PREFACE

The book adopts a fresh and new approach to understand and gain in-depth knowledge of the provision of **taxation relating to Income tax Act** in an illustrative manner for the students of **CA Inter, CS Executive, CMA Inter** and **other taxation students**. The **law** stated in the book is **as per the Finance Act 2025** and the **problems** are **solved** keeping in mind the **amended provision** of the act. The objective of the book is to present the law in **simple and easy language** so as to make **topics student friendly** by illustrating **provision in graphical and tabular manner**.

The book has been written keeping in view the new syllabus as notified by the ICSI and ICWAI.

KEY FEATURES OF THE BOOK

a) **Suitable for detailed discussion and in depth understanding of the topic**: The book covers entire syllabus at a place along with suitable illustration for concepts for better understanding.

b) **Includes most important solved problems**: The book contains practical question that will help students in the application of law.

c) **All concepts in simple and easy language**: All the provisions have been explained in easy language and also in graphical and tabular manner to make study easy and simple.

I would like to thank GOD for his constant courage, blessing and everything that has been provided by Almighty to each one of us. **I would also like to thank you MY Family and ALL My Teacher's for their constant support**, faith, blessing, encouragement and guidance.

I would like to Special thank **my Parents & My Wife** for their constant love, support, encouragement, blessing and for being a big source of inspiration.

I would like to acknowledge the efforts put in by M**y Friends** who have always motivated and inspired me to do my best and give my maximum in each and every situation.

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By - CA VIVEK GABA SIR

PREFACE

Revised

Amended by Finance ACT, 2025

Book Dedicated to –

MY Parents

&

ALL My Students

"Your Taxation Paper is MY Responsibility "

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By - CA VIVEK GABA SIR

PART -B

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CHAPTER-8

INPUT TAX CREDIT

1. INTRODUCTION

In earlier indirect tax regime, the credit mechanism for indirect taxes levied by the Union Government, (central excise duty and service tax) was governed by the CENVAT Credit Rules, 2004; and the credit mechanism for state-level on sale of goods was governed by the States under their respective VAT laws. The VAT legislations allowed ITC of VAT on inputs and capital goods in transactions within the State, but not on inputs and capital goods coming in the State from outside the State, on which central sales tax was paid. CENVAT Credit Rules, 2004 allowed availing and utilizing credit of duty/tax paid on both goods (capital goods and inputs) and services by the manufacturers and the service providers across the country.

The credit across goods and services was integrated vide the CENVAT Credit Rules, 2004 in the year 2004 to mitigate the cascading effects of central levies namely, central excise duty and service tax. However, the credit chain remained fragmented on account of State-Level VAT as the credit of central taxes could not be set off against a state levy and vice versa. The chain further got distorted as ITC was not available on the inter-State purchases. This resulted in cascading of taxes leading to increase in costs of goods and services.

The GST regime promises seamless credit on goods and services across the entire supply chain with some exceptions like supplies charged to tax under composition scheme, blocked credits and supply of exempted goods and/or services. ITC is considered to be the lifeline of the GST regime. In fact, it is the provisions of ITC, which essentially make GST - a value added tax i.e., collection of tax at all points of supply chain after allowing credit of tax paid at earlier points.

Chapter V of the CGST Act [Sections 16 to 21] & Chapter V: Input Tax Credit of

the CGST Rules [Rules 36-45] prescribe the provisions relating to ITC. Further, section 41 contains provisions for availment of ITC, sections 49(5), 49A, 49B and rule 88A which together prescribe the sequence of utilisation of ITC and rules 86A and 86B stipulate the conditions of use of amount available in electronic credit ledger and restrictions on use of amount available in electronic credit ledger. State GST laws also prescribe identical provisions in relation to ITC. In this Chapter, provisions of sections 16, 17, 18 and 41 have been discussed;[1] first the statutory provisions of these sections together with the relevant rules have been extracted followed by their analysis.

Provisions of ITC under the CGST Act have also been made applicable to the IGST Act vide section 20 of the IGST Act.

Scheme of ITC - At a Glance

Given below are the salient features of the scheme of ITC as contained in the provisions of sections 16, 17 and 18 read with the relevant rules. The scheme has been discussed in detail in the ensuing pages of this Chapter.

- The scheme is designed to avoid cascading effect of taxes and make GST - a destination-based tax.
- Broadly, ITC is available on all inputs, input services and capital goods used for purposes of business by a taxable person. The exception is 'blocked credit', where ITC is not available even when these goods or services are used for the purposes of business.
- ITC is used for payment of tax on taxable output supply to avoid cascading effect of taxes.
- GST law does not require 'one to one' co-relation between inputs/input services and final products/services. Any eligible ITC can be used for payment of tax on any taxable output supply.
- IGST is another core aspect of GST. It is a transitory tax to enable transfer of

[1] Provisions of ITC relating to job work and input service distributor (ISD) [Sections 19, 20 and 21] and provisions relating to ITC claim by banking companies, distribution of ITC by ISD, determination of ITC on inputs, input services and capital goods and reversal thereof [Rules 38, 39, 42 and 43] will be discussed at the Final level.

ITC when goods or services move from one State to another. This is a unique feature of Indian GST.

- Since ITC can be availed & utilized for payment of tax on taxable output supply, as a natural corollary, ITC cannot be availed in respect of exempt output supply on which tax is not payable.
- The exception to the above principle is 'zero rated supply'[2], i.e. exports or supplies to a special economic zone (SEZ) developer/unit, where ITC is available even if no tax is payable on output supply as zero-rated supplies are not exempt supplies. Such ITC can be utilized either for making supplies by paying tax or refund of the unutilized ITC can be obtained. This simple mechanism is used to make exports and supplies to SEZ completely tax free.
- If a taxable person is making both taxable and exempt supply, he is entitled to avail full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all can be availed for inputs, input services and capital goods exclusively used for exempt supply.
- 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 ratio of value of taxable supply and exempt supply. Elaborate provisions have been made in the GST law to prescribe the manner of calculation of proportionate ITC.

Before proceeding to understand the provisions of sections 16, 17, 18, 41 and the relevant rules, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].

[2] Provisions of ITC relating to job work and input service distributor (ISD) [Sections 19, 20 and 21] and provisions relating to ITC claim by banking companies, distribution of ITC by ISD, determination of ITC on inputs, input services and capital goods and reversal thereof [Rules 38, 39, 42 and 43] will be discussed at the Final level.

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✓ **Business includes**

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

(f) admission, for a consideration, of persons to any premises;

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) activities of a race club including by way of totalisator or a licence to book maker or activities of a licenced book maker in such club; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].

✓ **Capital goods** means goods, the value of which is capitalized in the books of account of the person claiming the ITC and which are used or intended to be used in the course or furtherance of business [Section 2(19)].

✓ **Conveyance** includes a vessel, an aircraft and a vehicle [Section 2(34)].

✓ **Exempt supply** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section

11, or under section 6 of the IGST Act, and includes non-taxable supply [Section 2(47)].

- ✓ **Input** means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business [Section 2(59)].
- ✓ **Input service** means any service used or intended to be used by a supplier in the course or furtherance of business [Section 2(60)].
- ✓ **Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax 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;
  - c) the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
  - 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; 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, but does not include the tax paid under the composition levy [Section 2(62)].
- ✓ **Input tax credit** means the credit of input tax [Section 2(63)].
- ✓ **Invoice or tax invoice means** the tax invoice referred to in Section 31 [Section 2(66)].
- ✓ **Inward supply** in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration [Section 2(67)].
- ✓ **Motor vehicle** shall have the same meaning as assigned to it in clause (28) of section 2 of the Motor Vehicles Act, 1988[Section 2(76)].

  Motor vehicle or vehicle under the Motor Vehicles Act, 1988 means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal

source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding twenty five cubic centimetres. [Section 2(28) of Motor Vehicles Act, 1988].

- ✓ **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 [Section 2(77)].
- ✓ **Principal** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88)].
- ✓ **Quarter** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].
- ✓ **Registered person** means a person who is registered under section 25 of CGST Act but does not include a person having a Unique Identity Number [Section 2(94)].
- ✓ **Taxable supply** means a supply of goods or services or both which is leviable to tax under CGST Act [Section 2(108)].
- ✓ **Works contract** means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract [Section 2(119)].
- ✓ **Zero-rated supply** means any of the following supplies of goods or services or both, namely: –

  a) export of goods or services or both; or

  b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit [Section 16(1)

of the IGST Act].

3. ELIGIBILITY AND CONDITIONS FOR TAKING INPUT TAX CREDIT [SECTION 16]

STATUTORY PROVISIONS		
Section 16	***Eligibility and conditions for taking input tax credit***	
Sub-section	***Clause***	***Particulars***
(1)		*Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*
(2)		*Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,–*
	(a)	*he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;*
	(aa)	*the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;*
	(b)	*he has received the goods or services or both.*

			Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services–
		(i)	*where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;*
		(ii)	*where the services are provided by the supplier to any person on the direction of and on account of such registered person.*
	(ba)		*the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;*
	(c)		*subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and*
	(d)		*he has furnished the return under section 39:*
	Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:		
	Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon		

	within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be paid by him along with interest payable under section 50, in such manner as may be prescribed:
	Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him to the supplier of the amount towards the value of supply of goods or services or both along with tax payable thereon.
(3)	*Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.*
(4)	*A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.*
(6)	*Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,–*

	(i)	*filed upto thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or*
	(ii)	*for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,*
	whichever is later.	
Section 41	***Availment of input tax credit***	
(1)	*Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.*	
(2)	*The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.* *Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.*	
Chapter V: Input Tax Credit of the CGST Rules		
Rule 36	***Documentary requirements and conditions for claiming input tax credit***	

(1)	The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-	
	(a)	an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
	(b)	an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31, subject to the payment of tax;
	(c)	a debit note issued by a supplier in accordance with the provisions of section 34;
	(d)	a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
	(e)	an input service distributor invoice or input service distributor credit note or any document issued by an input service distributor in accordance with the provisions of sub-rule (1) of rule 54.
(2)	Input tax credit shall be availed by a registered person only if all the applicable particulars as specified in the provisions of Chapter VI are contained in the said document.	
	Provided that if the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person.	
(3)	No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any	

	order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts ***under section 74.***
(4)	*No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,-*
	(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1, ***as amended in FORM GSTR-1A if any,*** *or using the invoice furnishing facility; and*
	(b) the details of input tax credit in respect of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.
Rule 37	***Reversal of input tax credit in the case of non-payment of consideration***
(1)	*A registered person, who has availed of input tax credit on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply whether wholly or partly, along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, shall pay or reverse an amount equal to the input tax credit availed in respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50, while furnishing the return in FORM GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice*

	Provided that the value of supplies made without consideration as specified in Schedule I of the said Act shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.
	Provided further that the value of supplies on account of any amount added in accordance with the provisions of clause (b) of sub-section (2) of section 15 shall be deemed to have been paid for the purposes of the second proviso to sub-section (2) of section 16.
(2)	Where the said registered person subsequently makes the payment of the amount towards the value of such supply along with tax payable thereon to the supplier thereof, he shall be entitled to re-avail the input tax credit referred to in sub-rule (1).
(4)	The time limit specified in sub-section (4) of section 16 shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or the provisions of this Chapter, that had been reversed earlier.
Rule 37A	***Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof***
	Where input tax credit has been availed by a registered person in the return in FORM GSTR-3B for a tax period in respect of such invoice or debit note, the details of which have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1, ***as amended in FORM GSTR-1A if any****, or using the invoice furnishing facility, but the return in FORM GSTR-3B for the tax period corresponding to the said statement of outward supplies has not been furnished by such supplier till the 30th day of September, following the end of the financial year in which the input tax credit in respect of*

	such invoice or debit note has been availed, the said amount of input tax credit shall be reversed by the said registered person, while furnishing a return in FORM GSTR-3B on or before the 30th day of November following the end of the financial year
	Provided that where the said amount of input tax credit is not reversed by the registered person in a return in FORM GSTR-3B on or before the 30th day of November following the end of such financial year during which such input tax credit has been availed, such amount shall be payable by the said registered person along with interest thereon under section 50.
	Provided further that where the said supplier subsequently furnishes the return in FORM GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in FORM GSTR-3B for a tax period thereafter.

