5% IGST.

H. Business and Production Services:

- (i) Business auxiliary and support services.
- (ii) Services by incubatee and incubator.
- (iii) Legal Services: Service provided in relation to advice, consultancy or assistance in any branch of law and includes representational services before any court, tribunal or authority. In case of legal services, GST is payable by recipient, if he is business entity located in India.
- (iv) Advertising services and provision of advertising space or time. Selling advertising space in print media is subject to 5% GST (2.5% CGST and 2.5% SGST) or 5% IGST.
- (v) **New Agency Services:** Collecting and providing news by Press Trust of India or United News of India are exempt from GST.

(vi) **Travel arrangement and Tour Operator Services :**

Subject to 5% GST. but services supplied to a foreign tourist in relation to tour conducted outside India is exempt from GST.

(vii) Events and exhibition organisation services outside India.

(viii) Support services of agriculture, forestry, fishing and animal husbandry are exempt from GST.

(ix) **Job-Work :**

Service classification for manufacturing services on physical inputs (goods) owned by others.

In case of job work relating to printing, textiles, jewellery, etc. GST rate is 5% (2.5%, CGST and 2.5% SGST) and 5% IGST.

I. Tele-Communication Broadcasting and Information Services :

(i) Tele-Communication: GST rate 18%

(ii) Online Information and Database Access or Retrieval (OIDAR Services).

J. Community Social Services :

(i) Community Services, social and personal services

(ii) **Education Services:** Commercial education is subject to 18% GST (9% CGST and 9% SGST) or 18% IGST, various exemption contained in notifications No. 12/2017 and 9/2017 both dated 28.6.17

(a) Services provided by an educational institution to its students faculty and staff is exempted from GST.

(b) Services upto HSC Level are exempt.

(c) Services by IIM, NSDC, DDUY (Grameen Kaushal Yojana) are exempt.

(d) Govt. sponsored training programmes: Exempt

(e) No GST on hostel by educational institution.

K. Human Health and Social Care Services :

Exempted

(i) Health care services

(ii) Waste treatment facility to medical establishment

(iii) Services of cord Blood Bank

(iv) Authorised medical practitioner

(v) Clinical establishment.

L. Sanitation and similar, services : Exempt

M. Services of Housing Societies or RWA for monthly contribution up to 5,000.

N. Recreational, Cultural and Sporting services :

Admission to entertainment events or amusement facilities including exhibitions of films, theme parks, water parks, joy casinos, race-courses, Ballet and sporting events like IPL-GST rates 28 (14% CGST and 14% SGST) or 28 IGST .

Admission to cinema hall, where admission ticket is up to 100 and all other cultural and sporting services GST rate is 18% (9% CGST and 9% SGST) or 18% IGST.

O. Services of performing artists and models :

Exempted, consideration charged for such performance is not more than Rs. 150000 (except for brand ambassador)

P. Museum and preservation services :

National parks, wildlife sanctuary, tiger reserve, zoo are exempt.

Q. Gambling and betting and racing services :

GST @ 28% (14% CGST and 14% SGST) or 28% IGST.

4.8 PRACTICAL PROBLEMS RELATING TO VALUATION OF VARIOUS SERVICES :

Valuation of various services is undertaken on the basis of relevant rules and other applicable provisions; Gross amount charged by provider of service is valuation of such service, which chargeable at general rate or other concessional rate, as the case may be. Before attempting to solve the practical problems, consider the facts and requirements of the case concerned and care for following steps :

1. Is service taxable or exempt.
2. If taxable, find out gross amount charged.
3. No deduction for cost/expenses incurred.
4. Goods sold by service provider is chargeable as supply of goods. GST on services and/or goods shall be total GST.

GST Acts,

- i. The Central Goods and Services Tax Act, 2017
- ii. Constitution (One Hundred and First Amendment) Act, 2016
- iii. CGST (Extension to Jammu and Kashmir) Act, 2017
- iv. The Integrated Goods and Services Tax Act, 2017
- v. IGST (Extension to Jammu and Kashmir) Act, 2017
- vi. The Union Territory Goods and Services Tax Act, 2017
- vii. The Goods and Services Tax (Compensation to States) Act, 2017

- viii. The Central Goods & Services Tax Rules, 2017
- ix. The Integrated Goods and Services Tax Rules, 2017

4.9 SUMMARY :

When a supply of goods and/or services falls within the purview of charging section, such supply is chargeable to GST. However, for determining the liability to pay the tax, one need to further check whether such supply of goods and/or services are exempt from tax.

Exempt supply has been defined as supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax and includes non-taxable supply. Power to grant exemption from GST has been granted vide section 11 of the CGST Act and vide section 6 of the IGST Act. State GST laws also contain identical provisions granting power to exempt SGST. Under earlier Indirect Tax regime, a larger number of exemptions were enjoyed by the taxpayers. The idea is to prune the exemption list under GST Regime. Area based exemptions have been done away with under GST. Essential goods/services, i.e. public consumption products/services, have been exempted. Items such as unbranded atta/maida/besan, unpacked food grains, milk, eggs, curd, lassi and fresh vegetables are among the items exempted from GST. Further, essential services like health care services, education services, etc. have also been exempted.

4.10 KEY WORDS :

Customs Duty :

Customs duties are charges levied on goods when they cross international borders. Customs duties are charged by special authorities and bodies created by local governments and are meant to protect local industries, economies, and businesses.

Stamp Duty :

Stamp duty is a tax imposed on the sale of property/property ownership by the state government. It is payable under Section 3 of the Indian Stamp Act, 1899.

The duration of the stamp duty at the time of registration shall be based on the value of the house/property. It also varies based on the state or area where the property is located, and whether it is a new or old house.

Vehicle Tax :

Tax is levied on all vehicles not used exclusively in the mining project area and land tax is levied on all immovable assets that fall outside of the mining or hydrocarbon concession area tax.

Entertainment Tax :

Entertainment tax is a tax levied by the government on the entertainment industry. This tax is imposed on various forms of entertainment, such as movies, theatre, dance, music, sports, and gaming. The rate of tax varies from state to state. In India, the entertainment tax was first introduced in the year 1948. The current rate of

entertainment tax in India is 30% for most of the states. The entertainment tax is levied on movie tickets, gaming, and gambling. The rate of GST on movie tickets is 28%.

Intra-State Supply of Services :

Where the location of supplier and the place of supply are in the same State or in the same Union territory, the supply is an intra-state supply as per Section 8.

Inter-State Supply of Service :

If a supply of services originates and is consumed in different States or Union territories, it is an inter-state supply.

4.11 SELF ASSESSMENT QUESTIONS :

1. What are the taxes and duties outside the purview of GST?
2. Explain taxation system of services under GST.
3. Write about rates of GSTS on Taxable Services.
4. Distinguish between Intra-State supply of Services and Inter-State supply of Services.
5. What are the major services rendered under the purview of GST?

4.12 SUGGESTED READINGS :

1. Goods and Services Tax in India- Notifications on different dates
2. GST Bill 2012
3. The Central Goods and Services Tax Act, 2017, No.12 of 2017, Published by Authority, Ministry of Law and Justice, New Delhi, 12 April, 2017
4. Background Material on Model GST Law, Sahitya Bhavan Publications, Hospital Road, Agra-383 003.

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Lesson – 5

TAX INVOICE & BILL OF SUPPLY

Objectives :

After reading this lesson, student will be able to :

- To know the concept of Tax Invoice, contents of Bill of Supply and difference between taxes, duties and tariffs;
- To learn about transactions covered under GST, Schedule-II & III of GST Act;
- To understand the reverse charge mechanism, time of supply in case rate of tax charges, place of supply and GST; and
- To know various types of supply, time of supply, mixed supply along with composite supply.

Structure of the Lesson :

- 5.1 Tax Invoice
- 5.2 Contents of Bill of Supply
- 5.3 Difference between Taxes, Duties & Tariffs
- 5.4 Transactions covered under GST
- 5.5 Schedule - II of GST Act
- 5.6 Schedule – III of GST Act
- 5.7 Latest Updates
- 5.8 Reverse Charge Mechanism
- 5.9 Time of Supply in case Rate of Tax Changes
- 5.10 Place of Supply and GST
- 5.11 Transactions other than import or export
- 5.12 Types of Supply
- 5.13 Time of Supply in case of Composite Supply
- 5.14 Mixed Supply
- 5.15 Summary
- 5.16 Key Words
- 5.17 Self Assessment Questions
- 5.18 Suggested Readings

5.1 TAX INVOICE :

An invoice is a commercial instrument issued by a seller to a buyer. It identifies both the trading parties and lists, describes, and quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and delivery and payment terms. In certain cases, (especially when it is signed by the seller or seller's agent), an invoice serves as a demand for payment and becomes a document of title when paid in full. Types of invoice include commercial invoice, consular invoice, customs invoice, and proforma invoice. It is also called a bill of sale or contract of sale.

5.1.1 Invoice under GST :

Under the GST regime, an "invoice" or "tax invoice" means the tax invoice referred to in section 31 of the CGST Act, 2017. This section mandates issuance of invoice or a bill of supply for every supply of goods or services or both. It is necessary for a person supplying goods or services or both to issue invoice. The type of invoice to be issued depends upon the category of registered person making the supply. For example, if a registered person is making supplies, then a tax invoice needs to be issued by such registered person. However, if a registered person is dealing only in exempted supplies or is availing composition scheme (composition dealer), then such registered person needs to issue a bill of supply in lieu of tax invoice. The invoice should contain description, quantity and value & such other prescribed particulars under rule 46 of CGST Rules, 2017. An invoice or a bill of supply need not be issued if the value of the supply is less than Rs. 200/- subject to specified conditions.

5.1.2 Importance of Tax Invoice under GST :

Under GST a tax invoice is an important document. It not only evidences supply of goods or services or both, but is also an essential document for the recipient to avail Input Tax Credit (ITC). A registered person cannot avail input tax credit unless he is in possession of a tax invoice or a debit note.

GST is chargeable at the time of supply. Invoice is an important indicator of the time of supply. Broadly speaking, the time of supply of goods is the date of issuance of invoice and the time of supply of services is the date of issuance of invoice or receipt of payment, whichever is earlier.

Thus the importance of invoice under GST cannot be over-emphasised. Suffice it to say, the tax invoice is the primary document evidencing the supply by the supplier and vital for availing input tax credit by the recipient.

5.1.3 When a Tax Invoice or a Bill of Supply should be issued by a Registered Person :

Goods :

The time for issuing invoice would depend on the nature of supply viz. whether it is a supply of goods or services. A registered person supplying taxable goods shall, before or at the time of removal of goods (where supply involves movement of goods) or delivery or making available thereof to the recipient, issue a tax invoice showing the description,

quantity and value of goods, the tax charged thereon and such other particulars that have been prescribed in the CGST Rules.

The Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

5.1.4 Contents of Invoice :

There is no format prescribed for an invoice, however, Invoice rules makes it mandatory for an invoice to have following fields (only applicable field are to be filled):

- (a) Name, address and GSTIN of the supplier;
- (b) A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) Date of its issue;
- (d) Name, address and GSTIN or UIN, if registered, of the recipient;
- (e) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more;
- (f) HSN code of goods or Accounting Code of services;
- (g) Description of goods or services;
- (h) Quantity in case of goods and unit or Unique Quantity Code thereof;
- (i) Total value of supply of goods or services or both;
- (j) Taxable value of supply of goods or services or both taking into account discount or abatement, if any;
- (k) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (l) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) Address of delivery where the same is different from the place of supply;
- (o) Whether the tax is payable on reverse charge basis; and
- (p) Signature or digital signature of the supplier or his authorized representative.

Signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice, bill of supply, ticket or any such document in accordance with the provisions of the Information Technology Act, 2000.

5.2 CONTENTS OF BILL OF SUPPLY :

A bill of supply shall be issued by the supplier containing the following details :

- (a) Name, address and GSTIN of the supplier;
- (b) A consecutive serial number, in one or multiple series, containing alphabets or numerals or special characters, hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) Date of its issue;
- (d) Name, address and GSTIN or UIN, if registered, of the recipient;
- (e) HSN Code of goods or Accounting Code for services;
- (f) Description of goods or services or both;
- (g) Value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) Signature or digital signature of the supplier or his authorized representative.

Invoice-cum-bill of supply :

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

5.2.1 Services :

A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as has been prescribed in the Invoice Rules.

The Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which:

- (a) Any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- (b) Tax invoice may not be issued.

Thus it can be seen that in case of goods, an invoice has to be issued before or at the time of supply. In case of services, however, invoice has to be issued before or after provision of services. If the invoice is issued after provision of service, it has to be done within the specified period of 30 days from the date of supply of service, as per invoice rules.

5.2.2 Revised Invoice :

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him may issue revised tax

invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration. This provision is necessary as a person who becomes liable for registration has to apply for registration within 30 days of becoming liable for registration.

When such an application is made within the time period and registration is granted, the effective date of registration is the date on which the person became liable for registration. Thus, there would be a time lag between the date of grant of certificate of registration and the effective date of registration. For supplies made by such person during this intervening period, the law enables issuance of a revised invoice, so that ITC can be availed by the recipient on such supplies.

A revised tax invoice has to contain the following particulars :

- (a) The word “Revised Invoice”, wherever applicable, indicated prominently;
- (b) Name, address and GSTIN of the supplier;
- (c) A consecutive serial number containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (d) Date of issue of the document;
- (e) Name, address and GSTIN or UIN, if registered, of the recipient;
- (f) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (g) Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply; and
- (h) Signature or digital signature of the supplier or his authorised representative.

5.2.3 Receipt Voucher / Refund voucher on Receipt of Advance Payment :

Whenever a registered person receives an advance payment with respect to any supply of goods or services or both, he has to issue a receipt voucher or any other document, containing such particulars as has been prescribed in the CGST Rules, evidencing receipt of such payment. It may be noted that GST is payable on receipt of advance in case of services only.

Where any such receipt voucher is issued, but subsequently no supply is made and no tax invoice is issued, the registered person who has received the advance payment can issue a refund voucher against such payment.

A receipt voucher needs to contain the following particulars :

- (a) Name, address and GSTIN of the supplier;

- (b) A consecutive serial number containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) Date of its issue; (d) Name, address and GSTIN or UIN, if registered, of the recipient;
- (d) Description of goods or services;
- (e) Amount of advance taken;
- (f) Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) Place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
- (j) Whether the tax is payable on reverse charge basis; and
- (k) Signature or digital signature of the supplier or his authorised representative. It has also been provided in the CGST Rules that if at the time of receipt of advance,
 - (i) The rate of tax is not determinable; the tax may be paid @18%;
 - (ii) The nature of supply is not determinable, the same shall be treated as inter-State supply.

Invoice and Payment Voucher by a Person Liable to Pay Tax under Reverse Charge :

A registered person liable to pay tax under reverse charge (for supplies on which tax is payable under reverse charge mechanism) has to issue an invoice in respect of goods or service or both received by him. Such a registered person in respect of such supplies also has to issue a payment voucher at the time of making payment to the supplier.

Invoice In case of Continuous Supply of Goods :

In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

Invoice In case of Continuous Supply of Services :

In case of continuous supply of services, where :

- (a) The due date of payment is ascertainable from the contract; the invoice shall be issued on or before the due date of payment;
- (b) The due date of payment is not ascertainable from the contract; the invoice shall be issued before or at the time when the supplier of service receives the payment;

- (c) The payment is linked to the completion of an event; the invoice shall be issued on or before the date of completion of that event.

5.2.4 Issue of invoice :

In case, where Supply of Service Ceases under a Contract before Completion of Supply the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

Sale on Approval Basis :

Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Amount of Tax to be Indicated in Invoice :

Where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

5.2.5 Credit and Debit Notes :

In cases where tax invoice has been issued for supply of any goods or services or both and subsequently it is found that the value or tax charged in that invoice is more than what is actually payable/chargeable or where the recipient has returned the goods, the supplier can issue a credit note to the recipient. A registered person who issues such a credit note has to declare details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made or date of furnishing of the relevant annual return whichever is earlier. The tax liability of the registered person will be adjusted in accordance with the credit note issued, however no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

In cases where tax invoice has been issued for supply of any goods or services or both, and subsequently it is found that the value or tax charged in that invoice is less than what is actually payable/chargeable, the supplier can issue a debit note to the recipient.

Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

A Credit or Debit notes shall contain the following particulars, namely :

- (a) Name, address and Goods and Services Tax Identification Number of the supplier;
- (b) Nature of the document;

- (c) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “- “and“/” respectively, and any combination thereof, unique for a financial year;
- (d) Date of issue of the document;
- (e) Name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (f) Name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (g) Serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;
- (h) Value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
- (i) Signature or digital signature of the supplier or his authorised representative.

5.2.6 Manner of Issuing Invoice :

The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner :

- (a) The original copy being marked as ORIGINAL FOR RECIPIENT;
- (b) The duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
- (c) The triplicate copy being marked as TRIPLICATE FOR SUPPLIER.

The invoice shall be prepared in duplicate, in case of supply of services, in the following manner :

- (a) The original copy being marked as ORIGINAL FOR RECIPIENT; and
- (b) The duplicate copy being marked as DUPLICATE FOR SUPPLIER.

The serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in FORM GSTR-1.

Tax Invoice in Special Cases :

An ISD invoice or, as the case may be, an ISD credit note issued by an Input Service Distributor shall contain the following details:

- (a) Name, address and GSTIN of the Input Service Distributor;
- (b) A consecutive serial number containing alphabets or numerals or special characters' hyphen or dash and slash symbolised as “-”, “/”, respectively, and any combination thereof, unique for a financial year;

- (c) Date of its issue;
- (d) Name, address and GSTIN of the recipient to whom the credit is distributed;
- (e) Amount of the credit distributed; and
- (f) Signature or digital signature of the Input Service Distributor or his authorised representative.

