

dronacharya

FOR
CA INTERMEDIATE

2024

GST

Lecture – 01

CA Jasmeet Singh



Topics *to be covered*

1. Input Tax Credit
2. Place Of Supply
3. Composition Scheme
4. Time Of Supply
5. Value Of Supply



INPUT TAX CREDIT

Section 16 Eligibility For Taking ITC

1. Conditions For Claiming the ITC:
 - a) Every registered person shall be entitled to take ITC.
 - b) G/S or both must be used or intended to be used in the course or furtherance of his business.
 - c) He has received the said goods or services except in the case of Bill to Ship to model
 - d) The supplier has paid the said amount of tax (as charged in the invoice) to appropriate Government in cash or by way of utilization of input tax credit, as admissible.
 - e) He – claimant of input tax credit – has furnished return under section 39 in FORM-GSTR 3B
 - f) No ITC shall be allowed to RP in respect of invoice which is not communicated to RP in FORM– GSTR 2B.
2. If goods are received in instalments against a single invoice, credit can be taken upon receipt of last installment of goods.
3. If recipient of G/S has not paid the supplier within 180 days from date of invoice, the amount equal to input tax credit availed along with the interest u/s 50 shall be paid by the recipient. The said input tax credit can be re- availed on payment to supplier.

Exceptions

This condition of payment of value of supply plus tax within 180 days does not apply in the following situations:

- (a) Supplies on which tax is payable under reverse charge
- (b) Deemed supplies without consideration
- (c) Additions made to the value of supplies on account of the supplier's liability, in relation to such supplies, being incurred by the recipient of the supply
4. Claim of depreciation on tax component disqualifies a recipient of Capital goods from availment of ITC.
5. Time limit for availment of ITC extended – Sec 16(4)
ITC on invoices relating to a FY or debit notes issued in any FY) can be availed on or before:-
 - (a) 30th November of the succeeding FY (after end of FY to which such invoice or debit note pertains)
 - (b) Actual Date of filing of annual return (GSTR-9) for the relevant year.
6. Reversal Of ITC by Recipient
 - a) Supplier has filed the GSTR-1 but has not filed GSTR-3B till 30th September of next FY
 - b) Then Recipient has to reverse the ITC for the same till 30th November of succeeding FY to which such ITC relates.

However, Recipient is eligible to take ITC as and when Supplier files GSTR-3B

Restrictions on use of amount available in electronic credit ledger [Rule 86B]

A registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds Rs. 50 lakh.

Exceptions

This restriction shall not apply in following cases:-

- (a) Where the said person/proprietor/karta/managing director/any of its two partners, whole- time directors, members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than `1 lakh as income tax¹ in each of the last 2 financial years.
- (b) Where the registered person has received a refund of more than `1 lakh in the preceding FY on account of unutilised ITC in case of (i) zero rated supplies made without payment of tax or (ii) inverted duty structure.
- (c) Where the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, up to the said month in the current financial year.
- (d) Where the registered person is:-
 - (i) Government Department
 - (ii) Public Sector Undertaking
 - (iii) Local authority
 - (iv) Statutory body

Section 17: Apportionment of Credit and Blocked credit

1. Where the G/S or both are used by the registered person partly for the purpose of any business and partly for other purposes, the ITC shall be restricted to so much of the input tax as is attributable to the purposes of his business [Section 17(2)]
2. Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the ITC shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero- rated supplies [Section 17 (3)]
3. A banking company or a financial institution including a non-banking financial company shall have the option to either comply with Section 17(2) or avail 50% of the eligible ITC in that month and the rest shall lapse.

Note: restriction of 50% shall not apply to the tax paid on supplies to Distinct Person Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year.

4. Blocked Credit

A. Motor Vehicle/ Vessel / Aircraft

Generally ITC is blocked. However ITC is available in following cases:

- i. MV with seating capacity More than 13 Person including driver.
- ii. MV/V/A Purchased for further supply
- iii. MV/V/A Purchased for providing Transportation of Passenger Service
- iv. MV → Driving School
V → Navigation Training
A → Flying School
- v. MV/V/A → Transportation Of Goods

Note: Following shall not be considered as MV & Hence ITC is available.