ANALYSIS

1) Eligibility for taking ITC [Section 16(1)]

(a) Registration under GST

Every registered person shall be entitled to ITC of GST charged on inward supply of goods and / or services. This is subject to the provisions relating to use of ITC under section 49 and the conditions and restrictions prescribed in the relevant rules. [Section 49 prescribes provisions relating to payment of tax, interest, penalty & other amounts. The same has been discussed in detail in Chapter 13: Payment of Tax in this Module of the Study Material.]

(b) Goods/services to be used for business purposes

ITC of GST will be available on goods and/or services which are used or intended to be used in the course or furtherance of the business [See definition of business]. The "intention to use" the goods and/or services in the course or furtherance of business would also suffice for availing ITC on

such goods and/or services. Thus, tax paid on goods and or/services which are used or intended to be used for non-business purposes cannot be availed as credit. ITC will be credited to electronic credit ledger.

2. Conditions for taking ITC [Section 16(2)]

This sub-section starts with a non-obstante clause and hence all the conditions specified therein must be fulfilled irrespective of fulfilment of any other conditions given under any other sub-section of section 16 for the purpose of taking of input tax credit. The registered person will be entitled to ITC on an inward supply only if **ALL** the following **six** conditions are fulfilled:

(a) Possession of tax paying document [Section 16(2)(a) read with rule 36]

ITC can be availed on the basis of any of the following documents:

a. Invoice or revised invoice[3] issued by the supplier of goods and/or services

b. Invoice issued by the recipient receiving goods and/or services from unregistered supplier in case of reverse charge, subject to payment of tax

c. Debit note issued by the supplier

d. Bill of entry or similar document prescribed under the Customs Act[4]

e. Document issued by input service distributor[5]

The documents on the basis of which ITC is being taken should contain at least the following details:

(a) Amount of tax charged

(b) Description of goods or services

(c) Total value of supply of goods and/or services

[3] Provisions relating to revised invoice have been discussed in detailed in Chapter 10: Tax Invoice: Credit and Debit Notes in this Module of the Study Material.
[4] Provisions relating to the Customs Act, 1962 will be dealt with at the Final level.
[5] Concept of Input Service Distributor (ISD) will be dealt with at the Final level.

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(d) GSTIN of the supplier and recipient

(e) Place of supply in case of inter-State supply

No ITC of tax paid towards demands involving fraud [Rule 36(3)]: Tax paid in pursuance of any order where any demand has been confirmed on account of any fraud, willful misstatement or suppression of facts **under section 74** cannot be availed as ITC.

(b) Details of invoices/debit notes uploaded by the supplier in his GSTR-1 or using IFF and details communicated in Form GSTR- 2B [Section 16(2)(aa) read with rule 36(4)]

ITC in respect of any supply of goods or services or both can be taken by a registered person only if the details of the invoice/debit note in respect of said supply have been furnished by the supplier in the statement of outward supplies (Form GSTR-1**, as amended in FORM GSTR-1A if any,** or using IFF) and such details have been communicated to the recipient of such invoice/debit note in Form GSTR-2B.

GSTR-1 is a monthly/quarterly statement containing details of outward supplies made by a registered supplier. In case where GSTR-1 is furnished quarterly under QRMP (Quarterly Return Monthly Payment) scheme, supplier can furnish such details for 1st two months of the quarter using invoice furnishing facility (IFF). This facility is provided to the taxpayer, to pass on the credit to their recipients.

Such details of outward supplies furnished by the supplier are communicated and made available electronically (auto populated) to the respective recipient(s) in GSTR- 2B. GSTR-2B is an auto-generated ITC statement for every registered person based on details furnished in GSTR-1/using IFF by the supplier[6].

GSTR-1A is a form wherein a registered person at his own option, amend or furnish additional details of outward supplies of goods and/or services after furnishing the details of outward supplies of goods and/or service

[6] The provisions relating to QRMP, filing of GSTR-1/IFF, **GSTR-1A** and GSTR-2B have been discussed in detail in Chapter 15: Returns in this Module of the Study Material.

in FORM GSTR-1 for a tax period but before filing of return in FORM GSTR-3B for the said tax period.

Thus, in respect of invoices/debit notes the details of which are not furnished by the suppliers in their GSTR-1s, **as amended in FORM GSTR-1A if any,** or using IFF (and thus they are not visible in GSTR-2B of the recipient), ITC cannot be availed by such recipient.

ITC on such invoices/debit notes, not reflected in GSTR-2B of the current month, may be claimed by the taxpayer in any of the succeeding months when the details of said invoices/debit notes are furnished by the suppliers.

The above concept has been illustrated as follows:

ITC on invoices/debit notes which have been furnished by the suppliers in their GSTR- 1s/using IFF and reflected in GSTR-2B of recipient.	→	FULL ITC can be claimed on such invoices/debit notes, if all other conditions of availing ITC are fulfilled
ITC on invoice/debit note which have not been furnished by suppliers in their GSTR- 1s/using IFF and thus, not reflected in GSTR-2B of recipient.	→	NO ITC can be claimed in respect of such invoices/debit notes.

❖ **Invoices on which ITC is not available under any of the provisions e.g., under section 17(5), are not to be considered for claiming ITC even though furnished by the suppliers.**

❖ **On the other hand, full ITC can be availed in respect of IGST paid on imports, documents issued under reverse charge, credit received from ISD etc., which are outside the ambit of section 37(1).**

ILLUSTRATION 1

Vijay Sales, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of ₹10 lakh, from various suppliers during the month of October.

Out of 100 invoices, details of 80 invoices involving GST of ₹6 lakh have been furnished by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor and are reflected in GSTR-2B of Vijay Sales. There was no amendment made in GSTR-1s by such suppliers using GSTR-1A for the month of October.

Compute the ITC that can be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November assuming that GST of ₹10 lakh is otherwise eligible for ITC.

ANSWER

ITC to be claimed by Vijay Sales in its GSTR-3B for the month of October to be filed by 20th November will be computed as under-

Invoices	Amount of ITC involved in the invoices (₹)	Amount of ITC that can be availed (₹)
80 invoices furnished in GSTR-1	6 lakh	6 lakh [Refer Note 1]
20 invoices not furnished in GSTR-1	4 lakh	Nil [Refer Note 2]
Total	10 lakh	6lakh

Notes:

(i) 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1s and reflected in GSTR-2B of Vijay Sales.

(ii) As per rule 36(4), the ITC in respect of invoices not furnished by the suppliers

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in their GSTR-1s and thus, not being reflected in GSTR-2B of recipient, cannot be claimed. Thus, in respect of 20 invoices which are not furnished in GSTR-1s of suppliers and are not reflected in GSTR-2B of Vijay Sales, no ITC can be availed[7].

(c) Receipt of the goods and / or services [Section 16(2)(b)]

The registered person taking the ITC must have received the goods and / or services.

"Bill to Ship to" Model: Under this model, the goods are delivered to a third party - 'C' on the direction of the customer (registered person)– 'B' who purchases the goods from the vendor (supplier) – 'A'. In other words, 'A' bills to 'B' but ships the goods to 'C' on direction of 'B'. In effect, two supplies take place in this scenario viz., from 'A' to 'B' and from 'B' to 'C'. Thus, under this model, the customer (registered person) who receives such goods does not actually receive the said goods.

For such cases, by virtue of explanation to section 16(2)(b), it is deemed that the registered person (customer) has received the goods. In other words, goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC will be available to the registered person, on whose order the goods are delivered to a third person.

Similarly, services may also be provided to a third party by the service provider (supplier) on the direction of the service recipient (registered person). In this case also, though the service recipient (registered person) does not receive the service, by virtue of explanation to section 16(2)(b) it is deemed that the registered person (service recipient) has received the service. In other words, service provided to any person on the direction of and on account of the registered person, is deemed to have been received

[7] Let us suppose, subsequently, the suppliers of these 20 invoices furnish the details of said invoices in their GSTR-1s for the month of November, the details shall be reflected in GSTR-2B of Vijay Sales of November month and Vijay Sales can take credit of such invoices in its GSTR-3B for the month of November.

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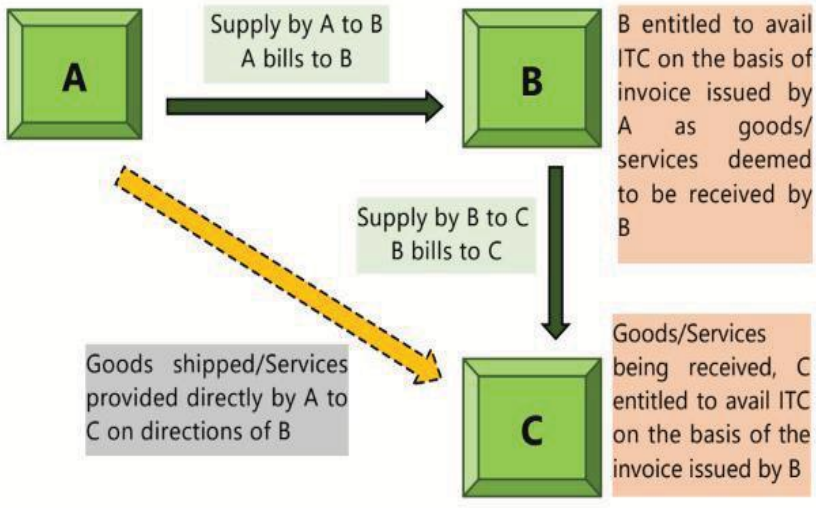
by such registered person. So, ITC will be available to the registered person, on whose direction the services are provided to a third person.



EXAMPLE

(1) Badri is a trader who places an order on Aatmaram for a consignment of soda ash. Badri receives a buying order from Champak for the same quantity of soda ash. Badri instructs Aatmaram to deliver the goods to Champak, and in turn Aatmaram raises an invoice on Badri as Badri is the actual buyer of the goods who have instructed Aatmaram to deliver the goods to Champak. Though the goods are not physically received at the premises of Badri, section 16(2)(b) allows ITC of such goods to Badri.