Tax Invoice by a Registered Person having same PAN and State code as an ISD :

A registered person, having the same PAN and State code as an ISD, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the ISD, which shall contain the following details:

- (a) Name, address and GSTIN of the registered person having the same PAN and same State code as the ISD;
- (b) A consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolized as “-”, “/”, respectively, and any combination thereof, unique for a financial year;
- (c) Date of its issue;
- (d) GSTIN of supplier of common service and original invoice number whose credit is sought to be transferred to the ISD;
- (e) Name, address and GSTIN of the ISD;
- (f) Taxable value, rate and amount of the credit to be transferred; and
- (g) Signature or digital signature of the registered person or his authorised representative.

The taxable value in the invoice issued shall be the same as the value of the common services.

Tax Invoice in Special Cases :

Where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the prescribed information.

Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier may issue a consolidated tax invoice or any other document in lieu thereof, by whatever name called, for the supply of services made during a month at the end of the month, whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as prescribed under rule 46.

Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as prescribed under rule 46.

A registered person, other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens, may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely;

- (a) The recipient is not a registered person; and
- (b) The recipient does not require such invoice, and shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:

Provided that the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.

Transportation of Goods without an Invoice :

In the following cases it is permissible for the consigner to issue a delivery challan in lieu of invoice at the time of removal of goods :

- (a) Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known;
- (b) Transportation of goods for job work;
- (c) Transportation of goods for reasons other than by way of supply; or
- (d) Such other supplies as may be notified by the Board.

The delivery challan, serially numbered not exceeding 16 characters, in one or multiple series, shall contain the following details :

- i) Date and number of the delivery challan;
- ii) Name, address and GSTIN of the consigner, if registered;
- iii) Name, address and GSTIN or UIN of the consignee, if registered;

- iv) HSN code and description of goods;
- v) Quantity (provisional, where the exact quantity being supplied is not known);
- vi) Taxable value;
- vii) Tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;
- viii) Place of supply, in case of inter-State movement; and
- ix) Signature.

The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner:

- (a) The original copy being marked as ORIGINAL FOR CONSIGNEE;
- (b) The duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
- (c) The triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in FORM [E-WAYBILL].

Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

Where the goods are being transported in a semi knocked down or completely knocked down condition, or in batches or lots :

- (a) The supplier shall issue the complete invoice before dispatch of the first consignment;
- (b) The supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of The invoice;
- (c) Each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
- (d) The original copy of the invoice shall be sent along with the last consignment.

Invoice Issued to UINs :

Complaints have been received from Foreign Diplomatic Missions / UN Organizations regarding unwillingness of vendors / suppliers / E-commerce websites to record the UIN (Unique Identify Number) while making sales to such Embassies / Missions / Consulates or UN organizations.

Recording of UIN while making such supplies by the suppliers will enable Foreign Diplomatic Missions / UN Organizations to claim refund of the taxes paid by them in India.

Therefore, it is advised that suppliers should record the UIN of the Embassies / Missions / Consulates or UN organizations on the tax invoice.

Circular No. 43/17/2018-GST dated 13th April 2018 which provides that recording of UIN on the invoice is a necessary condition under rule 46(d) of the CGST Rules, 2017. If suppliers / vendors are not recording the UINs, action may be initiated against them under the provisions of the CGST Act, 2017.

Tax Invoice or Bill of Supply to accompany Transport of Goods :

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

5.3 DIFFERENCE BETWEEN TAXES, DUTIES, AND TARIFFS :

Taxes, duties, and tariffs are often and easily confused with one another when it comes to international shipping. Importers need to understand what they mean and what the key differences are. Duties and tariffs are different types of taxes imposed on foreign goods. A tax is a charge imposed on a taxpayer by a government. Tariffs are a direct tax applied to goods imported from a different country. Duties are indirect taxes that are imposed on the consumer of imported goods. Tariffs and duties help protect domestic industries by making imports more expensive. Taxes, duties, and tariffs all contribute to the total import and export costs of a product. The government imposes taxes, duties, and tariffs to increase tax revenue. The tax revenue from duties and taxes helps fund social and developmental works like education, health, and security.

i. What are Taxes ?

A tax is a direct or indirect source of government revenue placed on almost all purchases. Taxes are primarily imposed on goods and individuals. Taxes are binding and not voluntary, so an individual is bound to pay tax, and failing to do so is punishable. Import taxes are government fees placed on purchased goods coming into a country. Therefore, duties and tariffs are both types of import taxes. The importer usually pays import taxes. When goods have been purchased abroad, a consumption tax applies and is collected by Customs when goods enter a country.

ii. What are Duties?

Duties are an indirect tax imposed by the government on the consumer. Duties are applied to financial transactions and commodities. Duties are considered to be an indirect tax because it is similar to a consumer tax. Duties are imposed on both goods that are imported and goods manufactured locally. This includes excise duties and Customs duties. Duties imposed on goods manufactured domestically are known as excise duties. An excise is a type of indirect tax, so the producer or seller who pays the excise duty is expected to try to recover their loss by raising the price paid by the end-user. Excise duties are imposed in addition to other indirect taxes. Customs duties are an indirect tax imposed by the government on a consumer who imports goods. Customs duties are collected by the government to protect

local industries by raising state revenue to offset cheaper manufacturing done abroad. Customs will levy the amount of Customs duties to be paid based on the value, weight, dimensions, etc. of the imported goods. Customs duties vary by product and country of origin and are enforced by United States Customs and Border Protection (CBP). There are different types of Customs import duties: Basic duty- Countervailing duty- Anti-dumping duty-

iii. What are Tariffs ?

A tariff is a direct tax imposed by the government paid on a particular class of imports or exports. A Tariff relates to the harmonized tariff system codes (HTS), in which imported goods are classified under. HTS codes determine the tariff rate that should be charged on specific products. HTS codes mainly apply to imports. Tariffs can cause a price increase on goods imported into the United States. When the government imposes tariffs on imported goods, their price will increase in the domestic market. As a result of the price increase on imported goods, the quantity of that good being imported will decrease, and the supply of that product will increase in the domestic market. The result of imposing tariffs is that foreign exporters will lose, domestic producers will gain, and the government will collect tariff revenue.

iv. Concept before GST :

Under the erstwhile indirect tax regime, there was no concept of Supply. The stage at which indirect taxes were levied varied under different tax laws. The 'excise duty' was charged on goods manufactured when they were taken out of the factory. 'Service Tax' was levied based on certain rules known as the 'point of taxation' rules, for services rendered. A VAT would arise on the value of the sale of goods or provision of services. The present system has merged all taxes to maintain a single taxable event.

v. Supply under GST :

Scope explained Under GST, Supply is considered a taxable event for charging tax. The liability to pay tax arises at the 'time of supply of goods or services'. Thus, determining whether or not a transaction falls under the meaning of supply, is important to decide GST's applicability.

Supply under GST: Supply includes sale, transfer, exchange, barter, license, rental, lease and disposal. If a person undertakes either of these transactions during the course or furtherance of business for consideration, it will be covered under the meaning of Supply under GST. Elements of Supply: Supply has two important elements: Supply is done for a consideration. Supply is done in course of furtherance of business. If the aforementioned elements are not met with, it is not considered as a sale. Examples: Mr. A buys a table for Rs.10,000 for his personal use and sells it off after 10 months of use to a dealer. This is not considered as supply under CGST as this is not done by Mr. A for the furtherance of business. Mrs. B provides free coaching to neighbouring students as a hobby. This is not considered as supply as this act is not performed for a consideration. However, as specified in Schedule I of GST Act, certain activities are considered as supply even if it is made without consideration.

5.4 TRANSACTIONS COVERED UNDER GST :

All forms of supply of goods and services such as sale, transfer, barter, exchange, license, rental, lease or disposable made or agreed to be made for a consideration by a person in the course or furtherance of business importation of services, for consideration whether or not in the course of furtherance of business, and a supply specified in Schedule-1, made or agreed to be made without a consideration.

i. Meaning of supply as per schedule – 1 :

Permanent transfer/ disposal of business assets where input tax credit has been availed on such assets. Supply of goods or services between related persons when made in the course or furtherance of business.

Supply of goods :

By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal. Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business. Determination of the taxable event in any tax law is of utmost significance as levy of tax is based on occurrence of that event. GST is imposed on supply of goods and services. Hence, the term supply is very important in determining the taxability of all transactions, whether commercial or otherwise under GST regime.

ii. Classification of supply and types :

a) Composite supply :

There are a few supplies which are made together with two or more items. Such supplies are further classified into Composite Supply and Mixed Supply. A supply comprising of two or more goods/services, which are necessarily supplied in conjunction with each other as per frequent business practices followed in that area. In other words, these items cannot be supplied individually. There is a principal supply and a secondary supply in the whole transaction. In such cases, the tax rate on principal supply will apply to the entire supply. E.g. Buying a Dry Fruit Gift Box for Diwali. It includes dry fruits, a box, and a wrapper. Box and wrapper cannot be sold individually without the main content which is dry fruit. This is a composite supply.

b) Mixed Supply :

A supply comprising of two or more goods/services, wherein the supplies are independent of each other and are not necessarily required to be sold together is called a mixed supply. The first condition to be met for mixed supply is that 'it should not be a composite supply'. In such cases, the tax rate that is higher of the two supplies will be applicable to the entire supply. E.g. Buying a Christmas package consisting of cakes, aerated drinks, chocolates, Santa caps, and other gift items. Each of these items can be sold separately and are not dependent on each other. This is a mixed supply.

5.5 SCHEDULE - II OF GST ACT- ACTIVITIES CONSIDERED AS A SUPPLY OF SERVICES AS PER SCHEDULE - II OF GST ACT :

- (i) Land and building : 1. Lease, rent, tenancy, easement, license to occupy land
2. Lease or letting out of the building (Building includes commercial/ industrial/residential complex for business use either wholly or partly)
- (ii) Transfer of business assets: The owner uses or allows to use business assets for personal use.
- (iii) Construction of a building/complex intended for sale to a buyer wholly or partly Temporary transfer or permitting the use of intellectual property right
- (iv) Renting of immovable property (Rented residence is exempted from GST)
- (v) Development of information technology software
- (vi) Agreeing to refrain from an act – Non-competition agreements
- (vii) Transfer of right to use any goods for a consideration
- (viii) Any treatment or process which is applied to another person's goods is a supply of services.

Activities to be treated as supply of goods / services – Schedule II

1.Transfer	<p>SOG</p> <ul style="list-style-type: none"> • Any transfer of the title of goods. • Any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration. <p>SOS</p> <ul style="list-style-type: none"> • Any transfer of right in goods or of undivided share in goods without the transfer of title
2.Land & building	<p>SOS</p> <ul style="list-style-type: none"> • Any lease, tenancy ,easement, license to occupy land • Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly.
3. Treatment for process	<p>SOS</p> <ul style="list-style-type: none"> • Any treatment or process which is applied to other person's goods
4. Transfer of business assets	<p>SOG</p> <ul style="list-style-type: none"> • When goods forming part of the assets of a business are transferred or disposed of whether or not for a consideration <p>SOS</p>

	<ul style="list-style-type: none"> When a person carrying on a business starts using business goods for any private use or he allows the use by any other person for any private use, whether or not for a consideration <p>Deemed SOG</p> <ul style="list-style-type: none"> When any person ceases to be a taxable person, any goods forming part of the assets of any business shall be deemed to be supplied by him immediately before he ceases to be a taxable person. <p>However this will not apply if;</p> <ul style="list-style-type: none"> The business is transferred as a going concern to another person, The business is carried on by a personal representative who is deemed to be a taxable person.
5. supply of service	<p>SOS</p> <ul style="list-style-type: none"> Temporary transfer or permitting use or enjoyment of any intellectual property right. Renting of immovable property. Construction of a civil structure including construction intended for sale to a buyer. <p>Except when the entire consideration has been received</p> <p>1. after issuance of completion certificate or</p> <p>2. after its first occupation ; whichever is earlier</p> <ul style="list-style-type: none"> Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of IT software. Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act Transfer of right to use any goods for any purpose for cash. deferred payment or other Valuable consideration.
6. composite supply	<p>SOS</p> <ul style="list-style-type: none"> Works contract as defined in Section 2(119) and Supply under the service of food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other Valuable consideration.
7. supply of goods by AOP/BOI	<p>SOS: Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.</p>

Note :

The government may notify the transactions that are to be treated as a supply of goods and not as a supply of services and vice-versa.

5.6 SCHEDULE - III OF GST ACT: ACTIVITIES OR TRANSACTIONS TREATED NEITHER AS THE SALE OF GOODS NOR SALE OF SERVICES AS PER SCHEDULE- III OF GST ACT :

Following are the transactions covered under negative list :

- i. Services provided by an employee to the employee
- ii. Services of the funeral, burial, crematorium or mortuary including transportation of the deceased
- iii. Services by any court or Tribunal
- iv. Duties performed by the MP/MLA/MLC/ Members of Local Bodies
- v. Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a state government or local authority.
- vi. Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
- vii. Sale of Land
- viii. Sale of Building (However, if construction of a complex /building intended for sale to a buyer and part of the consideration is received before completion, then it will be treated as Supply of Services)
- ix. Actionable claims, other than lottery, betting and gambling
- x. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India*
- xi. Supply of warehoused goods to any person before clearance for home consumption
- xii. Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside
- xiii. India but before clearance for home consumption*

*These transactions were inserted into the Act with effect from 1st February 2019. However, in Budget 2023, it was proposed that these entries will take retrospective effect from 1st July 2017. However, no refund will be made of all the tax that has been collected between 1st July 2017 and 31st January 2019. The new amendment will apply once notified by the CBIC. Thus, GST law has simplified tax treatment by clearly classifying activities considered as goods/services or transactions considered as neither sale of goods or services.

NEGATIVE LIST :**Activities or transactions treated neither as supply of goods nor supply of services
(Schedule – III)**

Sl. No.	Activities or transactions which shall be treated neither as a supply of goods nor
	a supply of services
1	<p>Services by an employee to the employer in the course of or in relation to his employment.</p> <p>Not liable to GST:</p> <ul style="list-style-type: none"> i) Amounts received by an employee from the employer on premature termination of contract of employment ii) Services provided by casual worker to employer who gives wages on daily basis iii) Casual workers are employed by a contractor, who deploys them for execution of a contract or for provision of security services (Building contractor or A security services agency) <p>Services provided outside ambit of employment for a consideration would qualify AS SUPPLY.</p> <p>Liable to GST:</p> <ul style="list-style-type: none"> i) An employee provides his services on contract basis to an associate company of the employer ii) Services provided on contract basis i.e. principal-to-principal basis iii) Any amount paid for not joining a competing business would be liable to be taxed being paid for providing the service of forbearance to act
2.	<p>Services by any court or Tribunal established under any law for the time being in force. Explanation: The term "Court" includes District Court, High Court and Supreme Court.</p>
3.	<ul style="list-style-type: none"> (a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; or (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or Example: Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity. (c) Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5b (Schedule II, sale of building)
6.	Actionable claims, other than lottery, betting and gambling.

II. Inter-state movement :

Activities/ transaction undertaken by the Central Government, a State Government or any local authority in which are engaged as public authorities shall be covered under the Negative list. Further, services by way of any activity relation to a function entrusted (in relation) to a Panchayat under article 243G of the Constitution or a Municipality under article 243W of the Constitution has been notified under the negative list.

5.7 LATEST UPDATES: 1ST FEBRUARY 2023 - IMPORTANT UPDATES FROM BUDGET 2023* :

1. Section 16 is amended to state that buyers who fail to pay their supplier the invoice value, including the GST amount, within 180 days from the date of issue of the invoice, must pay an amount equal to the ITC claimed along with interest under Section 50.
2. Sections 37, 39, 44, and 52 are amended to restrict taxpayers from filing their GSTR-1, GSTR-3B, GSTR-9 and GSTR-8 for a tax period after the expiry of three years from the due date.
3. Section 17(5) is revised to include another item under ineligible ITC being expenditure on CSR initiatives for corporate.
4. High sea sales and similar transactions that are neither supply of goods or services are considered exempt and hence ITC proportional to such sales cannot be claimed as per revised Section 17(3).
5. Schedule III has been amended to provide for paras (7) and (8) and explanation (2) to take retrospective effect from 1st July 2017.
6. Section 10 of the CGST Act has been amended to allow businesses that supply goods through an e-commerce operator to opt into the composition scheme.

*These amendments will come into force once notified by the CBIC.

5.8 REVERSE CHARGE MECHANISM :

Under “reverse charge mechanism”, the time of supply is the earliest of:

1. Date of receipt of goods
2. 30 days from the date of invoice
3. Date of payment

Now the date of payment would be considered the earlier of :

- a. Date of debit in the bank account as depicted in the bank statement
- b. The date of recording the payment in the books of account by the recipient

5.8.1 Illustration for Understanding :

Giri is an unregistered trader. He supplies goods to a registered recipient on 1st February, 2018. Goods supplied were received by Gaurav at his factory on 28th February, 2018. The invoice for the supply made was issued on 15th February, 2018. However, the payment was made on 5th March, 2018.

This is the case of reverse charge mechanism since the supplier that is Giri is unregistered. Hence, the time of supply would be the earliest of:

- a. **Date of receipt of goods :** In this case, February 28th, 2018 is the date of receipt of goods.
- b. **30 days from date of invoice :** In this case, March 16th, 2018 is 30 days from the date of invoice
- c. **Date of payment :** In this case, March 5th, 2018 is the actual date of payment. Hence the time of supply would be February 28th, 2018.

5.8.2 Vouchers :

In case a supplier gets vouchers in lieu of supply of goods, the time of supply is determined as under :

- a. The first case is the one where the supply is identifiable at the time of the issue of the voucher. The time of supply in such a scenario is taken as the date of issue of the voucher.
- b. The second case relates to the one where supply is not identifiable at the time of issue of the voucher. In this scenario, date of redemption of the voucher would be taken as the time of supply.