- a) Train (Vehicle Run On Fixed Rail)
- b) MV (2/3 wheeler with upto 25CC)
- c) Vehicles run within factory/enclosed premises.

B. General Insurance / Repair & Maintenance / Servicing of MV/V/A

Generally ITC is blocked. However ITC is available in following cases:

- a) ITC of MV/V/A is available → ITC of GI/RM/S is also available
- b) RP is manufacturer of MV/V/A
- c) GI/RM/S services availed for Further Supply of such service.

C. Specified Goods & Service

- Food & Beverages - Outdoor Catering - Beauty Treatment - Health Services - Cosmetic & plastic Surgery - Leasing & Renting of MV/V/A - Life Insurance - Health Insurance	No ITC Is available Exception: - I/W supply for making further supply (either composite or mixed) - Such Supplies provided to EEs under statutory Obligation.
- Membership Of Club/Health/Fitness Centre - Travel Benefit Extended to EEs	No ITC is available Exception: Such Supplies provided to EEs under statutory Obligation.

D. Works Contract Service (construction of Immovable Property)

Construction of Immovable property	ITC Blocked
Construction of Plant & machinery	ITC Available
I/W supply of Works Contract service for further Supply	ITC Available

Note: Plant & Machinery doesn't Include

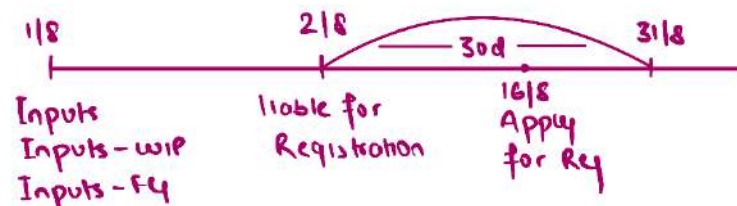
- a) Telecommunication Tower

- b) Pipelines laid down outside the factory
 - c) Land & Building
- No ITC on above items.

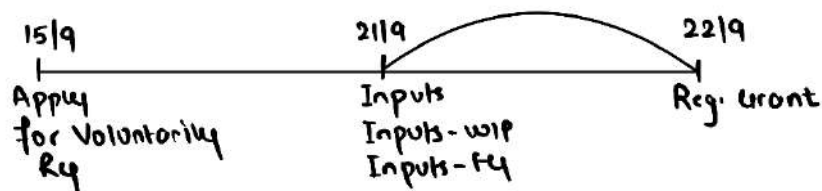
- E. Goods or service purchased for construction of immovable property → ITC blocked.
 Goods or service purchased for construction of Plant & Machinery → ITC Available.
- F. Other cases where ITC is blocked:
- a) No ITC of Tax paid on composition scheme
 - b) No ITC is available for G/S procured by NRTP in India. However, ITC is available for GST paid on Import of Goods.
 - c) G/S purchased for personal consumption
 - d) Goods Destroyed/disposed off/Gift/Sample/Written-off/Lost/Stolen.
 - e) G/S or both received by a taxable person which are used or intended to be used for Corporate Social Responsibility referred to in section 135 of the Companies Act 2013