EXAMPLE

(2) The registered head office (New Delhi) of ABC Pvt. Ltd. enters into a contract with DEF Pvt. Ltd. of New Delhi for repair and maintenance of computers systems installed at its registered branch office in Bengaluru, Karnataka. DEF Pvt. Ltd. issues an invoice on ABC Pvt. Ltd., New Delhi for the services provided by it. Though the actual services are received by the branch office and not by the head office, section 16(2)(b) allows ITC of such repair and maintenance services to head office.

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Details of ITC in respect of the said supply communicated to the registered person under section 38 not restricted [Section 16(2)(ba)]

Section 38 stipulates that the details of outward supplies furnished by the registered suppliers in GSTR-1 ***(as amended in FORM GSTR-1A if any)***/using IFF and an auto-generated statement containing the details of ITC is made available to the recipients of such supplies every month. This auto-generated statement is GSTR-2B.

GSTR-2B contains the details of inward supplies (i) on which ITC is available to the recipient as well as (ii) on which ITC cannot be availed, whether wholly or partly, by the recipient. Section 38 stipulates that ITC cannot be availed in case where the details of the outward supplies in GSTR-1/using IFF have been furnished by specified registered persons.

- Accordingly, ITC will not be available in respect of inward supplies details of which have been furnished by a registered supplier: who is a new registrant (within such prescribed period of taking registration).
- who has defaulted in payment of tax and where such default has continued for a prescribed period.
- whose output tax payable as per GSTR-1/IFF exceeds the output tax paid in GSTR-3B for a particular tax period by prescribed limit.
- who has availed ITC of an amount that exceeds the credit that can be availed by him as per GSTR-2B during prescribed period and by prescribed limit.
- who has defaulted in discharging his tax liability in accordance with the provisions of section 49(12) read with rule 86B, i.e. who has discharged more tax liability from electronic credit ledger than prescribed under rule 86B[8].
- other specified classes of persons.

[8] Rule 86B provides that the registered person shall not utilise 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 ` 50 lakh subject to specified exceptions. It has been discussed subsequently in this chapter.

e. Tax leviable on supply actually paid to Government [Section 16(2)(c)]

The supplier should have actually paid the tax charged on the goods and/or services, for which ITC is being taken, either in cash or by utilizing ITC, subject to the provisions of section 41.

Availment of self-assessed ITC [Section 41]

A registered person can avail the credit of eligible ITC as self-assessed in his return. Such amount shall be credited to his electronic credit ledger.

Reversal of ITC in the case of non-payment of tax by the supplier and re-availment thereof [Section 41 read with rule 37A]

(1) **Reversal of ITC:** If the tax payable corresponding to such ITC availed is not paid by the supplier to the Government, ITC so availed shall be reversed by the said person along with applicable interest.

A registered person (recipient) can avail ITC in GSTR-3B for a tax period in respect of such invoice/debit note, the details of which have been furnished by its supplier in the statement of outward supplies (in GSTR-1, ***as amended in FORM GSTR-1A if any***/using IFF).

However, if supplier does not furnish return in Form GSTR-3B for the tax period corresponding to the said statement of outward supplies till 30th September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed; the said amount of ITC shall be reversed by the said recipient, while furnishing a return in GSTR-3B on or before 30thNovember following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest thereon under section 50.

(2) **Re-availment of reversed ITC:** Where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him.

Thus, where the said supplier subsequently furnishes the return in GSTR-3B for the said tax period, the said registered person may re-avail the amount

of such credit in the return in GSTR-3B for a tax period thereafter.

Jhamku, a registered supplier, supplies goods to Chamku valuing ₹10,000 on which he charged CGST and SGST of ₹900 each in the invoice raised in March, 2024. Jhamku uploaded the details of the said invoice in his GSTR-1 for the said month filed before the due date based on which Chamku availed the said ITC of ₹900 each towards CGST and SGST while filing his GSTR-3B for March, 2024 as the said ITC was also reflected in his GSTR-2B. However, Jhamku failed to furnish the corresponding GSTR-3B (for the month of March, 2024) up to September, 2024.

Accordingly, while filing GSTR-3B for the month of October, 2024 on 20thNovember, 2024, Chamku reversed an amount of ITC earlier availed by him. Subsequently, suppose if Jhamku files GSTR-3B on 20thDecember, 2024 and pays the said amount of ₹900 each towards CGST and SGST, Jhamku can now re-avail the said input tax credit of ₹900 towards CGST and SGST which he has reversed earlier.

(f) Filing of return [Section 16(2)(d)]

The registered person taking the ITC must have filed his return in GSTR-3B under section 39. Thus, a taxpayer should file GSTR-3B to avail ITC on eligible inward supplies.

(iii) Goods received in lots: ITC available only on receipt of last lot [First proviso to section 16(2)]

In case the goods covered under an invoice are not received in a single consignment but are received in lots / instalments, ITC can be taken only upon receipt of the last lot / instalment.

(4) XYZ enters into a contract with ABC for supply of 10 MT of a chemical for ₹1,18,000 (inclusive of GST of ₹18,000) in the month of August. The chemical is to be delivered in lots over a period of three months. ABC raises the invoice for the entire amount in August and XYZ also makes the payment in the same month but the supply is completed in November. Though XYZ paid the full tax as early as August, it

can take the ITC of the same only on receipt of the last lot of the chemical in the month of November.

(iv) Payment for the invoice to be made within 180 days [Second proviso to section 16(2) read with rule 37]

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice [Second proviso to section 16(2)].

However, where a registered person, who has availed of ITC on any inward supply fails to pay to the supplier thereof, the amount towards the value of such supply, **whether wholly or partly**, along with the tax payable thereon, within 180 days from the date of issue of invoice by supplier, **shall pay** or reverse **an amount equal to the ITC availed in respect of such supply, proportionate to the amount not paid to the supplier, along with interest payable thereon under section 50, while furnishing the return in Form GSTR-3B for the tax period** immediately following the period of 180 days from the date of the issue of the invoice.

Exceptions

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

1. Supplies on which tax is payable under reverse charge
2. Deemed supplies without consideration – Schedule I
3. Additions made to the value of supplies on account of supplier's liability, in relation to such supplies, being incurred by the recipient of the supply as per section 15(2)(b).

   Under situations given in points (b) & (c), the value of supply is deemed to have been paid.

EXAMPLE

(5) Due to a quality dispute, PZP Ltd withheld payment on a machine supplied by a vendor till it could be rectified. More than 180 days went by in this dispute. The credit taken by PZP on the invoice needs to be paid / reversed along with interest in GSTR-3B furnished for the month after completion of 180 days. Only after

the vendor rectified the machine and PZP released the payment, could PZP take the credit again.

(f) If depreciation claimed on tax component, ITC not allowed [Section 16(3)]

If the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed. Thus, in respect of the tax paid on such items, dual benefit cannot be claimed under Income-tax Act, 1961 and GST law simultaneously. In other words, either depreciation on the tax component can be claimed under Income Tax Act or ITC of such tax paid can be availed under GST law.

(vi) Time limit for availing ITC: 30th November of succeeding financial year or date of filing of relevant annual return, whichever is earlier [Section 16(4)]

ITC on invoices pertaining to a financial year or debit notes issued in a financial year can be availed any time till **30th November** of the succeeding **financial year** or the date of filing of the relevant annual return, whichever is earlier.

Financial Year

Here, in case of debit notes, the date of issuance of debit note and not the date of underlying invoice is relevant to determine the relevant financial year[9].

Clarification on time limit under Section 16(4) of the CGST Act, 2017 in respect of RCM supplies received from unregistered person[10]s

It is clarified that in cases of supplies received from unregistered suppliers, where tax has to be paid by the recipient under reverse charge mechanism (RCM) and where invoice is to be issued by the recipient of the supplies in accordance with section 31(3)(f) of the CGST Act, 2017 the relevant financial year for calculation of time limit for availment of input tax credit under the provisions of section 16(4) of the CGST Act, 2017 will be the financial year in which the invoice has been issued by the recipient

[9] Circular No. 160/16/2021 GST dated 20.09.2021
[10] Circular No. 211/5/2024 GST dated 26.06.2024

under section 31(3)(f) of CGST Act, subject to payment of tax on the said supply by the recipient and fulfilment of other conditions and restrictions of section 16 and 17 of the CGST Act, 2017. In case, the recipient issues the invoice after the time of supply of the said supply and pays tax accordingly, he will be required to pay interest on such delayed payment of tax. Further, in cases of such delayed issuance of invoice by the recipient, he may also be liable to penal action under the provisions of Section 122[11] of the CGST Act, 2017.

(6) A debit note dated 07.07.2024 is issued in respect of the original invoice dated 16.03.2024. As the invoice pertains to F.Y. 2023-24, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) shall be FY 2023-24. However, as the debit note has been issued in FY 2024-25, the relevant financial year for availment of ITC in respect of the said debit note shall be FY 2024-25 in terms of section 16(4).

(7) Hercules Machinery delivered a machine to XYZ, a monthly return filer under GST, in the month of January under Invoice no. 49 dated 28th January 2024 for ₹4,15,000 plus GST and undertook trial runs and calibration of the machine as per the requirements of XYZ. The amount chargeable for the post-delivery activities was covered in a debit note raised in the month of April 2024 for ₹50,000 plus GST. XYZ did not file its annual return for FY 2023-24 till November, 2024.

The time-limit to avail ITC in respect of tax paid on supply for Invoice No. 49 would be 30th November, 2024.

Since the debit note is received in the next financial year, the time limit for taking ITC available on ₹50,000 is 30th November 2025, [earlier of the date of filing the annual return for the preceding financial year or 30th November of the succeeding year].

[11] Section 122 of the CGST Act, 2017 shall be discussed in detail at the Final level.

Exception

The time limit u/s16(4) does not apply to claim for re-availing of credit that had been reversed earlier.

(vii) Time limit for taking ITC in case of revoked registration cancellation [Section 16(6)]

In case where registration of a taxpayer is cancelled and subsequently, it is revoked, return for the period from date of cancellation/ effective date of cancellation till the date of revocation of cancellation cannot be filed on the portal by the taxpayers till their cancellation of registration is revoked. In such cases, where the recipient has not claimed the ITC in respect of any invoice/debit note pertaining to that financial year and in the meantime, time-limit stipulated in section 16(4) lapses, he would not be able to claim ITC on the said invoice/debit note.

Consequently, relaxation has been given and the time limit to avail ITC under section 16(4) in respect of any invoice/debit note, is extended till the date of filing return in cases where the returns for the period from date of cancellation of registration/effective date of cancellation of registration till the date of revocation of cancellation of registration are filed within 30 days of revocation of cancellation of registration, subject to the condition that the time limit to avail ITC in respect of the said invoice or the debit note under section 16(4) had not already expired on the date of cancellation of registration.

(viii) ***Restriction of ITC in proportion of (i) taxable supplies (ii) business purposes [Sub-sections (1) and (2) of section 17]***

ITC is restricted in proportion of the use of the goods and/or services (i) in the taxable and / or zero-rated supplies (ii) for business purposes. This is elaborated in heading (4) below.

(ix) ***ITC not allowed on certain supplies [Section 17(5)]***

ITC has been blocked for specified goods and services. This is elaborated in heading (4) below.