5.8.3 Illustration for Understanding :

Vipul Ltd., enters into an arrangement with “Carlton London” and buys vouchers in return. These vouchers get issued on December 14th, 2022. The company then distributes these vouchers, each carrying a denomination of Rs 4,000, to all its employees on December 24th, 2022.

The validity of the vouchers ends on January 31st, 2023. Thus, using such vouchers, the employees can buy shoes of their choice. Now, employees make the most of this opportunity and get their vouchers redeemed on the first day of the New Year, that is, on January 1st, 2023.

In this case, the supply is identifiable at the point of issue of the voucher. Therefore, the time of supply would be taken as date of issue of vouchers, that is, December 14th, 2022.

5.8.4 All Other Instances :

In case of instances other than the ones mentioned above, the time of supply is taken as :

1. Due – date for filing periodic returns or
2. In other cases, the date of payment of GST

5.9 TIME OF SUPPLY IN CASE RATE OF TAX CHANGES :

The change in the rate of tax with regards to goods or services are defined in section 14 of the CGST Act. There are two scenarios under this.

1. The one where goods or services have been supplied before the change in the rate of tax. and
2. The one where goods or services have been supplied after the change in the rate of tax.

5.9.1 Supply of Goods or Services before Change in the Rate of Tax :

1. The first case relates to the one where invoice is issued and the payment is received after the change in rate of tax. In such a case, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier.
2. Next case relates to the one where invoice is issued prior to the change in rate of tax. But payment is received after the change in rate of tax. In such a case, the time of supply shall be the date of issue of invoice;
3. There are cases where payment is received before the change in rate of tax. But the invoice for the same is issued after the change in rate of tax. In such a case, the time of supply shall be the date of receipt of payment.

5.9.2 Supply of Goods or Services after Change in the Rate of Tax :

There are cases where payment is received after the change in rate of tax. But the invoice is issued prior to the change in rate of tax. In such a case, the time of supply shall be the date of receipt of payment.

Then, there are also times when invoice is issued and payment is received before the change in rate of tax. In such cases, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier.

Lastly, there are also cases where invoice is issued after the change in rate of tax. But the payment is received before the change in rate of tax. In such cases, the time of supply shall be the date of issue of invoice. Provided that the date of receipt of payment shall be the date of credit in the bank account. This happens only if such credit in the bank account is after four working days from the date of change in the rate of tax.

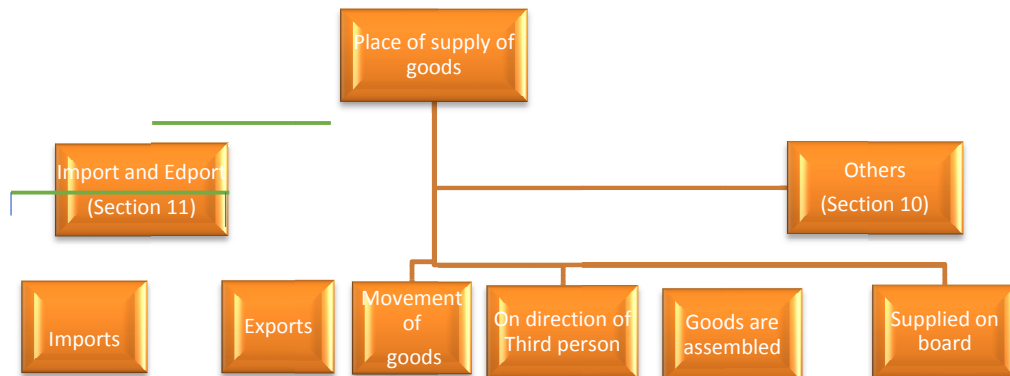
5.10 PLACE OF SUPPLY AND GST :

In GST, the concept of a place of supply has been made relevant not only for the supply of services but also for the transaction of goods. Which tax is to be levied will depend on whether the particular transaction is an Inter-state supply or Intra-state supply. Hence, every transaction will have to go through the test of provisions relating to the place of supply in order to determine which tax is to be levied.

The purpose of the place of supply provisions is two – fold :

- 1) In case of cross-border transactions, to determine whether tax is to be levied on a particular transaction.
 - Section 7 of IGST Act defines what an inter-state supply is. Broadly, inter-state supply is when “location of supplier” and “place of supply” are not in the same state or same union territory
- 2) In the case of domestic transactions, to determine whether a particular transaction is an inter-state supply or an intra-state supply.
 - Section 8 of IGST Act speaks about Intra-state supply. Broadly, intra-state supply is when “location of supplier” and “place of supply” are in the same state or same union territory.

The above transactions are further divided into some broad categories as below :



POS for Imports and Exports (Section 11)

- 1) **Imports** : The place of supply of goods imported into India shall be the location of the importer.
- 2) **Exports** : The place of supply of goods exported from India shall be the location outside India.

5.11 TRANSACTIONS OTHER THAN IMPORT OR EXPORT (SEC.-10)

1) Movement of Goods Section 10(1)(a) :

"Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient"

This implies that place of supplier or receiver is of no consequence to determine the place of supply when it comes to those transactions which involve the movement of goods. The place where delivery terminates i.e., where the ownership is passed on shall be critical to determine the place of supply.

Example :

Rathi Limited of Andhra Pradesh sells 50 cell phones to Shah Traders in Telangana. Rathi Limited delivers the product to Shah Retailers in its warehouse in Hyderabad. Place of supply, in this case, will be Hyderabad and IGST will be levied as it is an Inter-State transaction.

2) Bill To Ship to Transactions: Section 10(1)(b) :

"Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person"

Note :

When goods are delivered to a party on the direction of a third person the place of supply will be the location of such third person and not where the delivery terminates.

Example :

Hanuman Traders, a dealer in furniture, located in Maharashtra, receives an order from Ram Traders, also located in Maharashtra. The order is for the supply of 50 Tables, with an instruction to ship the Tables to Prime Hardware, located in Tamil Nadu. Prime Hardware is a customer of Ram Traders.

There are two parts to this transaction :

- **First part of the transaction** – between Hanuman Traders and Ram Traders: Hanuman Traders is the supplier of Tables, and Ram Traders is the buyer. Accordingly, Hanuman Traders bills the transaction to Ram Traders, and as per the instruction, ships the goods to Prime Hardware in Tamil Nadu.
- **The second part of the transaction** – between Ram Traders and Prime Hardware: Ram Traders is the supplier, and Prime Hardware is the buyer. Ram

Traders bills the transaction to Prime Hardware, and endorses the lorry receipt (goods shipped in a lorry by Hanuman Traders) in favour of Prime Hardware. This lorry receipt (LR) will enable Prime Hardware to take the delivery of the goods.

Over here, on the instruction from Ram Traders, Hanuman Traders ships the aluminium ladders to Prime Hardware located in Tamil Nadu.

Here, Ram Traders is deemed as the third person. Therefore, the place of supply will be the principal place of business of the third person, i.e., Maharashtra. Accordingly, Hanuman Traders charges CGST and SGST on billing to Ram Traders. The second part of the transaction between Ram Traders and Prime Hardware will also be interstate, and IGST will be charged.

1) No Movement of Goods Section 10 (1) (c) :

The section states that where the supply does not involve movement of goods, whether, by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient; When goods are of such nature which does not require any movement, place of supply shall be the location of such goods.

Example :

Lumbini Limited registered in Andhra Pradesh sold its pre-installed transmission tower (electric tower) located at Telangana to Hindustan Limited registered in Chennai.

In this case, the location of the supplier is Andhra Pradesh, but a place of supply will be Telangana. Hence, IGST will be levied.

2) When Goods are Installed Section 10 (1) (d) :

This section reveals that where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

Example :

Bharat Limited registered in Andhra Pradesh opens a new office in Hyderabad. It purchases 10 ACs to be installed at its Hyderabad office from Raman electronics in Andhra Pradesh.

In this case, the location of the supplier is Andhra Pradesh, but a place of supply will be Hyderabad, Telangana State. Hence, IGST will be levied.

3) Goods on Board a conveyance Section 10 (1) (e) :

This section states that "Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board."

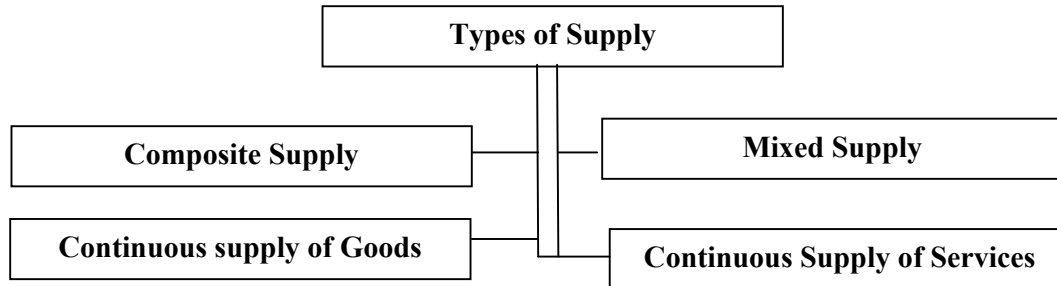
This provision includes those purchases which are done while travelling on a conveyance.

Example :

Mr. Mohan is travelling on a cruise liner from Mumbai to Goa. He purchases a book from the in-house store in the cruise liner. These books were on-boarded from Mumbai. Registered place of business of the book shop is in Mumbai. Place of supply, in this case, will be Mumbai. This is an intrastate supply, and CGST and SGST will be charged.

5.12 TYPES OF SUPPLY :

The following are the types of supply :

**Composite Supply :**

The definition of ‘Composite Supply’ has been given in Section 2(30) while the tax liability for composite supply has been given under Section 9(a) of the CGST Act.

According to Section 2(30) of the CGSS Act, ‘composite supply means, a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply’.

The term ‘**Principal Supply**’ has been defined by the Act in Section 2(90). According to Section 2(90) of the CGST Act, ‘principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary’.

For example, Mr. X supplied goods to Mr. Y with insurance. In this case, the entire bundle of goods, packing material, and insurance is a **Composite Supply** while the supply of goods is the **principal supply**.

Features of Composite Supply :

- 1) It includes two or more taxable supplies. These taxable supplies are provided in combination with each other.
- 2) The taxable supplies included in composite supply are bundled naturally.
- 3) The price charged for the composite supply is always single.
- 4) The primary element of composite supply is the principal supply.

Tax Liability on a Composite Supply [Section 8(a)] :

A composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply.

Here, the tax rate of the principal supply applies to the entire supply or composite supply.

For example :

Mr. A sells a washing machine to Mr. B and provides a package of washing powder along with it. Normally, to apply GST on these products separately, two different rates are considered. However, because these taxable supplies are delivered to Mr. B as composite products, the GST charged on the principal supply (which is the washing machine) shall be applicable to such composite supply.

Let's take another **example** Mr. A purchased an air conditioner from a dealer and he signed a maintenance contract with him. The supply of air conditioners and the supply of maintenance services together make these purchases a composite supply. If he purchases the air conditioner and avails the service separately then in that case he requires paying GST on both at different rates (28% on the air conditioner and 18% on the maintenance service). Because it is a composite supply, the GST payable on the principal supply will be applicable to the entire supply. Thus,

Principal Supply : Supply of Air Conditioner

Ancillary Supply : Rendering maintenance services

Tax Liability : The GST applicable on the air conditioner shall be applicable to the entire supply.

5.13 TIME OF SUPPLY IN CASE OF COMPOSITE SUPPLY :

In case the principal supply is a service such as air transport and food on board, the composite supply shall be considered as a supply of services and the provisions associated with time of supply of service shall be applicable. In the same way, if a person purchases and transports the goods then the supply of goods is the principal supply. For such cases, the composite supply will qualify as a supply of goods and the provisions associated with the time of supply of goods will apply.

Example Mr. P visited a hotel on his vacation. This hotel is a five-star hotel that provided him with a package of four days and three nights with breakfast. Based on the given information, you are required to determine that whether it is composite supply and if yes then what is the tax levied on this composite supply.

Yes, the entire package of accommodation along with breakfast is a composite supply because in any hotel, the package of accommodation with a facility of breakfast is a common combination of services offered to the customer in the ordinary course of business.

Here, offering accommodation is the principal supply while offering breakfast is ancillary to the hotel accommodation. In general, GST charged on the supply of hotel accommodation is 18% while the GST charged on restaurant service is only 28% but because the principal supply is hotel accommodation, the GST charge on the entire supply shall be 18%.

Example :

Mr. X is a supplier, who sells laptops and laptop bags to his customers for Rs.75,000. On purchasing these two products separately, the CGST and SGST charged for a laptop is 18% and the CGST and SGST charged for a laptop bag is 28%. You are required to determine the rate of tax leviable on the customer and the GST liability.

If the supplier offers the bag along with the laptop in the ordinary course of business then the laptop becomes the principal supply and the bag becomes ancillary to the laptop.

Hence, it is a case of composite supply and the tax levied on the laptop shall be applicable for the composite supply. GST charged on the composite supply shall be 18% on Rs.75,000. Therefore, the amount payable for CGST shall be Rs. 6,750 and SGST shall be Rs. 6,750.

5.14 MIXED SUPPLY :

The definition of 'mixed supply' has been given in Section 2(74) while the tax liability for mixed supply has been given under section 8(b) of the CGST Act.

According to Section 2(74) of the CGST Act, 'mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply'.

In GST, while taxing a mixed supply, the highest rate of tax is considered. Let's understand this concept with the help of an example of a Diwali gift box. The suppliers prepare this gift box by including different individual products to it like canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks, and fruit juices supplied, and finally offer this box for a single price. Such supply is known as mixed supply. The items included in the box are normally sold separately. Therefore, the tax rate charged for each item is different. Because it is a case of mixed supply, the tax rate on the entire gift box shall be the highest GST rate of the items included in the gift box. Among the entire given item, the tax rate charged for an aerated drink would be greater as it attracts 28% GST. Therefore, 28% GST shall be chargeable on such Diwali Box.

Feature of Mixed Supply :

- 1) It includes two or more taxable supplies of goods or services or a combination of both. These supplies are supplied in combination with each other.
- 2) The taxable supplies (items) included in mixed supply are bundled intentionally. Here, bundling is not natural as like in the composite supply.

- 3) The price charged for the mixed supply is always single.
- 4) No taxable supplies included in the mixed supply are considered as a principal supply.

Tax Liability on a Mixed Supply [Section 8(b)] :

A mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which **attracts the highest rate of tax.**

For example, Mr. A is a supplier of gift packets. He sells customized gifts to his customers. His most demanding gift pack is a packet of chocolate and fresh juices. The tax rate charged for chocolate is 28% while the tax rate for juice is 12%. Because such gift packets are an example of mixed supply, therefore, the GST liable on such supply shall be 28% (the highest of 12% or 28%).

Time of Supply in case of Mixed Supplies :

The mixed supply shall be treated as the supply of services if the highest tax rate belongs to a service. Therefore, the provisions associated with the time of supply of service shall apply. In the same way, the mixed supply shall be treated as the supply of goods if the highest tax rate belongs to goods. Therefore, the provisions associated with the time of supply of goods shall apply.

Example :

Mr. A is a supplier who sells combo packs of shirts, watch, wallet, and book. He offers these items after creating customized kits for a single price. You are required to determine the type of supply for such kits. Also determine the tax rate on the combo packs.

Solution :

Here, the items included in the kit are bundled deliberately and are not associated naturally. Therefore, the supply is a mixed supply. If we consider each item separately, the tax rate charged on a shirt, watch, wallet, and book shall be 12%, 18%, 5% and nil respectively. Considering all tax rates, the rate for watch is the highest rate of tax in the mixed supply. Therefore, the tax rate for the mixed supply shall be 18%.

Example :

Mr. X booked an AC class train ticket of Rajdhani Express. On such purchase, he is entitled to receive a meal of a day. You are required to determine whether it is a mixed supply or a composite supply.

Solution :

In this case, the service of transporting a passenger along with a meal is an example of composite supply because these two products are naturally related to each other and cannot be sold separately. Therefore, here the principal supply is the transportation of passengers, and the tax rate applicable to the principal supply shall be the tax rate of the composite supply.

Difference between Composite Supply and Mixed Supply

Particulars	Composite Supply	Mixed Supply
1) Definition	According to Section 2(30) of the CGSS Act, ‘composite supply means, a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply’.	According to Section 2(74) of the CGST Act, ‘mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply’.
2) Form of Bundling	The taxable supplies are naturally bundled.	The taxable supplies are purposely bundled.
3) Principal Supply	One of the supplies included in composite supply is the principal supply.	Out of all available supplies of mixed supply, none of the supplies is a principal supply.
4) Single Price	In this supply, a single price is not an important factor.	In this supply, a single price is an important factor.
5) Availability of Individual Supplies	The supplier cannot offer the supplies separately	The supplier can offer the supplies separately.
6) Tax Treatment	To tax the composite supply, the principal supply is taken into consideration.	To tax the mixed supply, the higher rate of tax applicable for all individual goods and services is considered.

Continuous Supply of Goods :

According to Section 2(32) of the CGSS Act, ‘continuous supply of goods means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify’.

Example for Continuous Supply of Goods :

- 1) The supply of bricks to builders. In this case, the bricks are supplied periodically for a long time.

- 2) The supply of gas through a pipeline. The customers receive the billing schedule either weekly or monthly basis.

Continuous Supply of Services :

According to Section 2(33) of the CGSS Act, ‘continuous supply of services means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify’.

Example for Continuous Supply of Services :

- 1) Internet services offered by Telecom companies;
- 2) Annual maintenance contracts; and
- 3) Licensing of software or brand names.

5.15 SUMMARY :

An invoice is a commercial instrument issued by a supplier of goods/services to a recipient. It identifies both the parties involved, and lists, describes the items sold/services supplied, quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and the delivery and payment terms (in case of supply of goods).