Section 18: Special Circumstances for Availing ITC

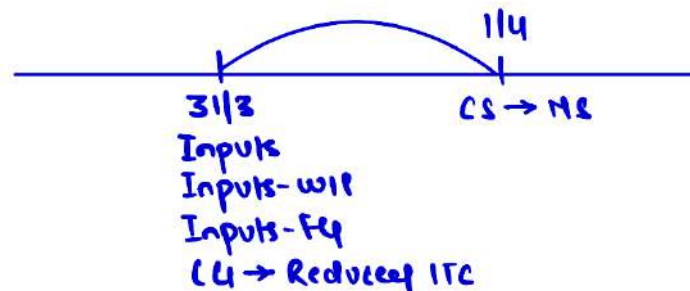
1. Compulsory Registration



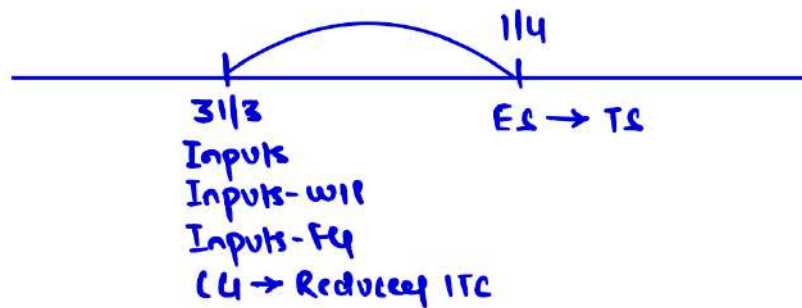
Voluntary Registration



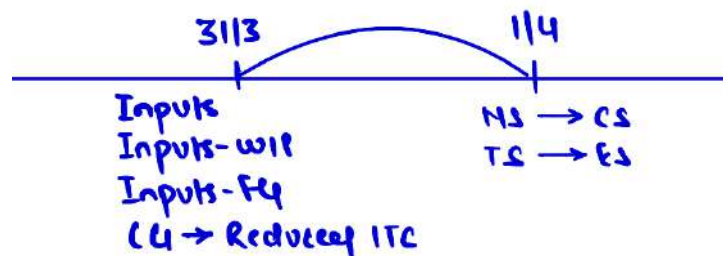
Composition → Normal Scheme



Exempt Supply → Taxable Supply



2. A registered person shall not be entitled to take input tax credit under sub-section (1), in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply
3. ITC in case of Amalgamation/Demerger
Where there is a change in the constitution or transfer of the business with the specific provisions for transfer of liabilities → Transferor shall be allowed to transfer unutilised ITC to transferee. For this purpose transferor has to file ITC-02 on the common portal and on acceptance by transferee such ITC shall be credited to EI. Credit ledger of transferee.
4. Reversal of Credit on shifting to composition scheme or when taxable supply becomes exempt supply



5. Reversal of Tax credit in case of supply of capital goods on which tax credit has been taken Section 18 (6)
The registered person shall pay an amount
 - a) ITC taken on such goods reduced by 5% per quarter of a year or part thereof from the date of issue of invoice for such goods or
 - b) the tax on the transaction value of such capital goods, whichever is higher.

PLACE OF SUPPLY

INTRO STATE AND INTER STATE SUPPLY

Intra State supply

- . Location of supplier & Place of supply
- In same state / UT

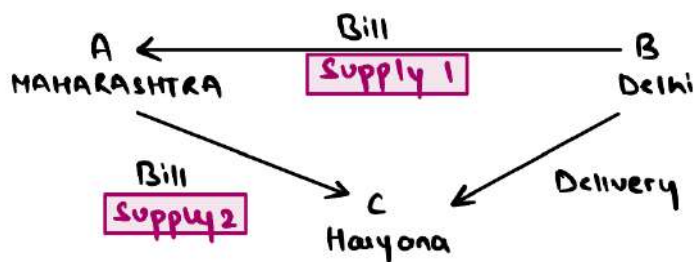
Inter State supply

- . Location of supplier & Place of supply
- Two different State
— Two different UT
— One state & one UT

Section 10 Place of Supply Of Goods Other Than Export

Section	Scenario	Location
10(1)(a)	Supply Involve movement	Where movement of Goods Terminate
10(1)(c)	Supply doesn't involve movement	Where Goods made available place of Delivery
10(1)(ca)	Supply to a person over the counter to URP	Address of Recipient recorded in invoice. If Not available then Location of Supplier
10(1)(d)	Assembly or Installation involved	Place of Assembly/ Installation
10(1)(e)	Goods supplied on board of Conveyance	Place where Goods taken on board

Note : Bill to Ship to model Section 10(1)(b)



POS Supply 1 = Location Of 3rd Person on whose instruction goods are delivered.

POS Supply 2 = Location where movement of Goods Terminates.