4. APPORTIONMENT OF CREDIT& BLOCKED CREDITS [SECTION 17[12]]

STATUTORY PROVISIONS		
Section 17	Appointment of credit and blocked credits	
Sub-section	Clause	Apportionment of credit and blocked credits
(1)		Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
(2)		Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.
(3)		The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
		Explanation.– For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III,

[12] Provisions relating to determination of ITC in respect of inputs/input services and capital goods and reversal thereof will be discussed at Final Level.

	except,– *(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and* *(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule;*			
(5)	*Notwithstanding anything contained in sub-section (1) of section 16 and sub- section (1) of section 18, input tax credit shall not be available in respect of the following, namely:–*			
	(a)	*motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:–*		
		(A)	*further supply of such motor vehicles; or*	
		(B)	*transportation of passengers; or*	
		(C)	*imparting training on driving such motor vehicles;*	
	(aa)	*vessels and aircraft except when they are used–*		
		(i)	*for making the following taxable supplies, namely:–*	
			(A)	*further supply of such vessels or aircraft; or*
			(B)	*transportation of passengers; or*
			(C)	*imparting training on navigating such vessels; or*

			(D)	imparting training on flying such aircraft;
		(ii)		for transportation of goods;
	(ab)	services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):		
		Provided that the input tax credit in respect of such services shall be available—		
		(i)		where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
		(ii)		where received by a taxable person engaged—
			(I)	in the manufacture of such motor vehicles, vessels or aircraft; or
			(II)	in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;
	(b)	the following supply of goods or services or both—		
		(i)		food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or

			clause (aa) except when used for the purposes specified therein, life insurance and health insurance:
			Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
		(ii)	*membership of a club, health and fitness centre; and*
		(iii)	*travel benefits extended to employees on vacation such as leave or home travel concession:*
		Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force[13]*.*	
	(c)	*works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;*	

[13] Circular No. 172/04/2022 GST dated 06.07.2022 clarifies that this proviso is applicable to the whole of section 17(5)(b).

	(d)	goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business
		Explanation.–For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property
	(e)	goods or services or both on which tax has been paid under section 10;
	(f)	goods or services or both received by a non-resident taxable person except on goods imported by him;
	(fa)	goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;
	(g)	goods or services or both used for personal consumption;
	(h)	goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
	(i)	any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6)	*The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.*	
	Explanation.– For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes–	
	(i)	*land, building or any other civil structures;*
	(ii)	*telecommunication towers; and*
	(iii)	*pipelines laid outside the factory premises.*

ANALYSIS

Section 17 requires apportionment and concomitant restriction of ITC in two situations as also blocking of ITC on specified inward supplies.

A. Apportionment of ITC [Sub-sections (1) and (2) of section 17]

1] The fundamental principle of credit scheme under value added tax is that tax paid on inputs, input services and capital goods can be availed as credit only when the output is taxable. Thus, when tax is not payable on output, credit cannot be availed.

Accordingly, ITC under GST can be availed and utilised for payment of tax on output supply. Consequently, ITC cannot be availed when tax is not payable on output supply, i.e. on exempt supply. The only exception to the above principle is 'zero rated supply, where ITC is available even if no tax is payable on output supply as zero rated supply is not an exempted supply.

If a taxable person is making both taxable and exempt supply, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for taxable supply and no credit at all can be availed for

inputs, input services and capital goods exclusively used for exempt supply.

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 ratio of value of taxable supply and exempt supply.

2) Also, in case goods and/or services are used by the taxable person partly for the business purposes and partly for non-business purposes, he is entitled to full credit of ITC in respect of inputs, input services and capital goods exclusively used for business purposes and no credit at all can be availed for goods and/or services exclusively used for non-business purposes.

If common inputs, input services and capital goods are used partly for business and partly for non-business purposes, only proportionate ITC attributable to the business purpose is available.

Elaborate provisions have been made in sub-sections (1) and (2) of section 17 and rules 42 and 43 for calculation of such proportionate ITC. Such provisions will be discussed in detail at the Final level.

Section 16(2) of the IGST Act specifies that ITC may be availed on inward supplies for making zero-rated supply. Zero-rated supply is an expression that covers two kinds of supplies: (i) exports, and (ii) supplies for authorised operations to a SEZ unit or SEZ developer. Therefore, ITC is available on goods and / or services used for supplies made in the course of export or to an SEZ unit or SEZ developer[14].

(8) A registered person is in the business of manufacturing shoes. He gave 50 pairs of shoes to his friends free of cost. ITC on inputs and input services attributable to such 50 pair of shoes, being used for non-business purposes will not be available.

[14] Provisions relating to zero-rated supplies have been discussed at the Final level.

EXAMPLE

(9) A registered person manufactures a product 'X' chargeable to 18% GST, a product 'Y' chargeable to NIL rate of tax and a product 'Z' which is exported without payment of tax under bond. All the three products are manufactured from common inputs and input services. ITC on inputs and input services attributable to product 'Y' being an exempt supply, will not be available.

B. Blocked credits [Section 17(5)]

ITC of tax paid on almost every inputs, input services or capital goods used for supply of taxable goods and/or services is allowed under GST except a small list of items provided u/s 17(5). Thus, ITC on such items is not allowed even though the same may qualify as inputs, input services or capital goods and are used in the course or furtherance of business.

The blocked list of credit covers mainly items of personal consumption, inputs and input services use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes, etc.

The various goods and/or services on which credit is blocked are discussed hereunder:

(i) Motor vehicles and other conveyances and related services (insurance, servicing and repair and maintenance)

Motor vehicles and conveyances have been defined in the CGST Act[See definition under the heading Relevant Definitions].

Motor vehicles exclude –

- vehicle running upon fixed rails
- special purpose vehicles for being used in a factory or any enclosed premises
- vehicle with less than 4 wheels fitted with engine capacity of upto 25cc– (Thus, railways, two/three wheelers with engine capacity of upto 25cc, bicycle etc. do not fall in the definition of motor vehicle.)

Broadly, ITC is blocked on motor vehicles, vessels and aircrafts with certain exceptions. Further, ITC is also blocked on certain services relating to motor vehicles, vessels and aircrafts namely, general insurance, servicing and repair and maintenance. The basic principle here is that the motor vehicles, aircrafts and vessels on which ITC is blocked, the ITC on services of insurance, servicing and repair and maintenance pertaining to such motor vehicles, vessels and aircrafts is also blocked. The blocked credits relating to motor vehicles, vessels, aircrafts and related services are discussed hereunder

S. No	Goods and/or services on which credit is blocked	Exceptions to goods and/or services mentioned in column (2) on which credit is allowed	Remarks
(1)	(2)	(3)	(4)
(I)	Motor vehicles for transportation of persons with seating capacity ≤ persons (including the driver) – Referred to as ineligible motor vehicle in this table	Ineligible motor vehicles when used for any of the following eligible purposes- ➢ making further taxable supply of such motor vehicles (e.g traders of motor vehicles)* **[Refer discussion on availability of ITC on demo vehicles given below this table.);**	➢ ITC on ineligible motor vehicles used for any purpose other than the eligible purposes is not allowed. ➢ ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the

		➢ making taxable supply of transportation of passengers (e.g travel operator offering transportation services); ➢ Making taxable supply of imparting training on driving such motor vehicles (e.g motor vehicle driving schools).	driver) used for any purpose is allowed. ➢ ITC on motor vehicles other than ineligible motor vehicles (e.g. motor vehicle used for transportation of goods, dumpers, tippers etc.) used for any purpose is allowed.
(ii)	Vessels and aircrafts	➢ Vessels and aircraft when used for any of the following eligible purposes- ➢ making further taxable supply of such vessels or aircraft; ➢ making taxable supply of transportation of passengers; ➢ making taxable supply of	ITC on vessels and aircrafts used for any purpose other than the eligible purposes is not allowed.

		imparting training on navigating such vessels; ➢ making taxable supply of imparting training on flying such aircrafts; ➢ transportation of goods.	
(iii)	➢ General insurance, servicing, repair and maintenance relating to: ➢ Ineligible motor vehicles ➢ Vessels ➢ Aircraft	➢ Such services relating to ineligible motor vehicles, vessels or aircraft when used for eligible purposes ➢ Such services when received by- Manufacturer of ineligible motor vehicles, vessels or aircraft; or ➢ Supplier of general insurance services in respect of ineligible motor vehicles, vessels or aircraft insured by him	➢ ITC is not allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on which is not allowed. ➢ ITC is allowed on services of general insurance, servicing, repair and maintenance relating to motor vehicles, vessels or aircraft, ITC on

			which is allowed.
(iv)	Leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is not allowed	➢ Such services when used for making an outward taxable supply of the same category of services or as an element of a taxable composite or mixed supply ➢ Such services when provided by an employer to its employees under a statutory obligation	➢ ITC on leasing, renting or hiring of motor vehicles, vessels or aircraft on which ITC is allowed, is also allowed**. ➢ ITC on such services is allowed in the case of sub-contracting, i.e. when such services are used by the taxpayer who is in the same line of business

**The term "leasing" referred in above table refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items.

Accordingly, availment of ITC is not barred in case of leasing, other than leasing of motor vehicles, vessels and aircrafts[15].

[15] Circular No. 172/04/2022 GST dated 06.07.2022

Clarification on availability of input tax credit in respect of demo vehicles which are motor vehicles for transportation of passengers having approved seating capacity of not more than 13 persons (including the driver), in terms of clause(a) of section 17(5)[16]

As demo vehicles are used by authorized dealers to provide trial run and to demonstrate features of the vehicle to potential buyers, it helps the potential buyers to make a decision to purchase a particular kind of motor vehicle. Therefore, as demo vehicles promote sale of similar type of motor vehicles, they can be considered to be used by the dealer for making 'further supply of such motor vehicles'. Accordingly, input tax credit in respect of demo vehicles is not blocked under clause (a) of section 17(5) of CGST Act, as it is excluded from such blockage in terms of sub-clause (A) of the said clause.

(10) ITC on cars purchased by a manufacturing company for official use of its employees is blocked.**(11)** ITC on cars purchased by a car dealer for sale to customers is allowed.

(12) ITC on cars purchased by a company engaged in renting out cars for transportation of passengers is allowed.

(13) ITC on cars purchased by a car driving school for imparting training on driving is allowed.

(14) ITC on buses (seating capacity for 24 persons) purchased by a company for transportation of its employees from their residence to office and back, is allowed.

(15) ITC on trucks purchased by a company for transportation of its finished goods is allowed.

(16) ITC on aircraft purchased by a manufacturing company for official use of its CEO is blocked.

(17) ITC on aircraft purchased by an Aviation School providing training on flying aircrafts, is allowed.

[16] Circular No. 231/25/2024 GST dated 10.09.2024

(18) ITC on general insurance taken on a car used by employees of a manufacturing company for official purposes is blocked.

(19) ITC on maintenance & repair services availed by a company for a truck used for transporting its finished goods, is allowed.

(20) ITC on general insurance services taken on cars manufactured by a car manufacturing company is allowed.

(21) A business jet purchased for the official travel of the company's directors is blocked.