Invoicing is very crucial aspect for ensuring tax compliance under any indirect taxation system. In order to ensure transparency, issuance of invoice for every taxable transaction is a pre-requisite. In case of supply of goods or provision of services, an invoice is raised by the supplier of such goods or services to the recipient of the same. Tax invoice acts as a document evidencing the payment of the value of the goods or services or both as also the tax portion in the same. In certain cases, an invoice serves as a demand for payment and becomes a document of title when paid in full.

5.16 KEY WORDS :

Invoice :

An invoice is a commercial instrument issued by a seller to a buyer. It identifies both the trading parties and lists, describes, and quantifies the items sold, shows the date of shipment and mode of transport, prices and discounts, if any, and delivery and payment terms.

Date of Receipt of Payment :

Date of receipt of payment refers to the date on which the payment is recorded in the books of account of the entity (supplier of service) that receives the payment, or the date on which the payment is credited to the entity’s bank account, whichever is earlier.

Duties :

Duties are an indirect tax imposed by the government on the consumer. Duties are applied to financial transactions and commodities. Duties are considered to be an indirect tax because it is similar to a consumer tax. Duties are imposed on both goods that are imported and goods manufactured locally.

Tariff :

A tariff is a direct tax imposed by the government paid on a particular class of imports or exports.

Composite Supply :

Composite supply means, a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply’.

Principal Supply :

Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary’.

Mixed Supply :

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply’.

5.17 SELF ASSESSMENT QUESTIONS :

1. What is meant by Tax Invoice?
2. What are various contents of Bill of Supply?
3. Distinguish between taxes, duties and tariffs
4. What are the transactions covered under GST?
5. What are the activities/transactions considered as a supply or services under Schedule-II & III of GST Act?
6. Explain reverse charge mechanism and time of supply.
7. What is meant by Types of supply? Explain about time of supply in case of composite supply.
8. Explain Mixed Supply.

5.18 SUGGESTED READINGS :

1. S.S Gupta (2017)- GST-Laws and practice, Taxmann’s Publications, New Delhi.

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3. <https://taxguru.in/goods-and-service-tax/tax-tobacco-products>.
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5. Jitendra Kumar Saxena, Vishnu Shankar Agrahari, & Narendra Kumari, ‘Goods and Services Tax’, Thakur Publication Pvt. Ltd., Lucknow, 2023.

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Lesson – 6

TIME OF SUPPLY OF GOODS & SERVICES

Objectives :

After reading this lesson, student will be able to :

- To know the concept of Time of Supply of Goods & Services and Value of Supply;
- To learn about Input Tax Credit (ITC), Distribution of Credit and Matching of Input Tax Credit;
- To be aware of availability of Credit in special circumstances; and
- To know about cross utilization of ITC between the Central GST and State GST.

Structure of the Lesson :

- 6.1 Time of Supply of GST
- 6.2 Time of Supply Goods
- 6.3 Value of Supply and GST
- 6.4 Meaning of Input Tax Credit (ITC)
- 6.5 Features of Input Tax Credit
- 6.6 Documents and Forms required claiming Input Tax Credit
- 6.7 Input Tax Credit on Supply of Capital Goods
- 6.8 ITC is not available to be claimed
- 6.9 Reversal of Input Tax Credit
- 6.10 ITC provided by Input Service Distributor (ISD)
- 6.11 Pre-requisites to claim Input Tax Credit
- 6.12 Distribution of Credit
- 6.13 Conditions for distribution of ITC by ISD
- 6.14 Procedure for distribution of ITC by ISD
- 6.15 Recovery procedure for Wrongful Distribution of credit by ISD
- 6.16 Availability of Credit in Special Circumstances
- 6.17 Cross Utilisation of ITC
- 6.18 Summary

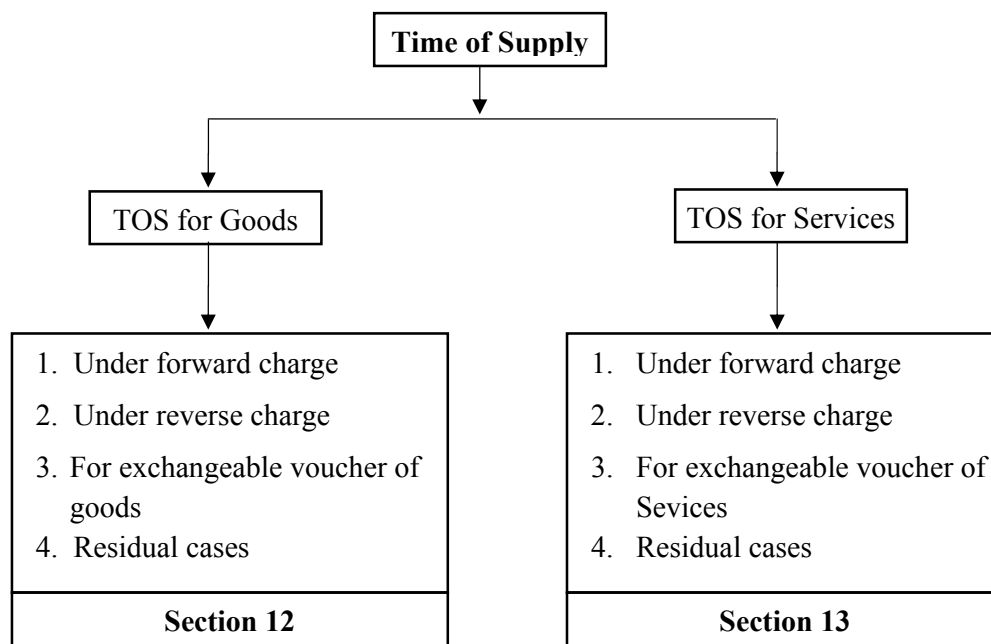
- 6.19 Key Words
- 6.20 Self Assessment Questions
- 6.21 Suggested Readings

6.1 TIME OF SUPPLY OF GST :

The time of supply means the point in time when a supply shall be deemed to have been provided. Under GST, the point of taxation, i.e., the liability to pay CGST/SGST will arise at the time of supply as determined for Goods & Services. Time of supply is generally the earliest of one of the three events, namely

1. Receiving payment,
2. Issuance of invoice or
3. Completion of supply.

The following cases are to be covered in this regard :



However, in some circumstances, the time of supply could be different based on the nature of the transaction. The following concepts are look at GST time of supply for goods, services and reverse charge transactions.

6.2 TIME OF SUPPLY OF GOODS :

The point of taxation under GST is the point in time when goods or services have been deemed to be supplied. Thus, such a point in time under GST determines the rate of tax, value as well as due dates for payment of taxes. Provisions regarding time of supply revolve around four categories :

- Forward Charge Mechanism
- Reverse Charge Mechanism
- Vouchers
- All Other Instances

6.2.1 Forward Charge Mechanism :

The following graphic explains the provisions with regards to time of supply of goods in case of forward charge mechanism. Accordingly, the time of supply of goods would be the earliest of :

- a. Date of Issue of Invoice
- b. Due Date for Issue of Invoice
- c. Date of Receipt of Payment

However, these provisions must be contemplated taking into consideration the following points :

6.2.2 The Invoice Must Be Issued :

- On or before the time of removal of goods. This is in cases where supply involves movement of goods.
- On or before delivery of goods to the recipient. This should happen where supply does not involve any movement of goods.
- On or before issuance of statement of account. This should take place in cases where there is a continuous supply of goods.
- On or before the time of supply subject to a maximum of 6 months from the date of removal, whichever is earlier. This occurs in cases where goods are supplied on “approval for sale or return” basis.

The date of receipt of payment would be considered the earlier of :

- Date of credit in the entity’s bank account, as displayed in the bank statement
- The date on which payment is recorded in the books of accounts of the supplier

There might be a scenario when the supplier receives excess payment up to Rs 1000. The time of supply of goods for such excess value can be taken as the date of invoice issued with respect to such excess amount.

6.2.3 Illustration for Understanding :

Sivaram Ltd. supplied goods to Sharma Ltd. The terms of the contract stipulated that goods are delivered to the factory of Sharma Ltd. Goods were removed from the factory of Sivaram Ltd. on 9th September, 2022 and were delivered to the factory of Sharma Ltd. on 15th September, 2022.

Now, the invoice was issued on 18th September, 2022 and payment was credited to Sivaram Ltd's account on 20th October, 2022. However, the entry was made in the books when the cheque was received i.e. on September 19th, 2022.

As per the above scenario, various dates are as under :

1. Actual date of issue of invoice = 18th September, 2022
2. Due date for issue of invoice = 9th September, 2022 (as supply involves movement of goods)
3. Date of receipt of payment = 19th September, 2022 (earlier of entry in books of accounts and credit made in the bank account)

Therefore, as per rule, the time of supply would be the earliest of the above dates, that is, 9th September, 2022.

6.2.4 Illustration for Understanding :

Say Sivaram Ltd. receives payment of Rs.1,00,000 in advance. And the invoice issued is for Rs. 99,000.

In this case, the Rs.1,000 is in excess of the invoice amount that stands at Rs.99,000. The invoice for the excess amount of Rs.1,000 would be issued subsequently. Hence, the time of supply in this case can be taken to be the date of the issue of the next invoice for the excess amount. This is despite the fact that the payment was received earlier.

6.3 VALUE OF SUPPLY AND GST :

The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

6.3.1 The Value of Supply Shall Include :

1. Any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;
2. Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
3. Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

4. Interest or late fee or penalty for delayed payment of any consideration for any supply; and
5. Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Note: For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

6.3.2 The Value of the Supply shall not include any Discount which is given :

1. Before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
2. After the supply has been affected, if —
 - a. such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - b. input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Explanation :

For the purposes of this Act, —

- (a) persons shall be deemed to be “related persons” if —
 - (i) such persons are officers or directors of one another’s businesses;
 - (ii) such persons are legally recognised partners in business;
 - (iii) such persons are employer and employee;
 - (iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same family;
- (b) the term “person” also includes legal persons;

- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

6.4 MEANING OF INPUT TAX CREDIT (ITC) :

Input Tax Credit (ITC) is the core concept of GST. ITC avoids cascading effect of taxes and ensures that tax is collected in the State in which goods or services or both are consumed. As per the - section 2(56) of CGST Act “Input tax credit” means credit of ‘input tax’. Where any person claims that he is eligible for input tax credit under this Act. The burden of proving such claim shall lie on such person.

Input Tax Section 2(62) of CGST Act defines ‘input tax’ as follows :

“Input tax” in relation to a registered person, means the Central tax (CGST), State tax (SGST), Integrated Tax (IGST) or Union territory tax (UTGST) charged on any supply of goods or services or both made to him and includes:

- (a) The integrated goods and services tax charged on import of goods
- (b) The tax payable under the provisions of sub-sections (3) and (4) of section 9 [reverse charge of CGST]
- (c) The tax payable under the provisions of sub-sections (3) and (4) of section 5 of the Integrated Goods and Services Tax Act [reverse charge of IGST]
- (d) The tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act [reverse charge of SGST] or
- (e) The tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act [reverse charge of UTGST], but does not include the tax paid under the composition levy. Input Tax Credit is eligible only when it is credited to electronic credit ledger of taxable person.

6.5 FEATURES OF INPUT TAX CREDIT :

1. The Scheme is designed to avoid cascading effect of taxes and make GST a destination – based tax.
2. ITC is available in all input goods and services and capital goods used for purposes of business of a taxable person. However, the ITC is not available on ‘blocked credit’ items.
3. ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.

4. GST law does not require 'one to one' co -relation between inputs goods/services and final products/services. Any eligible ITC can be used for payment of tax on any taxable output supply.
5. IGST is another core aspect of GST. It is a transitory tax to enable transfer of ITC when goods are services move from one State to another.
6. Since ITC can be availed for payment of tax on taxable output supply, as natural corollary, ITC is not available when tax is not payable on output supply. i.e., on exempt supply.
7. The exception to the above principle is 'Zero rated supply', i.e. exports or supplies to a special economic zone developer or units, where ITC is available even if no tax is payable on output supply. Such ITC can be used either of payment of tax on supplies made with tax or refund of the same can be obtained.
8. If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of input goods and services used exclusively for taxable supply and no credit at all for inputs, input services and capital goods used exclusively for exempt supply.
9. If common inputs, input services and capital goods are used for taxable as well as exempt supply, only proportionate ITC attributable to the taxable supply is available. The common ITC is apportioned in the ration of value of taxable supply and exempt supply.
10. ITC can be availed on inputs and capital goods sent for job work. ITC is available even if the inputs and capital goods are sent directly to the job worker without being first brought to the place of business of the supplier.
11. Input services received at head office or branch offices are ultimately indirectly used for supplies made from manufacturing or trading or business premises. ITC of such input services can be availed through mechanism of 'Input service distributor'.

6.6 DOCUMENTS AND FORMS REQUIRED TO CLAIMING INPUT TAX CREDIT :

Each applicant will require the following documents to claim Input Tax Credit under GST :

1. Supplier issued invoice for supplying the services and goods or both according to GST law.
2. A debit note issued by the supplier to the recipient in case of tax payable or taxable value as specified in the invoice is less than the tax payable or taxable value on such supplies.
3. Bill of entry.
4. A credit notes or invoice which is to be issued by the ISD (Input Service Distributor) according to the GST invoice rules.

5. An invoice issued like the bill of supply under certain situations instead of the tax invoice. If the amount is lesser than INR 200 or in conditions where the reverse charges are applicable according to the GST law.
6. A supplier issued a bill of supply for goods and services or both as per the GST invoice rules.

The above documents prepared as per the GST invoice rules should be furnished while filing the GSTR-2 form. Failure to present these forms can lead to either rejection or resubmission of the request. Claiming Input Tax Credit against Inputs Sent for Job Work As a registered taxable person you can also claim ITC on inputs sent to job-workers if the following conditions are satisfied :

1. You should receive such input back within 1 year.
2. If the inputs involved are capital goods, then you should get such inputs back within 3 years.
3. If you fail to receive inputs within the above stated time period, then you will have to pay an amount equal to ITC claimed along with interest.
4. However, you are still allowed to reclaim ITC if inputs or capital goods are received back from the place of business.

6.7 INPUT TAX CREDIT ON SUPPLY OF CAPITAL GOODS :

1. A registered taxable person is liable to pay tax on such a supply of capital goods on which ITC has already been claimed.
2. This amount should be equal to ITC claimed after reducing it by prescribed percentage points or the tax applicable on the transaction value of such capital goods, whichever is higher.

6.8 ITC IS NOT AVAILABLE TO BE CLAIMED - U/S-17 (5) :

In the following cases ITC is not available to be claimed :

1. Motor Vehicles and other conveyances are not eligible for ITC except in some cases;
2. You cannot claim ITC for goods & service for beauty treatment, health mainly used for personal purposes.
3. If you have acquired goods & services under a contract which results in construction of immovable property other than plant & machinery
4. If you have paid tax on goods & services under GST composition scheme.
5. If goods & services have been used to build immovable property other than plant & machinery & such property is not transferred.

6. Works Contract Services when supplied for construction of an immovable property, (other than plant & machinery) is not eligible, except where it is an input service for further supply of works contract service
7. If depreciation has been claimed on the cost of capital goods, then they are not eligible for Input Tax credit.
8. Goods or services or both received by a non-resident taxable person are not eligible for input tax credit, except on goods imported by him;
9. Goods or services or both used for personal consumption are not eligible for ITC;
10. Goods lost, stolen, destroyed, written off or disposed off by way of gift or free samples are not eligible for ITC;
11. No ITC will be allowed if depreciation have been claimed on Tax component of capital goods.

6.9 REVERSAL OF INPUT TAX CREDIT :

1. Proportionate amount of ITC will be reversed if goods or services are used for business or non-business purposes.
2. Where the recipient fails to pay the amount of value of supply along with the tax payable thereon within a period of 180 days from the date of invoice by the supplier, an amount equal to ITC availed by the recipient;
3. Reversal of ITC if goods or services become wholly exempt or GST registration cancelled;
4. Reversal of ITC if taxable person switches to composition Scheme.

6.10 ITC PROVIDED BY INPUT SERVICE DISTRIBUTOR (ISD) :

An Input Service Distributor (ISD) can be the head office (mostly) or a branch office or registered office of the registered person under GST. ISD collects the input tax credit on all the purchases made and distribute it to all the recipients (branches) under different heads like CGST, SGST/UTGST, IGST or cess.

Matching Mechanism for ITC Monitoring :

The concept of matching of ITC may not be new to the taxpayers, especially for the dealers who are currently operating under the Value Added Tax (VAT) regime. However, the same is alien or relatively new to non-VAT taxpayers and hence there is a need to understand the concepts of ITC matching, ITC reversals and re-claim of ITC in GST regime.

Under GST regime, in order to claim input tax credit paid on purchases, there has to be corresponding outward supply entry from a registered taxable person. It means every input tax credit should be matched with the output tax liability. This may create a lot of burden both on the receiver and supplier for matching the transactions.

For all transactions between registered persons, invoice wise details shall be uploaded while filing GST returns and the same shall be matched. In case of any discrepancy found by the system, the said invoice will be treated as mismatched invoice which should be rectified either by supplier or receiver. The system shall match following items in every tax invoice uploaded in GST Network in order to pass on the input tax credit :

GSTIN of Supplier or Receiver

Invoice or Debit Note Number & Date

Taxable Value& Tax Amount

All the invoices issued or received between taxable persons shall be matched for all the above parameters and the receiver would be able to claim the input tax credit. For all unmatched invoices, receiver and supplier shall get one month time to rectify the mistake while uploading the details of invoices. If details are corrected in following month then the receiver shall get the tax credit otherwise it will not be allowed. This may lead to cash loss to the receiver which will need more working capital to manage tax payments.