Place of Supply in case of supply of services

i. Section 12(2) General Rule

Service Recipient	Place Of Supply
Registered	Location of SR
Unregistered	
a) SR Address Available	Location of SR
b) SR Address Not Available	Location of SP

Specific case section 12

ii. Section 12(3) Service related to immovable property and lodging / Accommodation

- Construction | Agent | Engineering | Survey etc. of immovable property .
- Lodging | Accommodation by Hotel | Inn | Guest House | House Boat.
- Ancillary Service Related to above

Location Of Property	Place Of Supply
In India	Location of Property
Outside India (SP/SR in India)	Location of SR

Note :

1. Provisions are applicable on already constructed as well as yet to be constructed property.
2. Location in more than 1 state UT
 - a) Single Property Is Located @ 2 or more states
POS = Based On Area In each state or UT
 - b) Different Property Is located @ 2 or more state
POS = Based on No. Of Nights Stayed in Each Property
3. Boat / Vessel : Based on time spent in each state / UT

iii. Section 12(4) Restaurant | Catering | Personal Grooming | Fitness | Beauty | Health Services Including Cosmetic & Plastic Surgery.

POS = Place where service have been performed.

iv. Section 12(5) Training & Appraisal Services

Service Recipient	Place Of Supply
Registered	Location of SR
Unregistered	Place where service have been Performed

v. Section 12(6) Admission to Event | Park | other Place

Location of Place or Where Event is held

vi. Section 12(7) Organizing of Event and Sponsorship Services

Service Recipient	Place Of Supply
Registered	Location of SR
Unregistered	
a) Event Held In India	Location Of Event
b) Event Held o/s india	Location of SR

vii. Section 12(8) Transportation of Good including mail & Courier

Service Recipient	Place Of Supply
Registered	Location of SR
Unregistered	Location Where goods are handed over to Transporter

viii. Section 12(9) Transportation of Passenger

Ticket Is Issued	
Service Recipient	Place Of Supply
Registered	Location of SR
Unregistered	Location Where Passenger Embarks On Journey
Issue Of Passage For Future Journey Where Boarding Point Is Not Known	
Service Recipient	Place Of Supply
Registered	Location of SR
Unregistered	
a) SR Address Available	SR Location
b) SR Address Not Available	SP Location

Note: Return Journey Is Treated as separate journey Even Ticket for both side is issued at the same time

ix. Section 12(10) Service provided on Board | Conveyance

First Schedule point of departure of that conveyance

x. Section 12(11) Telecommunication Services

Service	Place of Supply
1) Services Provided using - Fixed line - Cable / Dish Antenna - Leased Circuit	Location where Instrument is Installed for Receipt of Service.
2) Postpaid Connection	Address of SR Available - Yes → Pos = Location of SR - No → Pos = Location of SP
3) Prepaid Connection	a) Through Agent / distributor Pos = Location of Agent / Distributor b) Online Mode Pos = Location of SR c) Other Cases Address of SR Available - Yes → Location of SR - No → Location of SP

Note: Leased circuit through more than 1 State | UT

Determine Based on no. of points in each state | UT.

xi. Section 12(12) Banking and Financial services including stock broking services

Location of Recipient → If Not available → Location of Supplier

xii. Section 12(13) Insurance Business – Location of Recipient

xiii. Section 12(14) Advertisement Services to Government.

Each of state where Advertisement Broadcasted | RUN | Played.

[Determine as per contract if not available below procedure]

a) Advt. in Hoardings - No of Hoardings in each state/UT

b) Advt in television channel - Each state /UT Based on viewership of channel in each State | UT

[viewership Based on BARB published data of last week of Preceding quarter]

if figures Related to Region having >1 states
[Proportion Based on population]

c) Advt. on Internet / through sms.

Each State Based on intent Subscriber (Internet) | telecoms Subscriber (sos)
[Based on TRA2 Data of last evarten of Preceding financial year (in case of Internet) / of Preceding Quarter (in case of Sis).

Clarification Regarding Place of Supply in Case of Supply of Services in Respect of Advertising Sector

Issue 1

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

Clarification: As hoardings/structure are fixed to the ground, they're considered part of the immovable property (like land or buildings). The place of supply in such cases is the place where the hoardings are located as per section 12(3).

Issue 2:

There may be another case where the advertising company wants to display its advertisement on hoardings/billboards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. In this case, what will be the place of supply of such services provided by the vendor to the advertising company?

Clarification: As the advertising company isn't buying the space or rights to the space directly, but only availing a service to display its advertisements, the place of supply shall be

determined as per Section 12(2). Therefore if SR is registered or if unregistered but address of SR is available, then place of supply shall be location of SR. Otherwise location of SP.