(ii) Food &beverages, outdoor catering, health services and other services

S. No.	Goods and/or services on which credit is blocked	Exceptions to goods and/ or services mentioned in column (2) on which credit is allowed Remarks	Remarks
(1)	(2)	(3)	(4)
(i)	❖ Food and beverages ❖ Outdoor catering ❖ Beauty treatment ❖ Health services ❖ Cosmetic and plastic surgery ❖ Life insurance and health insurance	❖ Such goods and/or services when used by a registered person for making an outward taxable supply of the same category of goods and/or services or as an element of a taxable composite or mixed supply ❖ Such goods and/or services when provided by an	❖ ITC on such goods and/or services is allowed in the case of sub-contracting, i.e. when such goods and/or services are used by the taxpayer who is in the

		employer to its employees under a statutory obligation	same line of business, e.g. outdoor catering service availed by another outdoor caterer. ❖ When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is blocked.
(ii)	Membership of a club, health and fitness centre	Such services when provided by an employer to its employees under a statutory obligation	When such goods and/or services are provided by the employer to its employees without any statutory obligation, ITC thereon is

			blocked.
(iii)	Travel benefits extended to employees on vacation such as leave or home travel concession		

(22) A manufacturing company purchases food items for being served to its customers, free of cost on its 10th year of incorporation. ITC on such goods is blocked.

(23) AB & Co., a caterer of Amritsar, has been awarded a contract for catering in a marriage to be held at Ludhiana.

The firm has given the contract for supply of snacks, to be served in the marriage, to CD & Sons, a local caterer of Ludhiana. ITC on such outdoor catering services availed by AB & Co., is allowed.

(24) ITC on outdoor catering services availed by a garment exporter for a marketing event organised for its prospective customers, is blocked.

(25) Outdoor catering service is availed by a company to run a free canteen in its factory. The Factories Act, 1948 requires the company to set up a canteen in its factory. ITC on such outdoor catering is allowed.

(26) The Managing Director of a company has taken membership of a club, the fees for which is paid by the company. ITC on such service is blocked.

(27) A company avails services of a travel agency for organizing a free vacation for its top performing employees. ITC on such services is blocked.

(iii) Works contract services for construction of immovable property [Clause (c) of section 17(5)]

One major input service, ITC on which is blocked is input service relating to construction activity like construction of office building, factory building etc. (except in case of persons like builders, developers and contractors who are

undertaking construction for others). However, ITC is available for routine construction related services like repairs, maintenance, renovation etc. of office and factory building. Thus, broadly, ITC of construction services is not available when the expenses are capitalised in the books of account. Here, it needs to be noted that capitalisation of an expense does not depend on whether the taxpayer intends to avail ITC, but on the basis of Accounting Standards and GAAP.

Works contract has been defined in the CGST Act [See definition under the heading Relevant Definitions]. Essentially, works contract is a composite supply involving both goods and services. Under the erstwhile laws, definition of works contract included works in relation to both movable and immovable properties. However, under GST law, the ambit of works contract has been **confined only to immovable property**.

Meaning of construction

"Construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

Thus, if re-construction, renovation, additions or alterations or repairs are not capitalized, it would not tantamount to construction under GST law. Consequently, ITC on works contract services availed for such construction, which is not capitalized, whether for any immovable property or for any plant and machinery, would be allowed to all the recipients irrespective of their line of business.

Meaning of plant and machinery

"Plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural supports that are used for making outward supply of goods and/or services **and includes such foundation or structural support**

but excludes

land, building or other civil structures, telecommunication towers, and pipelines laid outside the factory premises.

Thus, ITC on works contract services availed for construction of eligible plant and machinery is allowed to the recipient irrespective of the line of business of such recipient and irrespective of whether expense is capitalized or not by the recipient.

For instance, ITC on works contract services for construction of machinery fixed to earth by a foundation, would be allowed. However, ITC on works contract services for construction of telecommunication tower(s), would be blocked.

(28) ITC on works contracts services availed by a software company for construction of its office, is blocked.

(29) CD & Co., a works contractor of Noida, has been awarded a contract for construction of a commercial complex in Lucknow. The firm avails services of EF & Co., a local works contractor of Lucknow, for the construction of complex. ITC on such works contract services availed by CD & Co., is allowed.

(30) ITC on works contract services availed by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

(31) ITC on works contract services availed by a manufacturing company for construction of pipelines to be laid outside its factory, is blocked.

(32) A consulting firm has availed services of a works contractor for repair of its office building. The company has booked such expenditure in its profit and loss account. ITC on such services is allowed.

(33) A telecommunication company has availed services of a works contractor for repair of its office building. The company has capitalized such expenditure. ITC on such services is blocked.

ITC on goods and/or services used in construction of immovable property is available only in the following three situations:

(i) For construction of eligible plant and machinery

(ii) When the value of goods and/or services is not capitalized

(iii) When the construction is not on own account

(34) A company buys cement, tiles etc. and avails the services of an architect for construction of its office building. ITC on such goods and services is blocked.

(35) MN & Constructions procures cement, paint, iron rods and services of architects and interior designers for construction of a commercial complex for one of its clients. ITC on such goods and services is allowed to MN & Co.

(36) A company buys cement, tiles etc. and avails the services of an architect for renovation of its office building. The company has booked such expenditure in its profit and loss account. ITC on such goods and services is allowed.

(37) ITC on goods and/or services used by an automobile company for construction of a foundation on which a machinery (to be used in the production process) is to be mounted permanently, is allowed.

Clarification on availability of ITC on ducts and manholes used in network of optical fiber cables (OFCs) in terms of section 17(5)17[17]

Issue: Whether the input tax credit on the ducts and manholes used in network of optical fiber cables (OFCs) for providing telecommunication services is barred in terms of clauses (c) and (d) of section 17(5) of the CGST Act, read with Explanation to section 17 of the CGST Act, 2017?

Clarification: Ducts and manholes are basic components for the optical fiber cable (OFC) network used in providing telecommunication services. The OFC network is generally laid with the use of PVC ducts/sheaths in which OFCs

[17] Circular No. 219/13/2024 GST dated 26.06.2024

are housed and service/connectivity manholes, which serve as nodes of the network, and are necessary for not only laying of optical fiber cable but also their upkeep and maintenance. In view of the Explanation in section 17 of the CGST Act, 2017 it appears that ducts and manholes are covered under the definition of "plant and machinery" as they are used as part of the OFC network for making outward supply of transmission of telecommunication signals from one point to another.

Moreover, ducts and manholes used in network of optical fiber cables (OFCs) have not been specifically excluded from the definition of "plant and machinery" in the Explanation to section 17 of the CGST Act, 2017 as they are neither in nature of land, building or civil structures nor are in nature of telecommunication towers or pipelines laid outside the factory premises.

Accordingly, it is clarified that availment of input tax credit is not restricted in respect of such ducts and manhole used in network of optical fiber cables (OFCs), either under clause (c) or under clause (d) of section 17(5) of the CGST Act, 2017.

(v) Inward supplies charged to tax under composition levy [Clause (e) of section 17(5)]

A supplier registered under composition scheme cannot collect tax from its customers. Thus, such supplier issues bill of supply and not a tax invoice. A composition supplier pays a lumpsum tax at a specified rate on its quarterly turnover.

Tax paid on goods and/or services under composition scheme is not available as ITC for the recipient.

Since a composition supplier cannot collect any tax on its supplies, from the recipient of its supplies, it is obvious that no ITC can be availed in respect of such supplies by the recipients. Nevertheless, section 17(5)(e) specifically blocks the ITC on inward supplies received by a taxable person from a composition supplier.

(vi) Inward supplies received by a non-resident taxable person [Clause (f) of section 17(5)]

Non-resident taxable person has been defined in the CGST Act [See the definition under the heading Relevant Definitions]. Essentially, a non-resident taxable person has no fixed place of business in India but he sporadically supplies goods or services in India.

Tax paid on goods and/or services received by such non-resident taxable person, is not available as ITC. However, tax paid by him on **imported goods** is allowed as ITC.

Whereas ITC on goods imported by a non-resident taxable person is allowed, ITC on services imported by him is blocked.

(vii) Inward supplies used/intended to be used for purpose of CSR [Clause (fa) of section 17(5)]

ITC shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility (CSR) referred to in section 135 of the Companies Act, 2013.

CSR is a strategy undertaken by companies to not just grow profits, but to take an active and positive social role in the world around them. Corporate social responsibility programs aim to give structure to a company's efforts to give back to the community, participate in philanthropic causes, and provide positive social value. Businesses increasingly turn to CSR to make a difference and build a positive brand around their company.

(vii) Inward supplies used for personal consumption [Clause (g) of section 17(5)]

One of the foremost conditions laid down in section 16 for availing ITC on goods and/or services is that such goods and/or services should be used **in the course or furtherance of business.** Further, where goods and/or services are used partly for the purpose of any business and partly for other purposes, section 17(1) restricts the credit to so much of the ITC as is

attributable to business purposes.

Furthermore, section 17(5)(g) also specifically blocks the ITC on goods and/or service used for personal consumption.

The term 'personal consumption' has not been defined in the GST law. Thus, it may be understood in the general sense which would mean non-business use.

(38) Mr. X owns a grocery store. He procures rice, wheat and biscuits for being sold in its store. Out of the inventory so purchased, he gives 10 kgs each of rice and wheat to his wife for household use. Being used for personal consumption, ITC on 10 kg of rice and 10 kg of wheat is blocked.

(ix) Free samples, gifts, goods lost/stolen etc. [Clause (h) of section 17(5)]

Clause (h) of section 17(5) blocks ITC on

- Goods that are disposed of by way of gift
- Goods that are disposed of by way of free samples
- Lost goods
- Stolen goods
- Destroyed goods
- Goods that are written off

ITC in respect of goods that are disposed of by way of gift or free samples is not available. Also, ITC is blocked on lost goods, stolen goods, destroyed goods and goods that are written off. This is because principally, ITC is available only for payment of tax on output supply. If no tax is payable on output supply, ITC on inputs/input services/capital goods relating to such output supply is not eligible. Hence, ITC on gifts and free samples is blocked as no tax is payable on its outward supply. In case of lost/destroyed/stolen written off goods also, ITC is not available as these goods cannot be said to have been used for making a taxable supply.

Meaning of 'gift'

The term gift has not been defined in the GST law. Therefore, we will have to look for the definition of gift in other laws. Section 122 of the Transfer of Property Act, 1882, defines gift as transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right.

Meaning of 'sample'

Sample is also not defined in the GST law. The dictionary meaning of sample is "a small part or quantity intended to show what the whole is like". In commercial parlance, samples are given to prospective customers to enable them to test the quality of the item before making a decision to buy the same.

ITC in the hands of the supplier in respect of sales promotional schemes

Circular No. 92/11/2019 GST dated 07.03.2019 has clarified the entitlement of ITC in the hands of supplier in respect of various sales promotional schemes as under [Taxability of such schemes has been discussed at relevant places in Chapter 2: Supply Under GST and *Chapter 7: Value of Supply in Module 1 of the Study Material.]:*

A. Samples and free gifts

Samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST, except where the activity falls within the ambit of Schedule I of the CGST Act.

ITC shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of "supply" on

account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail the ITC.

B. Buy one get one free offer

This is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8.

ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including 'Buy more, save more' offers

Discounts offered by the suppliers to customers (including staggered discount under "Buy more, save more" scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in section 15(3), including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

However, the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary discounts

These are the discounts which are not known at the time of supply or are offered after the supply is already over. Such discounts shall not be excluded while determining the value of supply. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

ITC reversal when return of time expired medicines/drugs are treated as fresh supply

The common trade practice in the pharmaceutical sector is that the drugs or medicines (hereinafter referred to as "goods") are sold by the manufacturer to the wholesaler and by the wholesaler to the retailer on the basis of an invoice/bill of supply as case may be. Such goods have a defined life term which is normally referred to as the date of expiry. Such goods which have crossed their date of expiry are colloquially referred to as **time expired goods** and are returned to the manufacturer, on account of expiry, through the supply chain.

Circular No. 72/46/2018 GST dated 26.10.2018 has clarified that the retailer/ wholesaler can return the time expired goods, **either by treating the same as fresh supply or by issuing credit notes[18].**

Return of time-expired goods by treating the same as fresh supply

In case the person returning the time expired goods is a registered person (other than a composition taxpayer), he may, at his option, return the said goods by treating it is as a fresh supply and thereby issuing an invoice for the same (hereinafter referred to as the, "return supply"). The value of the said goods as shown in the invoice on the basis of which the goods were supplied earlier may be taken as the value of such return supply. The wholesaler or manufacturer, as the case may be, who is the recipient of such return supply, shall be eligible to avail ITC of the tax levied on the said return supply subject to the fulfillment of the conditions specified in section 16.

In case the person returning the time-expired goods is a composition taxpayer, he may return the said goods by issuing a bill of supply and pay tax at the rate applicable to a composition taxpayer. In this 18 The procedure for return of time expired drugs or medicines by issuing credit note is covered in Chapter 10: Tax Invoice; Credit and Debit Notes in this Module of the Study Material. scenario there will not be any availability of ITC to the recipient of return supply. In case the person returning the time-expired goods is an unregistered person, he may return the said goods by issuing any commercial document without charging any tax on the same.

[18] The procedure for return of time expired drugs or medicines by issuing credit note is covered in Chapter 10: Tax Invoice; Credit and Debit Notes in this Module of the Study Material.

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Where the goods returned by the retailer/wholesaler as a fresh supply, are destroyed by the manufacturer, he/she is required to reverse the ITC availed on the return supply in terms of section 17(5)(h). It is pertinent to mention here that the ITC which is required to be reversed in such scenario is the ITC availed on the return supply and not the ITC that is attributable to the manufacture of such time expired goods.

The clarification may also be applicable to return of goods for reasons other than being time expired.

(39) If a manufacturer has availed ITC of ₹10/- at the time of manufacture of medicines valued at ₹100/-. At the time of return of such medicine on the account of expiry, the ITC available to the manufacturer on the basis of fresh invoice issued by wholesaler is ₹15/-. So, when the time expired goods are destroyed by the manufacturer, he would be required to reverse ITC of ₹15/- and not of ₹10/.

(x) Tax paid in fraud cases, detention, confiscation etc. [Clause (i) of section 17(5)]

Tax paid under sections 74, 129 and 130[19] is not available as ITC. These sections prescribe the provisions relating to tax paid as a result of evasion of taxes, or upon detention of goods or conveyances in transit, or towards redemption of confiscated goods/conveyances.

5. CREDIT IN SPECIAL CIRCUMSTANCES [SECTION 18]

STATUTORY PROVISIONS		
Section 18	***Availability of credit in special circumstances***	
Sub-section	***Clause***	***Particulars***
(1)	*Subject to such conditions and restrictions as may be*	

[19] Declaration is to be filed in Form GST ITC-01 where a registered person ceases to pay composition tax and switches to regular scheme or his exempt supplies become taxable supplies.

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	prescribed—	
	(a)	*a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;*
	(b)	*a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;*
	(c)	*where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:*
		Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;
	(d)	*where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and*

		inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:
		Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.
(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)		*Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.*
(4)		*Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he 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 and on capital goods, reduced by such percentage points as may be*

	prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:
	Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.
(5)	*The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.*
(6)	*In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered 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 determined under section 15, whichever is higher:*
	Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.
Chapter V: Input Tax Credit of CGST Rules	
Rule 40	***Manner of claiming credit in special circumstances***
(1)	*The input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be*

	subject to the following conditions, namely-		
	(a)	*the input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of the invoice or such other documents on which the capital goods were received by the taxable person.*	
	(b)	*the registered person shall within a period of thirty days from the date of becoming eligible to avail the input tax credit under sub-section (1) of section 18, or within such further period as may be extended by the Commissioner by a notification in this behalf, shall make a declaration, electronically, on the common portal in **FORM GST ITC-01** to the effect that he is eligible to avail the input tax credit as aforesaid:*	
		Provided that any extension of the time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.	
	(c)	*the declaration under clause (b) shall clearly specify the details relating to the inputs held in stock or inputs contained in semi-finished or finished goods held in stock, or as the case may be, capital goods–*	
		(i)	*on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of the Act, in the case of a claim under clause (a) of sub-section (1)*

			of section 18;
		(ii)	on the day immediately preceding the date of the grant of registration, in the case of a claim under clause (b) of sub-section (1) of section 18;
		(iii)	on the day immediately preceding the date from which he becomes liable to pay tax under section 9, in the case of a claim under clause (c) of sub-section (1) of section 18;
		(iv)	on the day immediately preceding the date from which the supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of section 18;
	(d)		the details furnished in the declaration under clause (b) shall be duly certified by a practicing chartered accountant or a cost accountant if the aggregate value of the claim on account of central tax, State tax, Union territory tax and integrated tax exceeds two lakh rupees;
	(e)		the input tax credit claimed in accordance with the provisions of clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in **FORM GSTR-1 and in FORM GSTR-1A, if any,** or as the case may be, in **FORM GSTR- 4,** on the common portal.
(2)	The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-		

	section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.
Rule 41	***Transfer of credit on sale, merger, amalgamation, lease or transfer of a business***
(1)	*A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in* ***FORM GST ITC-02,*** *electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:*
	Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.
	Explanation: - For the purpose of this sub-rule, it is hereby clarified that the "value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.
(2)	*The transferor shall also submit a copy of a certificate issued by a practicing chartered accountant or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for the transfer of liabilities.*
(3)	*The transferee shall, on the common portal, accept the*

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	details so furnished by the transferor and, upon such acceptance, the unutilized credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger.
(4)	*The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.*
Rule 41 A	***Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory***
(1)	*A registered person who has obtained separate registration for multiple places of business in accordance with the provisions of rule 11 and who intends to transfer, either wholly or partly, the unutilised input tax credit lying in his electronic credit ledger to any or all of the newly registered place of business, shall furnish within a period of thirty days from obtaining such separate registrations, the details in **FORM GST ITC-02A** electronically on the common portal, either directly or through a Facilitation Centre notified in this behalf by the Commissioner:*
	Provided that the input tax credit shall be transferred to the newly registered entities in the ratio of the value of assets held by them at the time of registration.
	Explanation.- For the purposes of this sub-rule, it is hereby clarified that the 'value of assets' means the value of the entire assets of the business whether or not input tax credit has been availed thereon.
(2)	*The newly registered person (transferee) shall, on the common portal, accept the details so furnished by the registered person (transferor) and, upon such*

	*acceptance, the unutilised input tax credit specified in **FORM GST ITC-02A** shall be credited to his electronic credit ledger*
Rule 44	***Manner of reversal of credit under special circumstances***
(1)	*The amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18 or sub-section (5) of section 29, be determined in the following manner, namely,-*
	(a) for inputs held in stock and inputs contained in semi-finished and finished goods held in stock, the input tax credit shall be calculated proportionately on the basis of the corresponding invoices on which credit had been availed by the registered taxable person on such inputs;
	(b) for capital goods held in stock, the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as five years.
(2)	*The amount, as specified in sub-rule (1) shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.*
(3)	*Where the tax invoices related to the inputs held in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of the goods on the effective date of the occurrence of any of the events specified in sub-*

	section(4)of section 18 or, as the case may be, sub-section (5) of section 29
(4)	*The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in* ***FORM GST ITC-03,*** *where such amount relates to any event specified in sub-section (4) of section 18 and in* ***FORM GSTR-10****, where such amount relates to the cancellation of registration.*
(5)	*The details furnished in accordance with sub-rule (3) shall be duly certified by a practicing chartered accountant or cost accountant.*
(6)	*The amount of input tax credit for the purposes of sub-section (6) of section 18 relating to capital goods shall be determined in the same manner as specified in clause (b) of sub-rule (1) and the amount shall be determined separately for input tax credit of central tax, State tax, Union territory tax and integrated tax:*
	Provided that where the amount so determined is more than the tax determined on the transaction value of the capital goods, the amount determined shall form part of the output tax liability and the same shall be furnished in ***FORM GSTR-1.***

ANALYSIS

Section 18 provides for

1] entitlement of ITC on inputs in stock and inputs contained in finished goods or work-in-progress, and in last two cases in respect of capital goods as well (i) at the time of registration/voluntary registration,(ii) on coming into regular tax-paying status by exiting composition levy, (iii) on coming into tax-paying

status on account of exempt supply becoming taxable supply for a registered person

2] reversal of ITC on inputs in stock and inputs contained in finished goods or work-in-progress and capital goods (i) at the time of exit from regular tax-paying status by opting for composition levy, (ii) at the time of exit from tax-paying status on account of taxable supply becoming exempt supply for a registered person

3] amount payable on supply of capital goods or plant and machinery on which ITC has been taken

4] transfer of ITC on account of change in constitution of the registered person

(i) Entitlement of ITC at the time of registration/voluntary registration or switching to regular tax paying status or coming into tax-paying status [Sub-sections (1) and (2) of section 18 read with rule 40]

The credit on inputs held in stock and contained in semi-finished goods or finished goods held in stock and capital goods at the time of registration/voluntary registration or coming into regular tax/tax-paying status is available in the following manner:

S.No.	Persons eligible to take credit	Goods entitled to ITC		Restriction / conditions
		Inputs held in stock/ capital goods	As on	
(1)	(2)	(3)	(4)	(5)
1.	Person who has applied for **registration within 30**	**Inputs** held in stock and inputs contained in semi-	The day immediately preceding the date from which	➢ ITC to be availed within 1 year from the date of the issue of the tax invoice by

	days from the date on which he becomes liable to registration and has been granted such registration	finished or finished goods held in stock	he becomes liable to pay tax	the supplier.
2.	Person who is not required to register, but obtains **voluntary registration**	**Inputs** held in stock and inputs contained in semi-finished or finished goods held in stock	The day immediately preceding the date of registration	
3.	Registered person **who ceases to pay composition tax and switches to regular scheme**	**Inputs** held in stock and inputs contained in semi-finished or finished goods held in stock **and capital goods**	The day immediately preceding the date from which he becomes liable to pay tax under regular scheme	✓ ITC on capital goods will be reduced by 5% per quarter of a year or part of the year from the date of invoice. ✓ ITC claimed shall be

4.	**Registered person** whose exempt supplies become taxable supplies	**Inputs** held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply **and capital goods exclusively used for such exempt supply**	The day immediately preceding the date from which such supply becomes taxable	verified with the corresponding details furnished by the corresponding supplier. ✓ ITC to be availed within 1 year from the date of the issue of the tax invoice by the supplier.