The quintessential requirement for carrying out matching of ITC is that the supplier must have filed his valid returns for the corresponding or preceding tax period and/or the IGST has been paid by the recipient in case of import of goods. Failure to file valid return by the Supplier (or failure to pay appropriate IGST by the recipient in case of import of goods) may lead to denial of ITC in the hands of the recipient. The matching of ITC may be better understood in the following steps (filing & acceptance of returns before due dates)

Form of Returns	Person required to furnish	Details required to be furnished	Due date of filing
GSTR-1	Supplier (Other than Composition taxpayer & ISD)	Prescribed particulars in respect of outward supplies	10 th of the next month
GSTR-2A	Auto-populated for the recipient	Basis the Form GSTR-1 of supplier, the particulars of inward supply would be autopopulated	
GSTR-2	Recipient(Other than Composition taxpayer & ISD)	Recipient shall modify, delete or include the details of inward supply basis the autopopulated Form GSTR-2A and furnish the final details of his inward supply	15 th of the next month

GSTR-1A	Auto-populated for the supplier	Basis the Form GSTR-2 of recipient, the particulars of outward supply as validated by the recipient would be made available for the supplier, which he may accept to update and finalize his earlier submitted Form GSTR-1	
GSTR-3	Supplier and recipient	Matching of ITC would be done only after the due date for furnishing the monthly return	20 th of the next month

For better understanding of the above points please go through Section 42 & Section 43 of CGST Act which are described below from bare act :

Section 42 of CGST Act: Matching, reversal and reclaim of input tax credit :

- 1) The details of every inward supply furnished by a registered person (hereafter in this section referred to as the “recipient”) for a tax period shall, in such manner and within such time as may be prescribed, be matched—
 - (a) With the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the “supplier”) in his valid return for the same tax period or any preceding tax period;
 - (b) With the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and
 - (c) For duplication of claims of input tax credit.
- 2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.
- 3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

- 4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.
- 5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- 6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.
- 7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under subsection (5), if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section (9) of section 39.
- 8) A recipient in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.
- 9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.
- 10) The amount reduced from the output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

Section 43 of CGST Act : Matching, reversal and reclaim of reduction in output tax liability

- (1) The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the “supplier”) for a tax period shall, in such manner and within such time as may be prescribed, be matched :
 - (a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as

the “recipient”) in his valid return for the same tax period or any subsequent tax period; and

(b) for duplication of claims for reduction in output tax liability.

- (2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.
- (3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- (4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.
- (5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- (6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.
- (7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under subsection (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.
- (8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.
- (9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

- (10) The amount reduced from output tax liability in contravention of the provisions of sub-section (7) shall be added to the output tax liability of the supplier in his

return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50

6.11 PRE-REQUISITES TO CLAIM INPUT TAX CREDIT :

The following conditions have to be met to be entitled to Input Tax Credit under the GST scheme :

1. One must be a registered taxable person.
2. One can claim Input Tax Credit only if the goods and services received is used for business purposes.
3. Input Tax Credit can be claimed on exports/zero rated supplies and are taxable.
4. For a registered taxable person, if the constitution changes due to merger, sale or transfer of business, then the Input Tax Credit which is unused shall be transferred to the merged, sold or transferred business.
5. One can credit the Input Tax Credit in his Electronic Credit Ledger in a provisional manner on the common portal as prescribed in model GST law.
6. Supporting documents – debit note, tax invoice, supplementary invoice, are needed to claim the Input Tax Credit.
7. If there is an actual receipt of goods and services, an Input Tax Credit can be claimed.
8. The Input Tax should be paid through Electronic Credit / Cash ledger.
9. Person claiming the ITC has to furnish the returns.
10. Full Credit on capital goods will be allowed in the year of purchase itself.

6.12 DISTRIBUTION OF CREDIT :

One of the fundamental features of GST is the seamless flow of input credit across the chain (from the manufacture of goods till it is consumed) and across the country. In this article, we will understand the ITC rules for input service distributors.

The concept of Input Service Distributer (ISD) under GST is a legacy carried over from the service tax regime. It is an office meant to receive tax invoices towards receipt of input services and further distribute the credit of CGST, SGST/UTGST or IGST to supplier units (having the same PAN) proportionately.

The CGST Rules, 2017 prescribes the procedural conditions to be complied with by ISD, the Manner and Quantum of Input tax credit (ITC) to be distributed by Input Service Distributor to the eligible recipients, the invoice to be issued, return to be filed by ISD and how to deal with ITC on the credit and debit notes issued to the ISD.

According to section 2(61), Input Service Distributor means :

- a. An office who supplies goods or services or both, and
- b. Receives input services with a valid invoice as per section 31, and
- c. Issues a prescribed document for the purpose of distribution of credit of IGST, CGST, SGST or UTGST on the said services to a taxable supplier of goods or services or both having the same Permanent Account Number (PAN) of that of the said office.

6.13 CONDITIONS FOR DISTRIBUTION OF INPUT TAX CREDIT BY INPUT SERVICE DISTRIBUTOR ISD :

The following are the conditions applicable for distribution of input credit by an ISD :

- (a) An ISD invoice clearly indicating 'issued only for distribution of input tax credit', should be issued by the distributor to the recipient of credit. The unit to which the input tax credit is distributed is referred as the 'Recipient of credit'. The tax invoice should contain the following details;
 - Name, address, and GSTIN of the Input Service Distributor
 - A consecutive serial number containing only alphabets and/or numerals, unique for a financial year
 - Date of its issue
 - Name, address, and GSTIN of the supplier of services, the credit in respect of which is being distributed, and the serial number and date of invoice issued by such supplier
 - Name, address, and GSTIN of the recipient to whom the credit is being distributed
 - The amount of credit distributed, and
- (b) Signature or digital signature of the supplier or his authorized representative. The amount of credit distributed shall not exceed the amount of credit available for distribution.
- (c) The input tax credit available for distribution in a month shall be distributed in the same month, and the details of the same shall be furnished in Form GSTR-6.
- (d) The input tax credit should be distributed only to that branch which has consumed the input services. Let us understand this with an example:

Top-In-Town Home Appliances Ltd, is located in Bangalore, Karnataka. They also have branches located in Mysore (Karnataka), Chennai (Tamil Nadu), and Mumbai (Maharashtra). The unit in Bangalore is the Head office and they procure common services in bulk which are used by the other branches too.

Top-In-Town Home Appliances Ltd (HO) receives an invoice of Rs.1,00,000 + GST of Rs.18,000 towards advertisement services provided exclusively to the Mysore branch.

The total credit of Rs.18,000 will be distributed only to the Mysore branch.

The credit of tax paid on input services, availed by more than one recipient of credit or all, should be distributed only amongst such recipients or all recipients.

6.14 PROCEDURE FOR DISTRIBUTION OF INPUT TAX CREDIT BY INPUT SERVICE DISTRIBUTOR (ISD) :

1. An Input Service Distributor shall distribute input tax credit in the manner and subject to the conditions specified below -

- a. The input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in FORM GSTR-6 in accordance with the provisions of Chapter ---- (Return Rules);
- b. The Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount of ineligible input tax credit (ineligible under the provisions of sub-section (5) of section 17 or otherwise) and the amount of eligible input tax credit;
- c. The input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);
- d. The input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 to one of the recipients 'R1', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, "C1", to be calculated by applying the following formula:

$$C1 = (t1 \div T) \times C$$

where,

"C" = is the amount of credit to be distributed,

"t1" = is the turnover, as referred to in section 20, of person R1 during the relevant period, and

"T" = is the aggregate of the turnover, during the relevant period, of all recipients to whom the input service is attributable in accordance with the provisions of section 20;

- e. The input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient; The input tax credit on account of central tax and State tax or Union territory tax shall,
- in respect of a recipient located in the same State or Union territory in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax or Union territory tax respectively;
 - in respect of a recipient located in a State or Union territory other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax or Union territory tax that qualifies for distribution to such recipient in accordance with clause (d);
- f. The Input Service Distributor shall issue an ISD invoice, as prescribed in sub-rule (1) of rule invoice-7, clearly indicating in such invoice that it is issued only for distribution of input tax credit.
- g. The Input Service Distributor shall issue an ISD credit note, as prescribed in sub-rule (1) of rule Invoice-7, for reduction of credit in case the input tax credit already distributed gets reduced for any reason.
- h. Any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) above and such credit shall be distributed in the month in which the debit note is included in the return in FORM GSTR-6.
- i. Any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which input tax credit contained in the original invoice was distributed in terms of clause (d) above, and the amount so apportioned shall be, -
- reduced from the amount to be distributed in the month in which the credit note is included in the return in FORM GSTR-6; or
 - added to the output tax liability of the recipient where the amount so apportioned is in the negative by virtue of the amount of credit under distribution being less than the amount to be adjusted.

2. If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process prescribed in clause (j) of sub-rule (1) shall apply, mutatis mutandis, for reduction of credit.

3. Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the ISD credit note specified in clause (h) of sub-rule (1), issue an ISD Invoice to the recipient entitled to such credit and include the ISD credit note and the ISD Invoice in the return in FORM GSTR-6 for the month in which such credit note and invoice was issued.

6.15 RECOVERY PROCEDURE FOR WRONGFUL DISTRIBUTION OF CREDIT BY INPUT SERVICE DISTRIBUTOR (ISD) :

GST Act provides that the following shall be deemed to be an inappropriate distribution of tax credit by Input Service Distributor :

1. Credit distributed to all or any recipient in excess of the amount available for distribution. Distributed in an inappropriate ratio to all or any recipient.
2. Distributed in excess to what a supplier is entitled to and shall be recovered from such recipient(s) along with interest and the provisions of 'Demand and Recovery' shall apply for affecting such recovery.

6.16 AVAILABILITY OF CREDIT IN SPECIAL CIRCUMSTANCES - U/S-18(1) :

- a) A person who has applied for registration within 30 days of becoming liable for registration is entitled to ITC of input tax in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) on the day immediately preceding the date from which he becomes liable to pay tax.
- b) A person who has taken voluntary registration U/s-23(3) of the CGST Act, 2017 is entitled to ITC of input tax in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) on the day, immediately preceding the date of registration.
- c) A person switching over to normal scheme from composition scheme U/s-10 is entitled to ITC in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) and capital goods on the day immediately preceding the date from which he becomes liable to pay tax as normal taxpayer.
- d) Where an exempt supply of goods or service or both by a registered person become taxable, the person making such supplies shall be entitled to take ITC in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) relating to exempt supplies. He shall also be entitled to take credit on capital goods used exclusively for such exempt supply, subject to reductions for the earlier usage as prescribed in the rules.
- e) ITC, in all the above cases, is to be availed within 1 year from the date of issue of invoice by the supplier.
- f) In case of change of constitution of a registered person on account of sale, merger, demerger, etc., the unutilised ITC shall be allowed to be transferred to the transferee. Se. 183(3)

- g) A person switching over from normal scheme to composition scheme U/s-10 or where a taxable supply become exempt, the ITC availed in respect of goods held in stock (inputs as such and inputs contained in semi-finished or finished goods) as well as capital goods will have to be paid.
- h) In case of supply of capital goods or plant and machinery, on which ITC is taken an amount equivalent to ITC availed minus the reduction as prescribed in rules (5% for every quarter or part thereof) shall have to be paid. In case the tax on transaction value of the supply is more, the same would have to be paid.

Input Tax Credit on Goods sent for Job Work (Sec. 19)

Job work means undertaking any treatment or process by a person on the goods belonging to another registered taxable person. The person who is treating or processing the goods belonging to other person is called “job worker” and the person to whom the goods belongs is called “Principal”.

a. Entitlement of credit on Input :

The principal take credit of input tax on inputs sent to job-worker subject to fulfilment of the following conditions :

1. Rule 45 of ITC Rules provides the following :
 - To issue a challan for transfer of inputs to the job-worker including where they are sent directly (to maintain paper trail of transaction).
 - Challan is to contain all details as required in respect of an invoice in Rule 55 (of Invoice Rules). Reference may be made to Chapter-VII relating to Tax Invoice, credit & debit notes for the particulars to be included in the document & for detailed description.
 - All challans issued in respect of inputs sent to job-worker and those received back are to be reported in GSTR-I.
 - In case of non-receipt of the inputs within the time prescribed, the challan issued will be deemed to be invoice for the implied supply of inputs.
2. The inputs, after completion of Job-work, are received back by the principal within 1 year of their being sent out.
3. In case of direct supply, the period of 1 year shall be reckoned from the date the job-worker receives such inputs.
4. The credit of inputs can be taken even if inputs are sent directly to job-worker’s premises without bringing it to principal’s place of business.
5. If the inputs are not received back within 1 year, it shall be deemed that such inputs had been supplied by principal to the job-worker on the day when the said inputs were sent out.

b. Entitlement to credit on capital goods:

The principal can take credit of input tax on capital goods sent to job-worker subject to the fulfilment of the following conditions :

- The capital goods, after completion of job-work, are received back by him within 3 years of their being sent out.
- The principal can take credit of capital goods even if such capital goods are sent directly to job-worker's place without bringing to principal's place of business.
- If the capital goods are not received back within 3 years, it shall be deemed that such capital goods had been supplied by principal to the job-worker on the day when the said capital goods were sent out.
- Procedures listed in respect of inputs under Rule 45 of the Input Tax Credit Rules will apply to capital goods also.

Manner of Distribution of Credit by Input Service Distributor (ISD) :

Section 20 of CGST Act, 2017 sets forth the way input tax credit (of services) is distributed to supplier of goods or services or both of the same entity having same PAN. Procedure for distribution is given in Rule 39 of Input Credit Rules.

Input Service Distributor (ISD) is an office of the supplier of goods or services or both where a document (like invoice) of services attributable to other locations are received (since they might be registered separately). Since the services relate to other locations, the corresponding credit should also be transferred to such locations (having separate registrations) as services are supplied from there.

Inter-branch supply of services should not be misinterpreted as a distribution by ISD. It is pertinent to mention that ISD cannot be an office that does any supply of its own but must be one that merely collects invoice for services and issues prescribed document for its distribution.

Conditions to distribute credit by ISD :

- Credit to be distributed to recipient under prescribed documents containing prescribed details. Such document should be issued to each of the recipient of credit.
- Credit distributed should not exceed the credit available for distribution.
- Tax paid on input services used by a particular location (registered as supplier), is to be distributed only to that location.
- Credit of tax paid on input service used by more than one location who are operational is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services.

Recovery of credit distributed in excess (Sec. 21) :

The CGST Act clearly lays down that credit distribution is not 'to self', that is, a registered taxable person cannot distribute credit to himself. Each registered person being a distinct person U/s-25, must distribute to another registered taxable person but having the same PAN to whom the credit is most accurately attributable.

Excess credit distributed to one or more recipient of credit in contravention of ISD provision U/s-20 is recoverable from the recipient of such credit along with Interest as per the provision contained in Sect. 73 or 74.

6.17 CROSS UTILISATION OF ITC :

The GST shall have two components: one levied by the Centre (referred to as Central GST or CGST), and the other levied by the States (referred to as State GST or SGST). Rates for Central GST and State GST would be approved appropriately, reflecting revenue considerations and acceptability.

The CGST and the SGST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services.

Cross utilisation of ITC, both in the case of inputs and capital goods, between the CGST and the SGST would not be permitted except in the case of inter-State supply of goods and services (i.e., IGST).

IGST Model (Inter-State Transactions of Goods and Services) and Input Tax Credit (ITC) :

- Existing CST (Central state tax i.e. tax on inter-State movement of goods) shall be discontinued.
- Centre would levy IGST (cumulative rate for CGST and SGST) on all inter-State transactions of taxable goods and services with appropriate provision for consignment or stock transfer of goods and services.
- The ITC of SGST, CGST shall be allowed as applicable.
- Since ITC of SGST shall be allowed, the exporting State will transfer to the Centre the credit of SGST used in payment of IGST. The importing dealer will claim credit of IGST while discharging his SGST liability (while selling the goods in state itself). Thereafter, the Centre will transfer to the importing State the credit of IGST used in payment of SGST (Refer example 2 and 3).
- The relevant information shall be submitted to the Central Agency which will act as a clearing house mechanism, verify the claims and inform the respective State Governments or Central government to transfer the funds.
- Advantages of IGST:
 - o No refund claim in exporting State, as ITC is used up while paying the tax.
 - o Maintenance of uninterrupted ITC chain on inter-State transactions.
 - o No upfront payment of tax or substantial blockage of funds for

the inter-State seller or buyer.

Example – 2 : (Input Tax Credit)

Shiva, a registered dealer had input tax credit for CGST and SGST R750/- and R1,050/-, respectively in respect of purchase of inputs and capital goods. He manufactured 1,800 litres of finished products. 200 litres was normal loss in the process. The final product was sold at uniform price of R10 per litre as follows:- Goods sold within State – 800 litres Finished product sold in inter-State sale – 650 litres Goods sent on stock transfer to consignment agents outside the State – 350 litres Further, CGST and SGST rate on the finished product of dealer is 5% and 7%, respectively. Further IGST rate is 12%. Calculate tax liability of SGST and CGST to be paid after tax credit.

Output Tax Calculation

Calculation of Tax Payable :

There would be no treatment for normal loss.

Input tax credit of CGST and SGST of R750 and Rs1,050 are paid on inputs. This input tax credit should first be utilised for payment of CGST and SGST, respectively, and balance is to be used for payment of IGST. Thus, balance available for payment of IGST is R350 of CGST and R490 of SGST and he is liable to pay balance amount of IGST of R360 by cash ($1200 - 350 - 490 = 360$). Since the credit of SGST of R490 has been utilised for payment of IGST, the State government will get debit of R490 from the Central government.

Example – 3 : (Input Tax Credit)

Now, continuing with the above Example 2, suppose the dealer purchases goods interstate and have input tax credit of IGST available is Rs.2,000/-. Compute the tax payable. Solution: Calculation of Tax Payable Particulars

CGST	SGST	IGST	Tax Payable	Amount
400	560	1,200	Less: Input Tax Credit	CGST - - - SGST - - - IGST 400 400 1,200 2,000
			Payable -	160.00 - 160

Note: Input tax credit of Rs. 2,000, IGST is available. This input tax credit should first be utilised for payment of IGST and balance is to be used first for payment of CGST and remaining for SGST. Likewise in this case, R400 and balance R400 are utilised for CGST and SGST, respectively. He is liable to pay balance amount of SGST of R160 by cash ($2,000 - 1,200 - 400 - 560 = 160$).