VALUE OF SUPPLY

As Per Section 15, Value of Supply = Transaction Value if following Conditions are Satisfied:

- 1) Supply to unrelated Person
&
- 2) Price is sole Consideration

Inclusions under Section 15 (2)

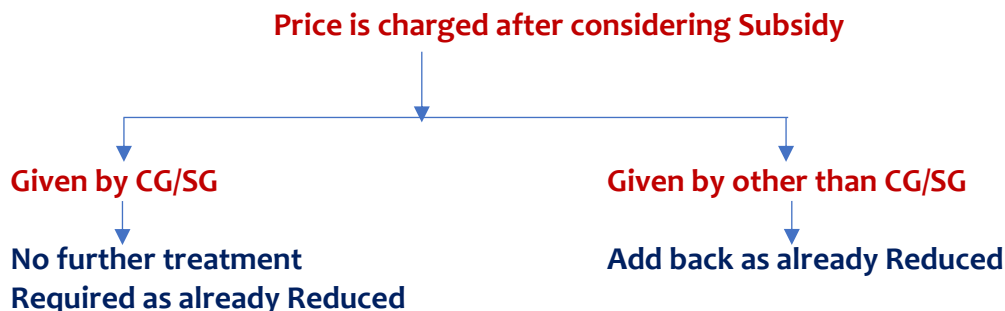
- i. Tax, duty, cess or Surcharge other than GST i.e. Municipal tax, excise etc. if charged Separately by Supplier.
TCS not included as its not a Separate tax its Just a mechanism of tax collection
- ii. Supplier obligation met by the recipient.
- iii. Incidental Expenses ie. Packing exp. /commission/ loading etc.
- iv. Amount charged for anything done by Supplier before Delivery i.e., Any Customisation, Modification chases, Inspection etc.
- v. Interest / fee / Penalty for delayed payment
 - Only if Actually Recovered, if waived not part of supply
 - Considered composite Supply, tax rate applicable as applicable on main supply
 - Interest usually considered inclusive of asp [unless given in question] Hence

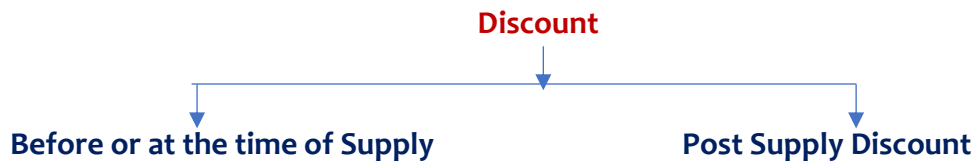
$$\text{Value of Supply} : \frac{\text{Interest}}{100 + \text{Rate}} \times 100$$

- vi. Subsidy Only if:
 - Provided by other than CG/SG
 - Directly linked to Price Otherwise Ignore
 - Subsidy provided to establish plant, Entrepreneurship etc. not directly linked to Price.

Notes:-

- If Specifically Given in question that Value is after considering Subsidy or



Exclusions U/S 15(3) :

- (i) **Before or at the time of Supply** : Discount given before Supply or on making Supply & Shown in invoice.
- (ii) **Post Supply Discount**: All discount can't be decided on or before Supply i.e., payment discount, volume discount. Post Supply Discount can be reduced from Value of Supply if following conditions are Satisfied:
 - Discount as per Contract existing on Supply
 - Can be linked to invoices
 - Proportionate ITC reversed by Recipient

Special point :

- **No claim Bonus By Insurance companies**

When Insured makes no claim under Insurance policy in Previous Period, then current period Gross Premium gets Reduced by Amount called as No claim Bonus

- **Whether "No Claim Bonus" is considered as Discount?**

Yes, Discount Provided "on or before making Supply" & "Recorded In Invoice" shall not be included in VoS.

Hence as non claim Bonus reduced from Gross Premium while raising Invoice shall be considered as discount and hence shall not be included in VOS.