In all the above cases, the registered person has to make an electronic declaration in the prescribed form on the common portal, clearly specifying the details relating to the inputs held in stock, inputs contained in semi-finished or finished goods held in stock and capital goods on the days mentioned in column (4) of table above. The declaration is to be filed within 30 days(extendable by Commissioner/Commissioner of State GST/Commissioner of UTGST) from the date when the registered person becomes eligible to avail ITC. If the claim of ITC pertaining to CGST, SGST/UTGST, IGST put together exceeds ₹2,00,000, the declaration needs to be duly certified by a practicing Chartered Accountant/Cost Accountant.

(40) 'Z' becomes liable to pay tax on 1st August and has obtained registration on 15th August w.e.f. 1st August. 'Z' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. 'Z' cannot take ITC on capital goods.

(41) 'Z' becomes liable to pay tax on 1st August and has obtained registration on 15th August w.e.f. 1st August. 'Z' is eligible for ITC on inputs held in stock and as part of semi-finished goods or finished goods held in stock as on 31st July. 'Z' cannot take ITC on capital goods.

(42) 'B', a registered taxable person, was paying tax under composition scheme upto 30th July. However, w.e.f. 31st July, 'B' becomes liable to pay tax under regular scheme. 'B' will be eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30thJuly. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of the invoice.

(ii) Reversal of ITC on switching to composition levy or exit from tax-paying status [Section 18(4) read with rule 44]

- ✓ Section 18(4) requires reversal of ITC when a registered person who has availed ITC switches to composition levy or when his supplies get wholly exempted from tax.
- ✓ ITC on **inputs** should be reversed proportionately on the basis of corresponding invoices on which credit had been availed on such inputs. If invoices are not available, ITC can be reversed on the basis of the prevailing market price of such goods on the date of switch over/exemption. The details furnished on the basis of prevailing market value need to be duly certified by a practicing Chartered Accountant/ Cost Accountant.
- ✓ ITC involved in the remaining useful life (in months) of the **capital goods** should be reversed on pro-rata basis, taking the useful life as 5 years.

(43) Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life that should be reversed

= C x 5/60

- ✓ The registered person has to debit the electronic credit or cash ledger by

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the reversal amount in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods on the day immediately preceding the date of switch over/ date of exemption.

- ✓ Balance of ITC, if any, lying in the electronic credit ledger lapses.
- ✓ Cancellation of registration also requires reversal of ITC on inputs held in stock/ contained in semi-finished goods or finished goods held in stock, capital goods or plant and machinery on the day immediately preceding the cancellation date. The amount to be reversed on inputs and capital goods is computed in the manner as applicable for sub-sections (4) of section 18 (discussed above).
- ✓ ITC to be reversed on inputs and capital goods is calculated separately for ITC of CGST, SGST/UTGST and IGST.
- ✓ The reversal amount is added to the output tax liability of the registered person.

(iii)Amount payable on supply of capital goods or plant and machinery on which ITC has been taken [Section 18(6) read with rule 40(2) & rule 44(6)]

- ✓ If capital goods or plant and machinery on which ITC has been taken are supplied outward by the registered person, he must pay an amount that is the **higher of the following:**

- ❖ 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 (i.e., ITC pertaining to remaining useful life of the capital goods), or
- ❖ tax on transaction value of such capital goods/plant & machinery

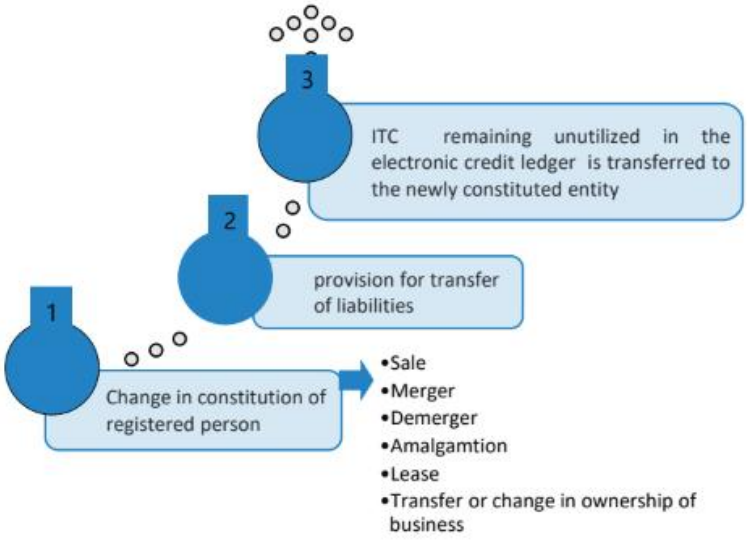
  - ✓ ITC pertaining to remaining useful life of the capital goods should be computed separately for ITC of CGST, SGST/UTGST and IGST.
  - ✓ Where the amount of ITC remaining so determined exceeds the tax payable on the transaction value of the capital goods, such amount need to be paid and thus, should be added to the output tax liability.
  - ✓ If refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value.

Note: Under rule 44(6), ITC involved in the remaining useful life (in months) of the capital goods is reversed on pro rata basis, taking the useful life as 5 years.

(iv) Transfer of ITC on account of change in constitution of registered person [Section 18(3) read with rule 41]

In case of sale, merger, demerger, amalgamation, lease, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities in such change of constitution. Circular No. 96/15/2019 GST dated 28.03.2019 has clarified that transfer or change in the ownership of business includes transfer or change in the ownership due to death of the sole proprietor.

The above provisions have been explained with the help of the diagram on next page:



In the case of demerger, ITC will be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. Here, **"value of assets"** means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly record the inputs and capital goods so transferred in his books of account.

(iii) Transfer of ITC on obtaining separate registrations for multiple places of business within a State/ Union Territory [Rule 41A]

Section 25 enables a taxpayer to obtain separate registrations for multiple places of business within a State/ Union territory [Provisions of section 25 are discussed under Chapter 9: Registration in this Module of the Study Material]. The registered person (transferor), having separate registrations for multiple places of business within a State/Union Territory, can transfer the unutilised ITC (wholly or partly) lying in his electronic credit ledger to any or all of the newly registered place(s) of business in the ratio of the value of assets held by them at the time of registration. Here, the 'value of assets' means the value of the entire assets of the business irrespective of whether ITC has been availed thereon or not.

The registered person should furnish the prescribed details on the common portal within a period of 30 days from obtaining such separate registrations. Upon acceptance of such details by the newly registered person (transferee) on the common portal, the unutilised ITC gets credited to his electronic credit ledger.

6. HOW ITC IS UTILISED

STATUTORY PROVISIONS	
Section 49	*Payment of tax, interest, penalty and other amounts (Relevant extract)*

Sub-section	Clause	Particulars
(5)		The amount of input tax credit available in the electronic credit ledger of the registered person on account of–
	(a)	integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
	(b)	the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
	(c)	the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
		Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;
	(d)	the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;
		Provided that the input tax credit on account of Union territory tax shall be utilised towards

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		payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;
	(e)	*the central tax shall not be utilised towards payment of State tax or Union territory tax; and*
	(f)	*the State tax or Union territory tax shall not be utilised towards payment of central tax.*
Section 49A	***Utilisation of input tax credit subject to certain conditions***	
	Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.	
Section 49B	***Order of utilisation of input tax credit***	
	Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.	
Chapter IX: Payment of Tax of the CGST Rules		

Rule 86A	Conditions of use of amount available in electronic credit ledger
(1)	The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-
	(a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
	i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
	ii without receipt of goods or services or both; or
	(b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or
	(c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
	(d) he registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,
	may, for reasons to be recorded in writing, not allow debit

	of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.
(2)	*The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit*
(3)	*Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.*
Rule 86B	***Restrictions on use of amount available in electronic credit ledger***
	Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:
	Provided that the said restriction shall not apply where -
	(a) the said person or the proprietor or karta or the managing director or 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 one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the

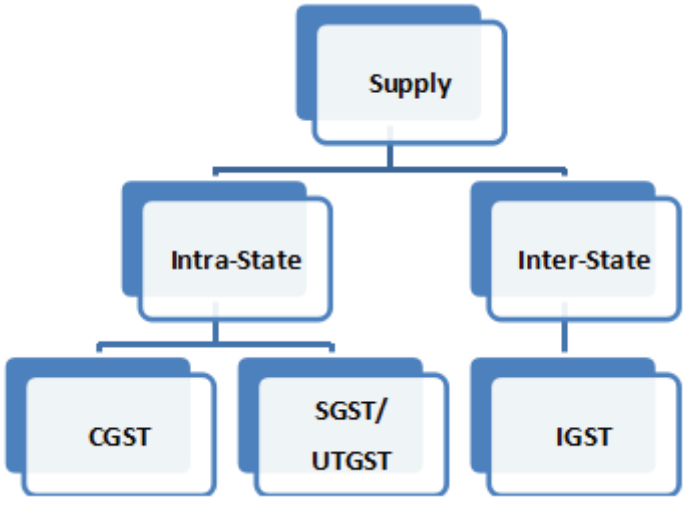
			said Act has expired; or
		(b)	*the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or*
		(c)	*the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or*
		(d)	*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, upto the said month in the current financial year; or*
		(e)	*the registered person is -*
			(i) Government Department; or
			(ii) a Public Sector Undertaking; or
			(iii) a local authority; or
			(iv) a statutory body:
			Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit
	Rule 88A		***Order of utilization of input tax credit***

	Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order
	Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully

ANALYSIS

ITC is credited to a registered person's electronic credit ledger. A taxable person is entitled for ITC of CGST, SGST/UTGST and IGST depending upon the nature of supplies received by him.

To illustrate, a supplier making purchases intra-State, inter-State and via import (of goods) is eligible for ITC as under:



The person may use the ITC to pay his output tax liability. As we know that Indian GST is a dual GST wherein two taxes viz, CGST and SGST/UTGST are

levied concurrently on a supply transaction. While the CGST revenue accrues to Central Government, SGST and UTGST revenue accrue to respective State Government and Union Territory, respectively. Hence, ITC of CGST and SGST/UTGST is not inter-changeable and thus, cross utilisation of CGST and SGST/UTGST is not permissible.

IGST is a transitory tax. IGST paid by taxpayer initially goes to the Central Clearing Authority. ITC of IGST can be utilised for payment of CGST or SGST/UTGST (or vice versa). Thus, cross utilization of IGST and CGST, SGST/UTGST is permissible. Flexibility has been provided to the taxpayer to utilise ITC of IGST for first payment of IGST and then towards payment of CGST and/or SGST/UTGST in any proportion and in any order subject to the condition that the entire input tax credit on account of Integrated tax is completely exhausted before the input tax credit on account of Central Tax or State/Union territory tax can be utilized. If ITC of IGST is used for payment of SGST/UTGST (or vice versa), corresponding debit/credit is made to respective State Government/Union Territory.