Some Specific Points for Specific Products (Being High Revenue Generating Products) :

- This tax does not apply to alcohol and petroleum products. They will be continued to be taxed as per the existing practices.
- Tax on tobacco products will be subject to GST. But government can levy the extra tax percent over and above GST rate. Other Key Points
- Manufacturing State (the State in India in which the goods are manufactured) will be allowed to levy an additional tax percent (say 1%) on supply of goods.

- PAN based identification number will be allowed to each taxpayer to have integration of GST with direct tax.
- The taxpayer would need to submit periodical returns, in common format as far as possible, to both the CGST authority and to the concerned SGST authorities.

6.18 SUMMARY :

The time of supply means the point in time when a supply shall be deemed to have been provided. Under GST, the point of taxation, i.e., the liability to pay CGST/SGST will arise at the time of supply as determined for Goods & Services. The point of taxation under GST is the point in time when goods or services have been deemed to be supplied. Thus, such a point in time under GST determines the rate of tax, value as well as due dates for payment of taxes. Provisions regarding time of supply revolve around four categories:

- Forward Charge Mechanism
- Reverse Charge Mechanism
- Vouchers
- All Other Instances

The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

Input Tax Credit (ITC) is the core concept of GST. ITC avoids cascading effect of taxes and ensures that tax is collected in the State in which goods or services or both are consumed. As per the - section 2(56) of CGST Act “Input tax credit” means credit of ‘input tax’. Where any person claims that he is eligible for input tax credit under this Act. An Input Service Distributor (ISD) can be the head office (mostly) or a branch office or registered office of the registered person under GST. ISD collects the input tax credit on all the purchases made and distribute it to all the recipients (branches) under different heads like CGST, SGST/UTGST, IGST or cess.

6.19 KEY WORDS :

Time of Supply of GST :

The time of supply means the point in time when a supply shall be deemed to have been provided. Under GST, the point of taxation, i.e., the liability to pay CGST/SGST will arise at the time of supply as determined for Goods & Services.

Value of Supply and GST :

The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

Input Tax Credit (ITC) :

Input Tax Credit (ITC) is the core concept of GST. ITC avoids cascading effect of taxes and ensures that tax is collected in the State in which goods or services or both are consumed. As per the - section 2(56) of CGST Act “Input tax credit” means credit of ‘input tax’. Where any person claims that he is eligible for input tax credit under this Act. The burden of proving such claim shall lie on such person.

Matching Mechanism for ITC Monitoring :

The concept of matching of ITC may not be new to the taxpayers, especially for the dealers who are currently operating under the Value Added Tax (VAT) regime. However, the same is alien or relatively new to non-VAT taxpayers and hence there is a need to understand the concepts of ITC matching, ITC reversals and re-claim of ITC in GST regime.

Input Service Distributer (ISD) :

The concept of Input Service Distributer (ISD) under GST is a legacy carried over from the service tax regime. It is an office meant to receive tax invoices towards receipt of input services and further distribute the credit of CGST, SGST/UTGST or IGST to supplier units (having the same PAN) proportionately.

6.20 SELF ASSESSMENT QUESTIONS :

1. What is meant by Time of Supply of GST ? Explain its three events.
2. Describe the concept of Value of Supply and GST.
3. Define Input Tax Credit (ITC). Explain its feature.
4. What are the documents and Forms required claiming Input Tax Credit?
5. Explain about Input Tax Credit on Supply of Capital Goods.
6. What are the pre-requisites to claim Input Tax Credit?
7. Explain about availability of credit in special circumstance.
8. What do you know about cross utilisation of ITC?

6.21 SUGGESTED READINGS :

1. S. K. Mishra, “*Simplified Approach to – GST*”, Educreation Publishing, Chhattisgarh, 2018.
2. S.S Gupta (2017), ‘*GST-Laws and Practice*’, Taxmann’s Publications, New Delhi.
3. H.C. Mehrotra & V.P. Agarwal, “*GST – Goods and Services Tax and Customs Act*’, Sahitya Bhawan Publications.
4. Jitendra Kumar Saxena, Vishnu Shankar Agrahari, & Narendra Kumari, ‘*Goods and Services Tax*’, Thakur Publication Pvt. Ltd., Lucknow, 2023.

5. Yash Gupta, “*Goods and Services Tax*, Self-Published by Yash Gupta, Chennai, 2022.

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Lesson – 7
GST RETURNS AND RECORDS

Objectives :

After reading this lesson, student will be able to :

- To know the concept of GST Returns, purpose of Return and Persons responsible for filing of returns;
- To learn about main returns and filing of returns in a staggered manner;
- To know who is required to maintain records of GST; and
- To examine the rules for maintaining records of GST and to understand the period of retention of records.

Structure of the Lesson :

- 7.1 GST Returns - Introduction
- 7.2 Purpose of Return
- 7.3 Persons Responsible for Filing of Returns
- 7.4 Main Returns
- 7.5 Filing of Returns
- 7.6 Filing of Returns in a Staggered Manner
- 7.7 Returns for Outward Supplies [GSTR-1]
- 7.8 Returns for Inward Supplies [GSTR-2]
- 7.9 Monthly Returns [GSTR-3]
- 7.10 Annual Returns [GSTR-4]
- 7.11 Non-Resident Foreign Taxpayer [GSTR-5]
- 7.12 Return for Input Service Distributor [GSTR-6]
- 7.13 Return for Tax Deducted at Source [GSTR-7]
- 7.14 Return by E-Commerce Operator [GSTR-8]
- 7.15 Annual Return [GSTR-9]
- 7.16 Final Return [GSTR-10]
- 7.17 First Return
- 7.18 Methods of Uploading the Returns
- 7.19 Matching of ITC

- 7.20 Undertaken Activities by a GSTP
- 7.21 GST Records - Introduction
- 7.22 Accounts & Records to be maintained
- 7.23 Summary
- 7.24 Technical Terms
- 7.25 Self Assessment Questions
- 7.26 Suggested Readings

7.1 GST RETURNS – INTRODUCTION :

The term '**Return**' ordinarily means statement of information (facts) furnished by the taxpayer, to tax administrators, at regular intervals. The information to be furnished in the return generally comprises of the details pertaining to the nature of activities/business operations forming the subject matter of taxation; the measure of taxation such as sale price, turnover, or value; deductions and exemptions, and determination and discharge of tax liability for a given period.

In any tax law, 'filing of returns' constitutes the most important compliance procedure which enables the Government/tax-administrator to estimate the tax collection for a particular period and determine the correctness and completeness of the tax compliance of the taxpayer. 'Return' is a very important aspect of GST as all control over tax paid and input tax credit availed, is on the basis of returns filed by taxable persons. A return is a document that a tax payer is required to file as per law.

7.2 PURPOSE OF RETURN :

- (1) Return provides a framework for working out the tax that becomes payable in the prescribed period applying the legal principal to the transactions, laid down under the tax law during the period.
- (2) GST is a self-assessed, destination based taxation system.
- (3) A taxable person has a legal obligation to declare his tax liability for a given period in the return, furnish details about the taxes paid in accordance with that return, and file correct and complete return within the stipulated time frame.
- (4) Returns under GST are totally electronic without any requirement of physical submission.
- (5) Return is an important tool for, compliance verification program of tax administration, providing necessary inputs for taking a policy decision, management of audit and anti-evasion programs of tax administration and finalization of tax liabilities of the taxpayer within the stipulated limitation period.

7.3 PERSONS RESPONSIBLE FOR FILING OF RETURNS :

Registered Person :

To file a return for the prescribed tax period, a person once registered, then he would be liable to file even 'Nil' return if no activity has been carried out during the tax period.

Exemptions :

Government entities/PSUs, etc. exclusively dealing in exempted / Nil rated / non-GST goods or services:

- Neither to obtain registration nor to file returns under the GST.
- State tax authorities may assign a departmental ID to such Government departments/PSUs/persons to ask the suppliers to quote the department ID in the supply invoices for all inter-state purchases being made to them.
- Such supplies shall be at par with business to consumer (B2C) supplies and shall be governed by relevant provisions.
- They shall provide the details of their purchases made during a period as and when sought by the tax authorities that shall be uploaded on the GST common portal for compliance verification purposes.

7.4 MAIN RETURNS :

These are the main returns as per the CGST Act :

Return Form	Particulars	Frequency	Due Date
GSTR-1	Details of outward supplies of taxable goods and/or services effected	Monthly	10 th of the next month
GSTR-2	Details of inward supplies of taxable goods and/or services effected claiming input tax credit	Monthly	15 th of the next month
GSTR-3	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of amount of tax	Monthly	20 th of the next month
GSTR-3B	Simple monthly return presented in total value	Monthly	Staggered 20, 22 and 24
GSTR-4	Return for composition dealer	Quarterly	18 th of the month succeeding quarter
GSTR-5	Return for Non-Resident foreign taxable person	Monthly	20 th of the next month

GSTR-6	Return for Input Service Distributor	Monthly	13 th of the next month
GSTR-7	Return for authorities deducting tax at source	Monthly	10 th of the next month
GSTR-8	Details of supplies effected through e-commerce operator and the amount of tax collected	Monthly	10 th of the next month
GSTR-9	Annual Return by registered persons except ISD, Casual Taxable Person, Non-Resident Taxable Person	Annually	31 st December of next financial year
GSTR-9A	Annual Return by Composition Dealer	Annually	31 st December of next financial year
GSTR-10	Final Return	Once, When registration is cancelled or surrendered	Within three months of the date of cancellation or date of cancellation order, whichever is later.
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming refund	Monthly	28 th of the month following the month for which statement is filed

7.5 FILING OF RETURNS :

Filing GST return under GST regime is most critical business activity as it will also determine compliance rating and timely refund.

Return shall be filed for every GSTIN. If a person has more than one GSTIN in one State, he shall file multiple returns. The filing of return shall be only through online mode.

Valid Return - 'Valid Return' means a return filed under the CGST Act, on which self-assessed tax has been paid in full. Thus, a return is not valid unless all tax dues as shown in the return (including of previous period, interest and penalty) are paid in full.

Optional Filing of Annual Return 2022-23 and 2023-24 :

Registered persons whose aggregate turnover in a financial year does not exceed Rs.2 crore shall have an option not to furnish the annual return for Financial Year 2022-23 and 2023-24. In other words, such person may choose not to furnish the annual returns for the said years. If the annual return is not furnished by the due date (i.e., the option is exercised, not to furnish the annual return), it shall be deemed to have furnished.

7.6 FILING OF RETURNS IN A STAGGERED MANNER :

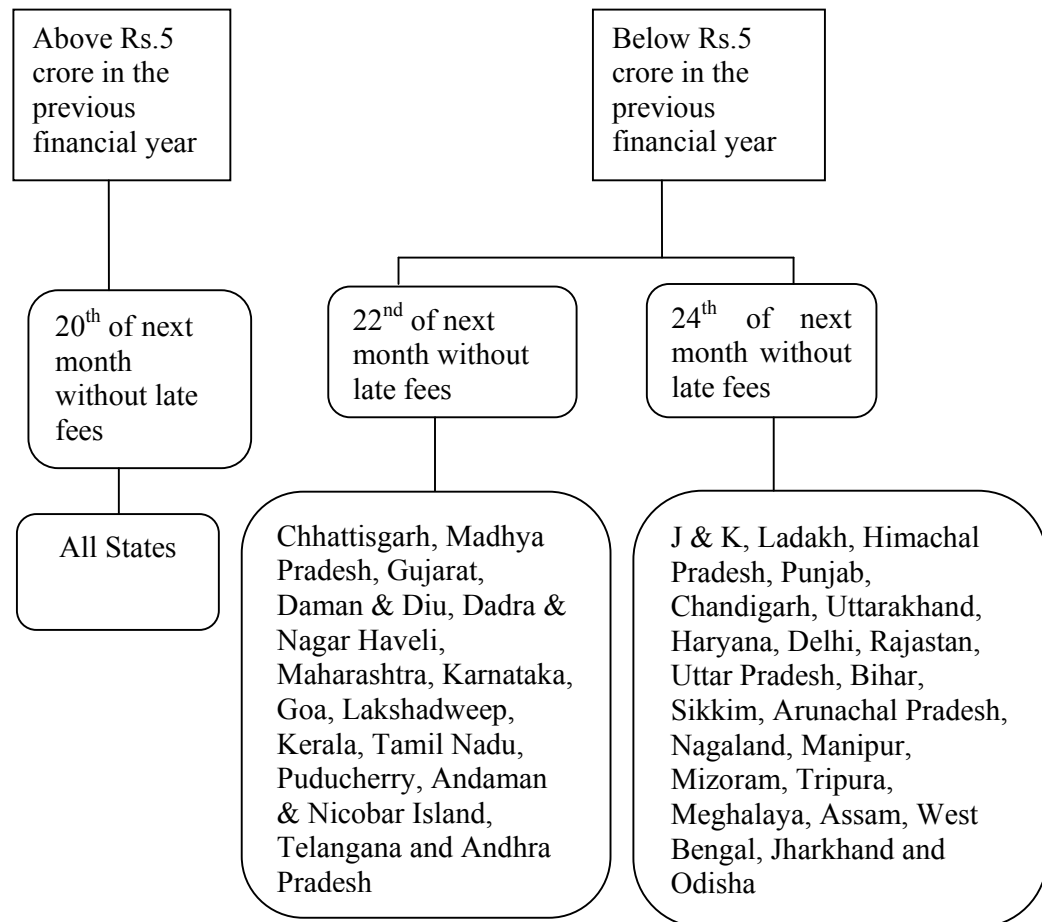
The Government has eased filing of GST returns by allowing to file in a staggered manner considering the difficulties faced by trade and industry in filing of return.

Presently, the last date of filing GSTR-3B for every tax-payer is 20th of every month. Tax-payers having annual turnover of Rs.5 crore and above in previous financial year will have deadline of 20th of next month to file their GSTR-3B return. Tax-payers with annual turnover under Rs.5 crore during previous financial year will be divided further in following two categories depending on the State that they belong to :

- (a) For 15 notified States and Union Territories will be able to file GSTR-3B returns by 22nd of the next month.
- (b) For remaining notified States and Union Territories can file GSTR-3B return by 24th of the next month.

The matter has been discussed by GSTN with Infosys Ltd., the managed service provider, which has come out with above solution to de-stress the process. These new guidelines to come into effect from 1st April, 2020.

GSTR-3B Returns can be filed in a Staggered Manner



Late Filing :

Return filing is mandatory under GST. Even if there is no transaction, you must file a Nil Return.

- You cannot file a return if you don't file previous month/quarter's return.
- Hence, late filing of GST return will have a cascading effect leading to heavy fines and penalty.

Late Fee and Interest – U/s – 47 (1) & (2) CGST Act :

Interest is 18% per annum. It has to be calculated by the tax-payer on the amount of outstanding tax to be paid. Time period will be from the next day of filing to the date of payment.

- As per the GST law late fee is Rs.100 per day per the Act. So it is 100 under CGST and 100 under SGST. Total will be Rs.200/day. Maximum is Rs.10,000 (5,000 CGST + 5,000 SGST). There is no late fee on IGST.
- Late fees for GSTR-3b of July, August and September waived. Any late fees paid for these months will be credited back to Electronic Cash Ledger under 'Tax' and can be utilised to make GST payments.
- As per latest update, late fees for GSTR-5A earlier reduced stands withdrawn. So, the late fee of Rs.200 per day (or Rs.100 per day in case of Nil return filing) shall apply with effect from 7th March, 2018.
- Late Fee for filing GSTR-1, GSTR-3B, GSTR-4, GSTR-5 and GSTR-6 after the due date has been reduced to Rs.50 per day of delay.
- Late Fee for filing Nil returns have been reduced to Rs.20 per day of delay for tax-payers (i.e., having Nil tax liability for the month) for GSTR-1, GSTR-3B, GSTR-4 and GSTR-5.

7.7 RETURNS FOR OUTWARD SUPPLIES [GSTR-1] – U/S- 37 (1) CGST ACT :**Persons liable to furnish GSTR – 1 :**

Every registered person other than following shall file this return by 10th of the succeeding month :

- An input service distributor;
- A Non-Resident taxable person;
- Person paying tax under the composition scheme; and
- Electronic Commerce Operator, collecting TCS.

Value for each transaction to be fed :

Value for each transaction shall have to be fed unless consolidated information asked in the return form; Not only value but taxable value shall also have to be fed. In some cases, both may be different. In case there is no consideration, but it is considered as supply the taxable value shall be uploaded.

Rectification of Return :

- In case any outward supplies are not matched with the respective recipients' return of inward supplies, the return for outward supplies required rectification due to error or omission, which is allowed. The supplier shall pay tax and interest payable, if any, in case there is short payment due to such mistake or error after rectification in the prescribed manner.
- Such rectification, however, is **not permitted** after filing of annual return or filing of the return for the month of September of the following year, whichever is earlier.

Information availability to Recipients :

The details of GSTR-1 shall be made available electronically to the concerned registered person (recipients) after the 10th of the next month through the GSTN Portal, in :

- Form GSTR-2A Part A (Normal Taxpayer);
- Form GSTR-4A (Compounding Taxpayer); and
- Form GSTR-6A (Input Service Distributor).

Corrections by Recipients and Acceptance :

- The details in inward supplies added, corrected or deleted by the recipient his Form GSTR-2 (i.e., Normal Taxpayer) or Form GSTR-4 (i.e., composite taxpayers) or the details pertaining to inward supplies of ISD shall be made available to the supplier electronically in Form GSTR-1A through the Common Portal
- Supplier may either accept or reject the modifications made by the recipient, during 15th to 17th of the next month.
- Form GSTR-1 furnished earlier by the supplier shall stand amended to the extent of modifications accepted by him.