COMPOSITION SCHEME

Section 10 Composition Scheme

- The composition levy is an alternative method of levy of tax designed for small taxpayers.
- Small taxpayers with an aggregate turnover in a preceding financial year up to ₹1.5 crore shall be eligible for composition levy. However, Threshold limit is ₹75 lakh in respect of 8 of the Special Category States namely [NUSTA-M3] Nagaland Uttarakhand Sikkim Tripura Arunachal Pradesh Mizoram Manipur Meghalaya

Section 10(1) & (2) Composition Scheme for Goods & Restaurant Services

- Initially, the scheme was designed to benefit the small traders, manufacturers and restaurant service providers.
- Subsequently, suppliers availing the composition scheme were permitted to supply other services also upto higher of following:
 - (a) 10% of turnover in the state or union territory in the preceding financial year or
 - (b) ₹5,00,000 whichever is higher.

Calculation of Aggregate Turnover

Aggregate Turnover includes

1. Taxable supplies
2. Exempt supplies
3. Exports
4. Inter-State supplies of persons having the same PAN be computed on all India basis.

Exclusions

- Value of inward supplies on which tax is payable under reverse charge
- Taxes Under GST (i.e. CGST/SGST/UTGST/IGST/ Compensation Cess)
- Value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Note: Aggregate turnover includes value of supplies from 1st April of a FY up to the date of his becoming liable for registration

Withdrawal From Composition Scheme

As per Section 10(3), the option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹150 Lakh /75 Lakh.

Composition Rates

Registered Person	Rate
Manufacturer, other than manufacturer of Specified Goods	1% Of Turnover in state or UT
Person engaged in restaurant services	5% Of Turnover in state or UT
Any other Supplier of goods	1% Of Taxable Turnover in state or UT

Note: for the purposes of determining the Composition tax, turnover in State or UT shall not include

- (i) supplies from 1st April of a FY up to the date when such person becomes liable for registration under this Act; and
- (ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Section 10(2A) Composition Scheme for Service Provider

A registered person whose aggregate turnover in the preceding financial year is up to `50 lakh, shall be eligible to pay tax under this scheme @ 6% upto Rs. 50 lakhs made from 1st April of CFY.

Section 10(2)/(2A) Conditions for Opting to Pay Tax under Composition Scheme

- a. Restricted from making supply of goods or services which are not liable to GST
- b. Restricted from affecting inter-State outward supplies of goods or services
- c. Restricted from making supplies through an e-commerce operator – Only for Service Providers. Supplier of Goods are now eligible to make supplies through E-COM while being under Composition scheme.
- d. Restriction on manufacture of notified goods- Notified Goods: (i) Ice cream and other edible ice, whether or not containing cocoa (ii) Pan masala (iii) Tobacco and manufactured tobacco substitutes (iv) Manufacture of Aerated Water (v) Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks (vi) Bricks of fossil meals or similar siliceous earths (vii) Building bricks (viii) Earthen or roofing tiles
- e. Not Available to CTP/NRTP
- f. Would be applicable for all transactions under the same PAN
- g. Shall not collect tax also Not entitled to input tax credit.
- h. Such supplier shall mention the words “composition taxable person not eligible to collect tax on supplies” at the top of the bill of supply. (not allowed to issue tax invoice)

RULES

As per Rule 3, A person applying for registration have the option to opt for composition scheme in part B of REGo1. Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy shall be effective from the effective date of registration.

As per Rule 4, A registered person who opts to pay tax under composition scheme shall file an intimation in prescribed form on the Common Portal, prior to the commencement of the FY for which said option is to be exercised. Composition schemes shall be effective from the beginning of the next financial year.

Also such person shall have to furnish statement in ITC-03 for reversal of tax credit within a period of 90 days from the date of commencement of composition scheme.