To ease the compliance requirements for small taxpayers, the GST Council allowed taxpayers with annual aggregate turnover upto Rs.1.5 crore to file details of outward suppliers in Form GSTR-1 on a quarterly basis instead of monthly basis.

7.8 RETURNS FOR INWARD SUPPLIES [GSTR-2] – U/S- 38 CGST ACT :

Persons liable to furnish GSTR – 2 :

Every registered person other than the following :

- An input service distributor;
- A Non-Resident taxable person;
- Person paying tax under the composition scheme; and
- Electronic Commerce Operator, collecting TCS.

Corrections by Recipients and Acceptance :

- The details in inward supplies added, corrected or deleted by the recipient his Form GSTR-2 (i.e., Normal Taxpayer) or Form GSTR-4 (i.e., composite taxpayers) or the details pertaining to inward supplies of ISD shall be made available to the supplier electronically in Form GSTR-1A through the Common Portal; and
- Supplier may either accept or reject the modifications made by the recipient, during 15th to 17th of the next month.

Rectification of Return :

- In case any inward supplies are not matched with the respective recipients' return of inward supplies, the return for outward supplies required rectification due to error or omission, which is allowed. The supplier shall pay tax and interest payable, if any, in case there is short payment due to such mistake or error after rectification in the prescribed manner.
- Such rectification, however, is **not permitted** after filing of annual return or filing of the return for the month of September of the following year, whichever is earlier.

7.9 MONTHLY RETURNS [GSTR-3] – U/S- 39 (1) CGST ACT :

Persons liable to furnish GSTR – 2 :

Every registered person other than the following :

- An input service distributor;
- A Non-Resident taxable person;
- Person paying tax under the composition scheme;
- TDS deductor; and
- Electronic Commerce Operator, collecting TCS.

Broad Component :

- Monthly return completely auto generated from the information furnished in GSTR-1 and GSTR-2;
- Additional information furnished in the return relates to :
 - (a) The utilization of ITC, and
 - (b) Debit of cash ledger for payment of taxes.

Deposit of Tax :

The registered person shall pay to the Government the tax dues as per such return not later than the last date on which he is required to furnish Form GSTR-3 (i.e., 20th of the next month)

Nil Return :

Form GSTR-3 shall furnish whether or not any supplies of goods and/or services have been made during the tax period.

Rectification of Return :

- If the registered person, after furnishing GSTR-3 discovers any omission or incorrect particulars therein, he shall rectify such omission or incorrect particulars in the return to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest under the GST Law.
- Such rectification, however, is **not permitted** after filing the due date for furnishing of return for the month of September following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

MONTHLY RETURNS (GSTR-3B) – U/s- 39 (1) CGST ACT :

Filing of GSTR-3B form is mandatory for all those who have registered under GST. Even if no transaction during month, still need to file. However, individuals such as Input Service Distributors, Composition Dealer, Suppliers of Online Information and Database Access or Retrieval (OIDAR) services – do not have to file GSTR-3B. This is a simple return form introduced by CBIC. It is a must that GSTR-3B is filed for each GSTN. In this form total values of each field is mentioned, invoice level information is not required. This is like a self declaration return.

7.10 ANNUAL RETURNS [GSTR-4] – U/S- 39 (2) CGST ACT :

There are separate tables, which seek information details of

- (i) current tax period; and
- (ii) Amendments in earlier tax periods :
 - Inward supplies including supplies received from unregistered persons;

- Goods/Capital goods received from outside India (Import of goods), and services received from a supplier outside India (Import of services);
- Outward supplies made (intra-state and non-GST);
- Details of credit/debit notes issued and received;
- TDS credit received;
- Tax liability under reverse charge arising on account of the time of supply without receipt of Invoice;
- Tax already paid on account of the time of supply for invoices received in the current period relating to reverse charge;
- Liability towards interest, penalty fees or any other amount payable;
- Liability payable/Tax Payment / Refund Claimed.

The return in the end, enquires whether the person is likely to cross composition limit before the date of next Financial Year.

(1) Outward Supplies :

Supplies making inter-State supplies shall not be allowed composition benefit.

(2) Inward Supplies :

- Receipts from unregistered dealers (Composition taxpayers shall normally make purchases from registered taxpayers but if they make any purchases from unregistered taxpayers, it shall attract tax on reverse charge).
- Option to add receipt not uploaded by the counter-party supplier – if in possession of taxable invoice and have received supply of goods or services.

(3) Following information shall be auto-populated in Form GSTR – 4A :

- Invoice-level purchase information for the purchases from registered persons including inter-State purchases.
- Credit/debit notes.
- TDS credit receipts.

(4) Composition Dealers shall, after adding, correcting or deleting the details contained in Form GSTR – 4A, furnish the Annual Return in Form GSTR – 4 electronically through the Common Portal, either directly or through a Facilitation Centre within 31st December of next Financial Year.

(5) A registered person, who has opted to pay tax under composition levy from the beginning of a financial year, shall furnish the details of outward and inward

supplies and return relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding Financial year.

- (6) **Deposit of Tax** : composition taxpayer shall pay the tax due as per such return not later than the last date on which he is required to furnish **Form GSTR – 4**.
- (7) **Nil Return** : From GSTR-4 shall be furnished whether or not any supplies of goods and/or services have been made during the tax period.
- (8) **Rectification of Return** : If the registered person after furnishing Form GSTR-4 discovers any omission or incorrect particulars therein, he shall rectify such omission or incorrect particulars in the return subject to payment after the due date for furnishing of return for the 2nd quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

7.11 NON – RESIDENT FOREIGN TAXPAYER [GSTR-5] – U/S-39 (5) CGST ACT :

Non – resident taxable persons (NRTP) is defined under Section 2(77) of the Act. A person would be regarded as a non – resident taxable person if he undertakes the supply of goods or services or both :

1. Occasionally and not on a regular basis;
2. Either as principal or agent or in any other capacity;
3. In the taxable territory (i.e., India), he has no fixed place of business or residence.

Only those persons who undertake transactions occasionally are covered; however, the law does not define the term ‘occasionally’. Due to the applicability of a higher rate of withholding under Income-tax Act on remittances made from India, non-residents who have no active business presence in India are also found to have secured PAN numbers and for this purpose, have designated representative with an address being either admitted premises of operations or simply for correspondence. Care must be taken to determine whether such designated representative and address would be ‘fixed place of business’.

First Provision to Section 25 of the Act requires such persons to apply for registration at least 5 days prior to commencement of business. The registration for such persons is not valid in perpetuity, but only for a period of 90 days or the period specified in the application for registration, whichever is earlier. Also given their transient nature, they are mandated to pay estimated advance tax liability at the time of taking registration. The registration can be extended, with an application and an additional advance tax, for a maximum period of succeeding 90 days.

The input tax credit shall not be available in respect of goods or services, or both received by a non- resident taxable person except on goods imported by him. On the other

hand, the taxes paid by a non-resident taxable person shall be available as credit to the respective recipients to whom tax invoice is issued.

Non-resident taxable persons are liable to pay tax on Reverse Charge for transactions specified under Section 9(3) and 9(4) of the Act. It is a double whammy that tax needs to be discharged, but the resultant credit is not available either to the supplier or the recipient. The reason being the supplier is usually unregistered in such case and the recipient being the Non-resident person is not eligible for any input tax credit for any transaction except imports.

Due date :

The due date for furnishing Form GSTR-5 shall be the earlier of: 20th of the following month, or 7 days after the last day of the validity period of registration

Special points for consideration :

1. Upon clicking the 'Submit' button, all the invoices uploaded in Form GSTR-5 for the tax period will be frozen. No further upload is possible for that month.
2. A refund from Electronic Cash Ledger can be claimed in the last return only. And such last return will be decided after considering the extended period of registration.
3. A refund from Electronic Cash Ledger is allowed only if the Electronic Liability Register has zero liability across all major and minor heads.
4. The non-resident taxable person has to file his returns with diligence; since in the event of further liability, the same has to be paid with interest and penalty during the assessment of the return. In practice, it has been observed that the option for voluntary payment through Form GST DRC 03 is made available in the portal.

Details of Supplies of Online Information and Database Access or retrieval services by a person located outside India to non-taxable online recipient in India [Form GSTR-5A] – U/s-14 of IGST Act, 2017; Section 39(5) of the Act and Rule 64 of the Rules :

Applicability :

The supplier of Online Information and Database Access or Retrieval (OIDAR) services would be liable to pay integrated tax and file returns in GSTR-5A, every month if all the following conditions are satisfied.

Such OIDAR services should be :

1. Supplied by a person in non-taxable territory;
2. To an unregistered person (it may be Government / local authority / governmental authority / Individual / any other person);
3. Provided in relation to any purpose other than commerce, industry or any other business or profession, located in the taxable territory.

Such services are almost impossible to perform in the absence of information technology. Such services are generally delivered through the IT network. It is generally automated and minimum physical intervention is involved. To be more relatable, examples of OIDAR service providers are as follows :

Description of OIDAR Services	Examples
Advertising on the internet	Facebook
Providing cloud services	GoDaddy
Providing e-books	Kindle
Providing e-music	Saavn
Providing e-movies	Amazon Prime, Netflix
Providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;	Taxmann; taxindiaonline
Online supplies of digital content	Automated distance learning (udemy, unacademy)
Digital data storage	Google drive, onedrive, dropbox
Online gaming	Zubat, playstore games with payments

Due date :

As per Section 39(5) of the Act read with Rule 64 of the Rules, such OIDAR service providers shall file return in GSTR-5A on or before the 20th of the following month.

Special points for consideration :

- Form GSTR-5A needs to be filed even if there is no transaction (Nil Return) during the tax period.
- Disclosure of Interest/ Penalty will have to be made State wise in accordance with the Place of supply.
- Liabilities, if any, in Form GSTR-5A can be paid only in cash and not through Input tax credit. It would be interesting to note that such a restriction of not being able to claim input tax credit by a OIDAR service provider has been imposed by the Form, but is not existing in the Act.

7.12 RETURN FOR INPUT SERVICE DISTRIBUTOR [FORM GSTR-6] – U/S – 39 (20) :

Applicability :

All those persons who are registered as Input service distributors (ISD) are required to file return in Form GSTR-6.

As per sub-section (61) of section 2 of the Act, ISD is an office of the supplier of goods or services or both where :

- (i) a document (like invoice) of services attributable to other locations / registration having the same PAN are received; and

- (ii) the corresponding credit should be transferred to such locations/registration having the same PAN, since the services relate to other locations.

One cannot use ISD registration if there is a liability to pay tax. It can only receive input tax credits on invoices related to input services and distribute such credits in the manner specified in Section 20 of the Act and Rule 65 of the Rules.

Due date :

ISD will have to furnish the details of tax invoices on which credit has been received and tax invoices on which credit has been issued in Form GSTR-6 by 13th of the following month.

GSTR – 6 once filed cannot be revised. A ‘Nil’ return must be filed in case of no ITC being available for distribution or no ITC is being distributed during the month.

Special points for consideration :

1. Form GSTR-6 needs to be filed even if the counterparties have not filed their respective Form GSTR-1 or Form GSTR-5.
2. It is pertinent to note both eligible and ineligible ITC needs to be distributed to the recipients.
3. Form GSTR-6A will get auto-populated based on the details uploaded by the counterparty supplier in Form GSTR-1. Such form though available just for viewing, can be used as a comparison for inputting the invoice details of Form GSTR-6.

The restrictions contained in Rule 36(4) of the Rules with respect to granting of ITC of only such amount as uploaded by the supplier, will be applicable even to ISD as a recipient.

7.13 RETURN FOR TAX DEDUCTED AT SOURCE [FORM GSTR-7] – U/S- 39 AND 51 CGST ACT :

Applicability :

Form GSTR – 7 is required to be filed by all persons who are liable to deduct tax under Section 51 of the Act.

Due date :

Every person who is liable to deduct tax under Section 51 of the Act is required to furnish return in Form GSTR-7 on or before 10th of the following month.

It is not mandatory to file NIL return, if no tax is deducted during a particular tax period.

Details furnished in Form GSTR – 7 shall be made available electronically to each of the suppliers in Part C of Form GSTR-2A on the Common Portal after the due date of filing of Form GSTR-7.

TDS Certificate shall be made available electronically to the deductee on the Common Portal in Form GSTR – 7A on the basis of Form GSTR – 7.

- (1) **Deposit of Tax :** Tax Deductor shall pay the tax due as per such return not later than the last date on which he is required to furnish GSTR-7 (i.e., 10th of the next month).
- (2) **Rectification of Return :** If the registered person after furnishing Form GSTR – 7 discovers any omission or incorrect particulars therein, he shall rectify such omission or incorrect particulars in the return to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest under the GST Law.

Such rectification, however, is not permitted after the due date for furnishing of return for the month of September following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

Special points for consideration :

1. Against every deductee's GSTIN, consolidated entry needs to be entered. No invoice level detailing is required.
2. TDS liability should be discharged through Electronic Cash Ledger only at the time of filing return.
3. The deductee can accept/ reject the TDS details auto populated to TDS credit received table of his/her return. Taking action by deductee is mandatory for crediting the amount of TDS to cash ledger.
4. Hence it is important to note that the deductor will not be able to make amendments if the deductee has already accepted the original entry of the deductor.
5. If the deductee rejects the TDS credit entries, the relevant details will be required to be amended by the deductor in Form GSTR-7 of next tax period. Post correction of such details in Form GSTR-7, the data will automatically flow to concerned GSTIN (supplier) for accepting or rejecting it. This process will be repeated until TDS details are accepted by counterparty.

Refund from electronic cash ledger can be claimed by the supplier only when all the TDS liability for that tax period has been discharged.

7.14 RETURN BY E-COMMERCE OPERATOR [GSTR-8] – RULE 67

(1), CGST ACT :

Requirements :

- (1) **Form GSTR-8** shall be furnished by e-commerce operator(s) providing facility of supplying goods and/or services **of other suppliers** through his portal, within 10 days after the end of the month.

- (2) An e-commerce portal supplying goods through his own portal shall not be required to file this return in respect of such supplies.
- (3) The details furnished by the operator shall be made available electronically to each of the suppliers in Part D of Form **GSTR-2A** on the Common Portal after the due date of filing of Form **GSTR-8**.
- (4) Every operator who collects the TCS amount shall furnish annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or service or both returned through it, and the amount collected during the financial year, before the 31st December following the end such financial year.

Rectification of Return :

If the operator after furnishing **Form GSTR-8** discovers any omission, he shall rectify such omission or incorrect particulars in the return to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest under the GST.

Such rectification, however, is **not permitted** after the due date for furnishing of return for the month of September following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

7.15 ANNUAL RETURN [GSTR-9] – U/S-44, CGST ACT :

- (1) Annual Return shall be filed by every registered person, other than :
 - Input Service Distributor;
 - Deductor under of TDS;
 - Electronic Commerce Operator collecting TCS;
 - Casual Taxable Person; and
 - Non-Resident Taxable Person.
- (2) Every registered person whose aggregate turnover during a financial year exceeds Rs.2 crore, is required to get his accounts audited and shall submit :
 - Audited copy of the annual accounts;
 - Reconciliation statement duly certified, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement in **Form GSTR-9B**; and
 - Such other particulars as may be prescribed.
- (3) Annual return in **Form GSTR-9** shall be submitted electronically through Common Portal either directly or through a Facilitation Centre before the **31st day of December** following the end of such financial year.

7.15.1 ANNUAL RETURN FOR COMPOSITION TAXPAYER [FORM GSTR-9A] – U/s-10 (44) CGST ACT :

Applicability :

Every person who has opted for composition scheme under Section 10 of the Act is required to furnish annual return in Form GSTR-9A. Even if there is no business activity, every person registered under composition scheme is required to file this form every year. Once filed, the Form cannot be revised.

All GSTR-4 returns for the financial year should be filed, to be able to file Form GSTR-9A. Effective from FY 2019-20, the requirement to file GSTR-4 has been made annual from quarterly filing.

Due date :

Every composition dealer as stated above, is liable to file Form GSTR-9A on or before 31st December following the end of such financial year. However as on date, further to multiple extensions, following were the notified due dates for FY 2017-18 and FY 2018-19.

Financial Year	Due date
FY 2017-18	31st January 2020
FY 2018-19	31st December 2020

Waiver for FY 2017-18 and FY 2018-19 :

It is worth recalling that Central Tax Notification No. 46/2017 dated 9th October 2019, has notified a special procedure with respect to, those registered persons whose aggregate turnover in a financial year does not exceed Rs 2 Crore and who have not furnished the annual return under Section 44(1) of the Act read with Rule 80 of Rules.

Such persons shall have an option to furnish the annual return for FY 2017-18 and FY 2018-19. It has been provided that if the return is not filed within the due date, it shall be deemed that the return has been furnished before the due date.

Based on the deeming provision, the following questions may arise :

- Will GST authorities consider GSTR-9A on the basis of the auto populated data appearing from GSTR-4 and assume it to be final and accept the same accordingly?
- If the answer to the above question is yes, will taxpayers get an opportunity to rectify the error(s), if any, that might have occurred at the time of filing of GSTR-4?

Not much clarity has been obtained on the above questions. We will have to wait for the time to come to know the answers.

7.15.2 RECONCILIATION STATEMENT AND CERTIFICATION [FORM GSTR-9C] – U/s- 35 CGST ACT :

Applicability :

As per Section 35(5) of the Act read with rule 80, every registered person whose aggregate turnover during the financial year exceeds Rs 2 Crore for the FY 2017 – 18 and Rs. 5 Crore for the FY 2018 – 19 and 2019-20 are required to get their annual accounts audited by a Chartered Accountant or a Cost Accountant and shall submit the following:

1. Audited annual accounts
2. Reconciliation statement in Form GSTR-9C
3. Such other documents as may be prescribed.

However, the provision i.e., section 35 (5) of the GST Law has been amended and from FY 2020-21, now there is no requirement for the registered person to get his annual accounts audited by a Chartered Accountant or a Cost Accountant. In other words, the Form GSTR-9C is to be self-certified by the registered taxpayer himself.

This provision does not apply to the following persons :

1. Input service distributor
2. Person paying tax under section 51 of the Act
3. Person paying tax under Section 52 of the Act
4. Casual taxable person
5. Non-resident taxable person
6. Central Government, State Government, Local authorities whose books of account are subject to audit by Comptroller and Auditor General of India, or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

All such taxpayers are first required to file Form GSTR-9 (Form GSTR-9A in case of composition dealers) and then GSTR-9C along with a copy of the audited annual financial statements.

It is important to note that Form GSTR-9C should be furnished for every registered person separately and not on PAN India basis.

Due date :

All those persons who are required to file annual return shall file it on or before 31st December following the end of such financial year

However as on date, further to multiple extensions, the following are the notified due dates :

Financial Year	Due Date
FY 2017-18	<p>5th February 2020 (in case of Chandigarh, Delhi, Gujarat, Haryana, Jammu and Kashmir, Ladakh, Punjab, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh)</p> <p>7th February 2020 (in case of Andaman and Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Dadra and Handbook on Returns and Payments under GST 84 Financial Year Due date Nagar Haveli and Daman and Diu, Goa, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Lakshadweep, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Puducherry, Sikkim, Telangana, Tripura, West Bengal, and Other Territory)</p>
FY 2018-19	31st December 2020
FY 2019-20	31st March 2021
FY 2020-21	28th February, 2022
FY 2021-22	31st December 2022

7.16 FINAL RETURN [GSTR-10] – U/S-45, CGST ACT :

Every registered person, who applies for cancellation of registration either on closure of business or where the taxpayer is no longer liable to pay tax, shall furnish a final return in **Form GSTR – 10** within :

- 3 months of the date of cancellation, or
- Date of Cancellation Order.

(whichever is later)

Contents of the Final Return :

Particulars of closing stock held on date of surrender/cancellation :

The amount of input tax credit, relating to inputs laying in stock, inputs contained in semi-finished and finished goods laying in stock, and capital goods laying in stock – each HSN wise.

Amount of tax payable on closing stock.

7.17 FIRST RETURN – U/S-40, CGST ACT :

- Taxpayers shall be liable for registration within 30 days from becoming liable to register.
- There are three separate events: (i) Date of liability; (ii) Date of Application; and (iii) Date of grant of registration and GSTIN.
- Since returns cannot be filed electronically on the GST common portal, before receiving GSTIN, therefore, taxpayer shall file his first return.

- First return shall be filed for the period from the date on which he becomes liable to registration till the date on which registration has been granted.

To illustrate :

Relating to First Return

ABC becomes liable to pay tax on 01.09.2018.

He applies for registration on 15.09.2018.

What will the due date of filing of first return, if RC is granted on :

Optionally :

- (1) 28.09.2018
- (2) 04.10.2018
- (3) 22.10.2018

Answer :

Option-1 : 28.09.2018 – Return from 01.09.2018 to 30.09.2018 to be filed on 10.10.2018.

Option-2 : 04.10.2018 – Return from 01.09.2018 to 31.10.2018 to be filed on 10.11.2018.

Option-3 : 22.10.2018 – Return from 01.09.2018 to 31.10.2018 to be filed on 10.11.2018.

7.18 METHODS OF UPLOADING THE RETURNS :

- Web interface of GST Common Portal.
- Utility to either the details offline and upload it is one go or export is from the system of the tax-payer and upload it to GSTN servers.
- Popular accounting software providers are integrating their system with GSTIN system to allow direct upload of GSTR-1 from their account to GSTN.
- GSTN has also developed a GST Service Provider (GSP) framework where GSPs have developed their own utilities to perform different functions and register them with GSTN for allowing online operations through their utility directly.
- Through **Goods and Services Tax practitioners**.
- Services of Facilitation Centres (FCs) may also be obtained.

Signing of Returns :

- Signing using Digital Signature Certificate (DSC) for validating the return filed by them.
- However, to ensure that e-verification can be provided even to taxpayers who don't have DSC, separate mechanism, such as, EVC using Aadhar or net banking credentials worked out.

- The effort shall be to avoid any kind of paper interface.

7.19 MATCHING OF ITC :

The details in a return of inward supplies of a recipient shall be matched in prescribed time and manner with :

- Outward supplies furnished by other parties (supplier) in his valid return for the same tax period or any preceding tax period.
- IGST paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him.
- Any duplicate claims of input tax credit.

Initial Matching :

- (1) The claim of ITC in respect of invoices and debit notes in **GSTR-2** that were accepted by the recipient on the basis of **GSTR-2A** without amendment shall be treated as matched if the corresponding supplier has furnished a valid return.
- (2) The claim of ITC shall be considered as matched, where the ITC claimed = < output tax paid on such tax invoice/debit note by the corresponding supplier.
- (3) Following details relating to the claim of ITC on inward supplies including imports shall be matched after the due date for furnishing **GSTR-3** :
 - (a) **GSTIN** of the supplier;
 - (b) **GSTIN** of the recipient;
 - (c) Invoice/or Debit Note number;
 - (d) Invoice/or Debit Note date;
 - (e) Taxable Value; and
 - (f) Tax amount.
- (4) Where the time limit for furnishing **GSTR-1** and **GSTR-2** has been extended, the date of matching relating to claim of ITC shall also be extended accordingly.

Final Acceptance of ITC :

- Final acceptance of ITC claim in respect of any tax period shall be made available electronically to the registered person making such claim in **GST MIS-1**.
- The ITC claim in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier or recipient shall be finally accepted and made available electronically to the person making such claim in **GST MIS – 1**.

Mismatches :

- (1) Discrepancy in the ITC claim in respect of any tax period and the details of output tax liable to be added on account of continuation of such discrepancy shall be made available to the recipient electronically in **GST MIS-1** and to the supplier electronically in **GST MIS-2** on or before the last date of the month in which the matching has been carried out.
- (2) Supplier to whom any discrepancy is made available may make suitable rectifications in the **GSTR-1** to be furnished for the month in which the discrepancy is made available and pay the differential tax by revising claim in the return when an error is noticed.
- (3) Recipient to whom any discrepancy is made available may make suitable rectifications in the **GSTR-2** to be furnished for the month in which the discrepancy is made available.
- (4) Where the discrepancy is not rectified as per above an amount to the extent of discrepancy shall be added to the output tax liability of the recipient (and not supplier) in his return to be furnished in GSTR-3 for the month succeeding the month in which the discrepancy is made available.
- (5) **Recipient** is liable for payment of interest at the rate specified from the date of availing of credit till the corresponding additions are made.

Subsequent Rectification by the Supplier :

- Where the supplier accepts the discrepancy and rectifies the same by declaring the details of the invoice or debit note in his valid return within the time specified, then the tax amount involved shall be excluded from the output liability of the recipient.
- Recipient shall be eligible to reduce, from his output tax liability, such amount.
- Further, the amount of interest paid by the recipient shall be refunded by a credit to e-cash ledger, but interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

Reduction in out liability by the recipient :

Any reduction of liability by the recipient in contravention of the provisions will be added to the output liability of the recipient and recovered along with applicable interest on the amount so added at the rate specified.

Refund of interest on Reclaim of Reversals :

The interest to be refunded shall be claimed by the registered person in his return in GSTR-3 and shall be credited to his electronic cash ledger in GST PMT-3 and the amount credited shall be available for payment of any future liability towards interest or the taxable person may claim refund of the amount, it means that the same cannot be used for payment of output liability.

Illustration :

ABC supplies goods to PQR for Rs.10,000 in August 2019, IGST thereon is, say, Rs.2,000. ABC did not furnish these details in its outward supply to PQR in GSTR-1 on September 10, 2019.

While matching the credit at the time of GSTR-2, PQR could not get it rectified from ABC. PQR claims and utilizes the credit *suo-motu*. At the time of communication of this mismatch on or before September 30, 2019 by the Department, ABC fails to rectify its mistake in GSTR-1 filed on October 10, 2019. In such a case, PQR shall pay the amount of credit claimed along with interest on or before October 20, 2019 along with GSTR-3;

In December, 2019, ABC rectifies GSTR-1 with details omitted earlier. Accordingly, PQR can take back the credit earlier reversed along with interest.

Matching, Reversal and Reclaim of reduction in output tax liability :

- 1) Details of every credit note relating to outward supply furnished by a 'supplier' for a tax period shall be matched:
 - (a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereinafter referred to in this section as the 'recipient') in his valid return for the same tax period or any subsequent tax period, and
 - (b) for duplication of claims for reduction in output tax liability.
- 2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.
- 3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.
- 4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.
- 5) The amount in respect of which any discrepancy is communicated under sub-section (3) and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.
- 6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of

the supplier in his return for the month in which such duplication is communicated.

- 7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section (5) if the recipient declares the details of the credit note in his valid return within the time specified in sub-section (9) of section 39.
- 8) A supplier in whose output tax liability any amount has been added under sub-section (5) or sub-section (6), shall be liable to pay interest at the rate specified under sub-section (1) of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.
- 9) Where any reduction in output tax liability is accepted under sub-section (7), the interest paid under sub-section (8) shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.
- 10) The amount reduced from output tax liability in contravention of the provisions of subsection (7) shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest on the amount so added at the rate specified in sub-section (3) of section 50.

7.20 UNDERTAKEN ACTIVITIES BY A GSTP :

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

- (i) Furnish details of outward and inward supplies;
- (ii) Furnish monthly, quarterly, annual or final return;
- (iii) Make deposit for credit into the electronic cash ledger;
- (iv) File a claim for refund;
- (v) File an application for registration amendment/cancellation;
- (vi) Also allowed to appear as authorised representative before any officer of Department, Appellate Authority or Appellate Tribunal, on behalf of such a registered person.

Furnishing returns through GSTP :

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

Gives his consent in prescribed form to any GSTP to prepare and furnish his return. Before confirming submission of any statement prepared by GSTP, ensure that the facts mentioned in the return are true and correct.

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

If the GST practitioner is found guilty of misconduct, his enrolment will be liable to be cancelled. A show cause notice would be issued to him in the prescribed form.

The procedure for enrolment as GSTP :

The procedure for enrolment of GSTP is as under :

- (i) An application in prescribed forms (GSTPT-1 to PTC-5);
- (ii) The application shall be scrutinised and GST practitioner certificate shall be granted in the prescribed form. In case, the application is rejected, proper reasons shall be given.
- (iii) Any person who has been enrolled as GSTP by virtue of him being enrolled as a Sales Tax Practitioner or Tax Return Preparer under the earlier Indirect Tax Law shall remain enrolled only for a period of 1 year from the appointed date unless he passes the prescribed examination within the said period of 1 year.
- (iv) No person enrolled as a GSTP shall be eligible to remain enrolled unless he passed prescribed examination conducted by the authority as notified by the Commissioner on the recommendations of the Council.
- (v) The enrolment once done remains valid till it is cancelled.

7.21 GST RECORDS – INTRODUCTION :

Every registered person shall keep and maintain all records at his principal place of business. The owner or operator of a warehouse, godown, or any other place used for storage of goods, and every transporter, is required to keep specified records even if they are not registered under GST.

In addition, the Commissioner has the authority to notify a class of taxable persons to maintain additional accounts or records for specified purpose or to maintain accounts in other prescribed manner. It is not essential to maintain the accounts in electronic format. Accounts and records may be maintained either electronically or manually. There is no prescribed format for maintain the accounts.

Statutory Coverage – Section 35 & 36 of Chapter-VIII of the CGST Act, 2017 and Rule 56 to 58 of Chapter-VII of CGST Rules, 2017 contains provisions relating to Accounts and Records required to be maintained by a taxpayer and the period of retention of accounts.

7.22 ACCOUNTS & RECORDS TO BE MAINTAINED [SECTION 35 OF CGST ACT & RULE 56 OF CGST RULES] :

Who is required to maintain books of accounts and at which place?

Every registered person shall keep and maintain, his books of accounts at his principal place of business and books of account relating to additional place of business as mentioned in the certificate of registration.

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

Accounts & Records required to be maintained -

As per Section 35 (1), A true and correct account of the following is to be maintained :

- (a) Production or Manufacture of goods;
- (b) Inward and outward supply of goods or services or both;
- (c) Stock of goods;
- (d) Input Tax Credit availed;
- (e) Outward Tax payable and paid;
- (f) Such other particulars as may be prescribed.

Records prescribed by Rules [Rule 56 (1), (3), (5) & (6)] :

In addition to the particulars mentioned in Section 35 (1), the rules also provide that the registered person is required to maintain a true and correct account of :

- (a) Goods or services imported or exported;
- (b) Supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund voucher.
- (c) Separate account of advances received, paid and adjustments made thereto.
- (d) Particulars of name and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act.
- (e) Particulars of name and complete addresses of suppliers from whom he has supplied the goods or services, where required under the provisions.
- (f) Particulars of the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

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

Records which are to be maintained only by a supplier other than a supplier opting for Composition Levy, [Rule 56 (2) & (4)] :

- (a) Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of opening balance, receipt, supply, goods lost, stolen, destroyed, written or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof.
- (b) Account, containing the details of tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

Records to be maintained by Agent [Rule 56 (11)] :

Agent means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, who carries on the business of supply or receipt of goods or services or both on behalf of another. Every agent shall maintain accounts depicting the :

- (a) Particulars of authorization received by him from each principal to receive or supply goods or services on behalf of such principal separately.
- (b) Particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal.
- (c) Particulars including description, value and quantity (wherever applicable) of goods or services supplies on behalf of every principal.
- (d) Details of accounts furnished to every principal.
- (e) Tax paid on receipts or on supply of goods or services effected on behalf of every principal.

Records to be maintained by Agent [Rule 56 (12)] :

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

Records to be maintained by a Service Provider [Rule 56 (13)] :

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

Records to be maintained by a Person executing works contract [Rule 56 (14)] :

Every registered person executing works contract shall keep separate accounts for works contract showing :

- (a) The names and address of the persons on whose behalf the works contract is executed.
- (b) Description, value and quantity (wherever applicable) of goods or services received for the execution of works contract.
- (c) Description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract.
- (d) The details of payment received in respect of each works contract.
- (e) The names and addresses of suppliers from whom he received goods or services.

Records to be maintained by owner or operator of godown or warehouse and transporters [Section- 35 (2)] :

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

Records to be maintained by a custodian/clearing and forwarding agent [Rule 56 (17)] :

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

How the accounts and records will be maintained? [Rule 56 (7), (8), (9), (15), (16) & (18)] :

- Books of account shall include any electronic form of data stored on any electronic device.
- Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise those of clerical nature, shall be scored out under attestation and thereafter the correct entry shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.
- Each volume of books of account maintained manually by the registered person shall be serially numbered.
- The records may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.

- Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period as provided in section 36 and shall, where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.
- Every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

Failure to maintain the accounts [Section 35 (6)] :

Where the registered person fails to account for the goods or services or both in accordance with the provisions, the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of Section 73 or 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.

Period of Retention of Accounts :

Every registered person is required to keep and maintain books of account or other records in accordance with the provisions of Section 35 (1) shall retain them until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

7.23 SUMMARY :

- Any registered person may give consent and authorise a GST practitioner in the prescribed form by listing the authorised activities in which he intends to authorise the GST practitioner.
- The registered person authorising a GSTP shall have to authorise in the prescribed form and the GST practitioner will have to accept the authorisation in Part B of the same form.
- The GST practitioner shall be allowed to undertake only such tasks as indicated in the prescribed form. The registered person may, at any time, withdraw such authorisation in the prescribed form.
- Any statement furnished by the GST practitioner shall be made available to the registered person on the GST Common Portal. For every statement registered person over email or SMS.
- The GST practitioner shall prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials.
- Every registered person under GST must maintain all records at his principal place of business as prescribed under Section 35 of the Central Goods and

Service Tax Act, 2017 read with Rule 56 of the Central Goods and Service Tax Rule, 2017. It is the responsibility of the following persons to maintain specified records-

- ❖ The owner i.e. Manufactures, Service Supplier and Trader.
- ❖ Operator of Warehouse or Godown or any other place used for storage of goods.
- ❖ Every Transporter

7.24 KEY WORDS :

Return :

The term '**Return**' ordinarily means statement of information (facts) furnished by the taxpayer, to tax administrators, at regular intervals.

Registered Person :

A person who carries on any business at any place in India and who is registered or required to be registered under the GST Act. Any person who engages in economic activity including trade and commerce is treated as a taxable person.

Goods and Services Tax Return (GSTR) :

It is a document that each registered tax payer needs to file every month/quarter. It must contain the details of all sales and supply of goods and services made by the tax payer during the tax period.

Non-Resident :

A non-resident is someone who does not domicile in a given region but has a business or other interests in that region.

GST Records :

Section 35 of the CGST Act, 2017 and Chapter VIII of the CGST Rules, 2017 (hereinafter referred to as rules) provide that every registered person shall keep and maintain all records at his principal place of business. It also cast, responsibility on owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter, irrespective of whether he is a registered person or not, to maintain specified records.

Period for Retention of Accounts under GST :

As per Section 36 of the CGST Act, 2017, every registered person must keep and maintain the accounts books and records for at least 72 months (6 years) from the due date of furnishing of annual return for the year pertaining to such accounts and records.

7.25 SELF ASSESSMENT QUESTIONS :

1. What are the various returns prescribed under the GST Law?
2. Who are required to furnish the details outward taxable supply?
3. What details are submitted in GSTR-1?
4. Whether details furnished under GSTR-1 and GSTR-2 can be rectified? Is there any time limit for revision/rectification of such details?
5. What do you know about Form GSTR-2A?
6. What are the returns to be furnished by a Non-Resident taxable assessee?
7. Write about Form GSTR-6A.
8. What is meant by provisional input tax credit? Explain the process of matching of ITC.
9. What are the various kinds of accounts and records to be maintained by the registered persons?

7.26 SUGGESTED READINGS :

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