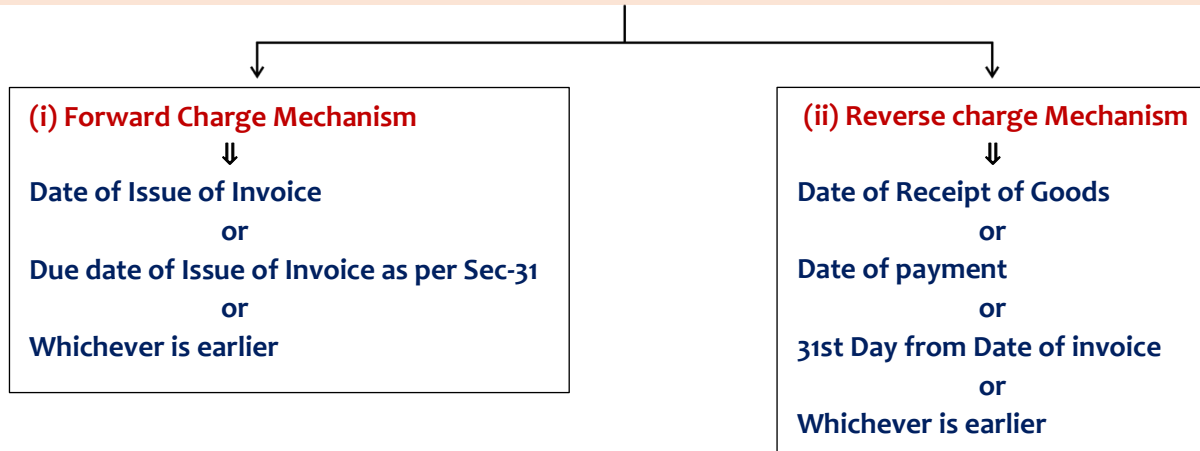
As per Rule 6, If turnover exceeds ₹1,50,00,000/75,00,000/50,00,000 RP shall be shifted to normal scheme with immediate effect and he will give an intimation in CMP-04 within 7 days of exceeding the limit.

RP can also voluntarily opt out of the scheme at any time and shall file an application in CMP-04 and he will get shifted to normal scheme with immediate effect.

RP shall be required to submit ITC-01 for availing ITC within 30 days from the date of withdrawal. Such withdrawal shall be applicable to all the places in all the states/UTs.

TIME OF SUPPLY

Time of Supply [TOS] for Goods (Section 12)

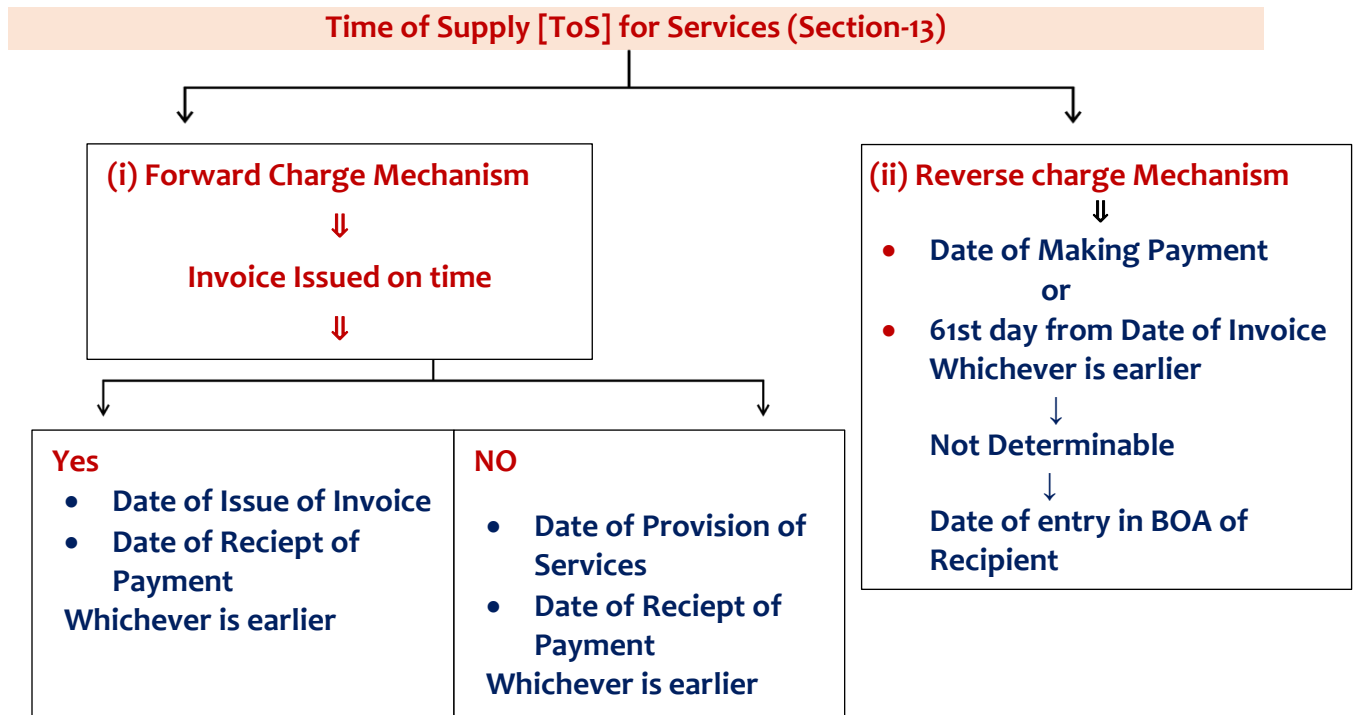


Date of Payment:

- Date of Recording Payment in Recipient's Books or
- Date of Debit in Recipient's Bank All
 Whichever is earlier

Due Date for Raising Invoice [in case of Goods] (Section 31)

- Movement of Goods involved** → Before or at time of Removal of Goods
- No Movement of Goods involved** → Before or at time of Delivery of Goods
- Continuous Supply of Goods**
 Before or at time of
 - Issuance of Periodical Statement [Due date not Relevant but]
 - Receipt of Payment [Actual Dates Dat Relevant]
- Sale of Goods on approval Return Basis**
 - Before or at time of supply
 - 6 months from Removal of Good
 } Whichever is earlier



→ **If Advance is upto Rs. 1000**



@ option Of Supplier

- Payment Received date
- or
- Date of Issue of invoice

→ **Date of Receiving Payment**

- Date of Recording Receipt in Supplier's Books
 - or
 - Date of credit in Supplier's Bank Alc
- Whichever is earlier

(iii) Supply by Associated enterprise & Supplies located outside India



- Date of entry in Books of Recipients
 - Date of Making Payment
- } Whichever is earlier

Due Date for Raising Invoice [in case of Services (Section-31)]

- (i) Normally Before or within 30 days of Provision of Service
- (ii) In Case of Insurance | Banking / FI | NBFC - Within 45 days from Provision of Service
- (iii) Continuous Supply of Services (More than 3 months)

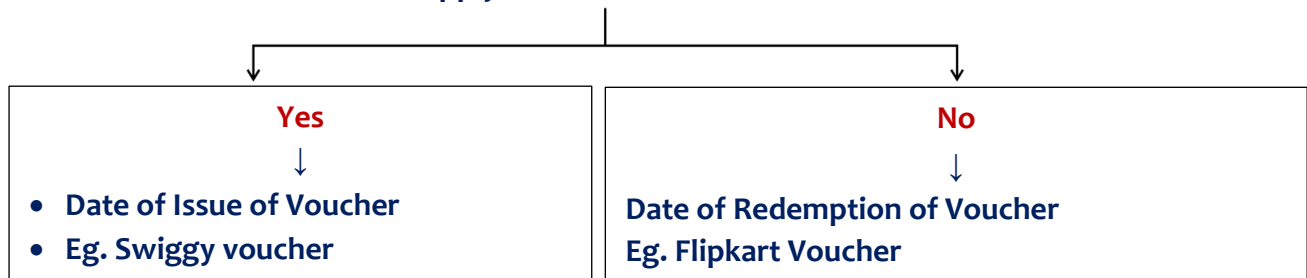
In following order

- Due date of Payment Available - Due date of Payment
- Due date not Available - Actual date of Payment
- Milestone Based [25%, 50%, 75% etc.] - on completion of Milestone

- (iv) Supply ceased before Completion - Raise invoice before such cessation

Common Points for Time of Supply of Goods & Services
Time of Supply in case of Voucher for Goods | Services

Whether Supply identifiable at time issue of Voucher

**Time of Supply of Addition in Value because of Interest | fees | Penalty etc.**

TOS = Day on which addition Received by Supplier

Any other Case (Residual Cases)

- If Periodical return is filled – Due date of Return
- Otherwise - Date on which GST Paid.