Sections 49(5), 49A, 49B, rule 88A and Circular No. 98/17/2019 GST dated 23.04.2019together prescribe the sequence of utilisation of ITC. A combined reading of such provisions shows that the order of utilization of ITC is as per the order (of numerals) given below:

<table>
<tr><th>ITC of</th><th>Output IGST liability</th><th>Output CGST</th><th>Output SGST / UTGST</th></tr>
<tr><td>IGST</td><td>(I)</td><td colspan="2">(II) – In any order and in any proportion</td></tr>
<tr><td colspan="4">(III) ITC of IGST to be completely exhausted mandatorily</td></tr>
<tr><td>CGST</td><td>(V)</td><td>(IV)</td><td>Not permitted</td></tr>
<tr><td>SGST / UTGST</td><td>(VII)</td><td>Not permitted</td><td>(VI)</td></tr>
</table>

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	Only after ITC of CGST has been utilized fully		

The numerals given above can be further explained in the following manner:

(I)	IGST credit should first be utilized towards payment of IGST.
(II)	Remaining IGST credit, if any, can be utilized towards payment of CGST and SGST/UTGST in any order and in any proportion, i.e. remaining ITC of IGST can be utilized –
	❖ first towards payment of CGST and then towards payment of SGST; or ❖ first towards payment of SGST and then towards payment of CGST; or ❖ towards payment of CGST and SGST simultaneously in any proportion e.g. 50: 50, 30: 70, 40: 60 and so on.
(III)	Entire ITC of IGST should be fully utilized before utilizing the ITC of CGST or SGST/UTGST.
(IV) & (V)	ITC of CGST should be utilized for payment of CGST and IGST in that order. ITC of CGST cannot be utilized for payment of SGST/UTGST
(VI) & (VII)	ITC of SGST /UTGST should be utilized for payment of SGST/UTGST and IGST in that order. However, ITC of SGST/UTGST should be utilized for payment of IGST, only after ITC of CGST has been utilized fully. ITC of SGST/UTGST cannot be utilized for payment of CGST.

❖ Cross-utilization of credit is available only between CGST - IGST and,

SGST/UTGST - IGST.

- ❖ CGST credit cannot be utilized for payment of SGST/UTGST and SGST/UTGST credit cannot be utilized for payment of CGST.
- ❖ ITC of IGST need to be exhausted fully before proceeding to utilize the ITC of CGST, SGST/UTGST.

(44) Amount of ITC available and output tax liability under different tax heads

Head	Output tax liability (₹)	ITC (₹)
IGST	1000	1300
CGST	300	200
SGST / UTGST	300	200
Total	**1600**	**1700**

Option 1

ITC of	*Discharge of output IGST liability (₹)*	*Output IGST liability (₹) Discharge of output CGST liability (₹)*	*Discharge of output SGST/UTGST liability (₹)*	*Balance of ITC (₹)*
IGST	1000	200	100	0
ITC of IGST has been completely exhausted				
CGST	0	100	-	100
SGST / UTGST	0	-	200	0

Total	**1000**	**300**	**300**	**100**

Option 2

ITC of	*Discharge of output IGST liability (₹)*	*Output IGST liability (₹) Discharge of output CGST liability (₹)*	*Discharge of output SGST/UTGST liability (₹)*	*Balance of ITC (₹)*
IGST	1000	150	150	0
ITC of IGST has been completely exhausted				
CGST	0	200	-	0
SGST / UTGST	0	-	100	100
Total	**1000**	**300**	**300**	**100**

Option 3

ITC of	*Discharge of output IGST liability (₹)*	*Output IGST liability (₹) Discharge of output CGST liability (₹)*	*Discharge of output SGST/UTGST liability (₹)*	*Balance of ITC (₹)*
IGST	1000	150	150	0
ITC of IGST has been completely exhausted				

CGST	0	150	-	50
SGST / UTGST	0	-	150	50
Total	**1000**	**300**	**300**	**100**

There can be other options also for utilization of ITC of IGST against CGST and SGST liabilities. In this example, three options for utilizing ITC of IGST against CGST and SGST liabilities are shown.

Restrictions on utilisation of ITC [Rule 86A]

The Commissioner/ an officer (not below the rank of an Assistant Commissioner) authorised by him is empowered to impose restrictions on utilization of ITC available in the electronic credit ledger if he has **reasons to believe** that such ITC has been fraudulently availed or is ineligible.

The restrictions can be imposed in the following circumstances:

a) ITC has been availed by the registered person on the basis of tax invoices/debit notes/prescribed documents –

- issued by a non-existent registered person (supplier) or by a supplier not conducting any business from the place declared in registration; or
- without actual receipt of goods or services or both; or
- in respect of any supply the tax in respect of which has not been paid to the Government

b) the registered person availing ITC has been found non-existent or not to be conducting any business from the registered place of business; or

c) the registered person availing ITC is not in possession of tax invoice/debit note or any other prescribed valid document for it.

If the ITC is so availed, the restrictions can be imposed by not allowing such ITC to be used for discharging any liability under section 49 or not allowing

refund of any unutilised amount of such ITC. Such restrictions can be imposed for a period up to 1 year from the date of imposing such restrictions. However, the Commissioner/officer authorised by him, can withdraw such restriction if he is satisfied that conditions for imposing the restrictions no longer exist.

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

Rule 86B restricts the use of ITC available in the electronic credit ledger for discharging output tax liability. The aforesaid rule starts with a non-obstante clause and thus, has an over-riding effect on any other provisions of the CGST Rules.

- **Applicability of rule 86B**

❖ Rule 86B is applicable to the registered person having value of taxable supply (other than exempt supply and zero-rated supply) in a month exceeding ₹50 lakh.

❖ Therefore, in cases wherein value of taxable supply in a month is upto₹50 lakh, then this restriction would not be applicable.

- **Nature of restriction imposed**

The registered person to whom the said rule is applicable cannot use ITC to discharge the output tax liability in excess of 99% of such tax liability. In other words, amount available in electronic credit ledger shall be utilized only to the extent of 99% of the output tax liability while discharging such tax liability. Balance 1% of the output tax liability needs to be discharged from electronic cash ledger.

Minimum 1% of the output tax liability be discharged using electronic cash ledger

The above restriction can be explained with the help of numerical example:

(45) The total value of inter-State supply of Raman & Sons for the month of February is of ₹100 lakh. Said supply is taxable @ 18% IGST. Thus, total output tax liability of Raman & Sons is ₹18 lakh. Amount

available in electronic credit ledger is ₹20 lakh (IGST).

In terms of restriction imposed by rule 86B, Raman & Sons can discharge 99% of its output tax liability, i.e. ₹17,82,000 (99% of ₹18,00,000) from the amount available in electronic credit ledger. However, it has to mandatorily discharge the balance 1% of the output tax liability i.e. ₹18,000 (1% of ₹18,00,000) through electronic cash ledger only.

- **Exceptions to rule 86B**

  In order to strike a balance between restricting potential misuse of ITC and providing relief to compliant taxpayers, few exceptions to rule 86B have been carved out. They take into account different circumstances and ensure that taxpayers who have fulfilled certain criteria are not unduly burdened by the restrictions imposed by rule 86B.

- **Payment of income tax of more than ₹1 lakh**

  Restriction under rule 86B is not applicable in cases where the below mentioned person(s) have paid a sum of more than ₹1 lakh as income tax (under the Income -tax Act, 1961) in each of the last 2 FYs for which the time limit to file return of income under section 139(1) of the Income-tax Act has expired:

  - Registered person /proprietor/Karta/managing director/any of its two partners
  - Whole-time directors,
  - Members of Managing Committee of Associations
  - Board of Trustees

- **Receipt of refund of input tax credit of more than ₹1 lakh**

  Rule 86B is not applicable where the registered person has received a refund amount of more than ₹1 lakh on account of unutilized ITC under:

- zero-rated supplies made without payment of tax
- inverted duty structure

It is pertinent to note that refund should have been received in preceding FY.

- **Payment of output tax liability through electronic cash ledger in excess of 1% of total output tax liability in current FY**

If the registered person has discharged his output tax liability through the electronic cash ledger for an amount in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year, the restrictions under rule 86B shall not apply.

This exception provides relief to registered persons who have consistently made substantial cash payments towards their GST liabilities. The total cash payment of GST made by the registered person is considered cumulatively for all preceding months of the current FY. The cumulative approach ensures that the registered person is given credit for its consistent cash payments throughout the year, rather than assessing each month in isolation.

(46) Assuming a scenario wherein in the current FY upto August month, the total output tax liability payable is ₹ 30 lakh which has been discharged upto ₹ 1 lakh through electronic cash ledger and balance through electronic credit ledger. Rule 86B would not be applicable in the September month even if the taxable turnover during this month exceeds ₹ 50 lakh, since cumulative payment of tax made in cash is more than 1% of total output tax liability (1% of ₹ 30 lakh is ₹ 30,000)..

It is pertinent to note that GST liability paid under reverse charge mechanism should not be taken into account while calculating the total output liability paid through electronic cash ledger.

- **Specified registered persons**

Rule 86B is not applicable in case of below-mentioned registered person:

- Government Department; or

- a Public Sector Undertaking; or
- a local authority; or
- a statutory body.

However, Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.

ILLUSTRATION 2

ABC Ltd., registered under GST, is engaged in the manufacture of heavy machinery. It procured the following items during the month of July.

S. No.	Items	GST (₹)
a.	Electrical transformers to be used in the manufacturing process	5,20,000
b.	Trucks used for the transport of raw material	1,00,000
c.	Raw material	2,00,000
d.	Confectionery items. These items were supplied free of cost to the customers in a customer meet organized by the company	25,000

Determine the amount of ITC that can be availed by ABC Co. Ltd., for the month of July by giving necessary explanations for treatment of various items. Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

ANSWER

Computation of ITC that can be availed by with ABC Co. Ltd. for the month of July

S.	Items	ITC (₹)

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No.		
(1)	Electrical transformers [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	5,20,000
(2)	Trucks used for the transport of raw material [ITC on motor vehicles used for transportation of goods is not blocked under section 17(5)(a)]	1,00,000
(3)	Raw material [Being goods used in the course or furtherance of business, ITC thereon is available in terms of section 16(1)]	2,00,000
(4)	Confectionery items for consumption of customers at customers meet [ITC on food or beverages is specifically disallowed unless the same is used for making outward taxable supply of the same category or as an element of the taxable composite or mixed supply-Section 17(5)(b)(i)]	Nil
	Total ITC	**8,20,000**

ILLUSTRATION 3

XYZ Ltd., registered under GST, is engaged in manufacture of taxable goods. Compute the ITC that can be availed by XYZ Ltd. for the month of October from the following particulars:-

S. No.	Inward supplies	GST (₹)	Remarks
(1)	Inputs 'A'	1,00,000	One invoice on which GST payable was ₹ 10,000, is missing

(2)	Inputs 'B'	50,000	Inputs are to be received in two lots. First lot has been received in October
(3)	Capital goods	1,20,000	XYZ Ltd. has capitalised the capital goods at full invoice value inclusive of GST as it will avail depreciation on the full invoice value.
(4)	Input services	2,25,000	One invoice dated 20th January on which GST payable was ₹ 50,000 was missing and has been found in October

Note:

a.) Subject to the information given above, assume that all the other conditions necessary for availing ITC have been fulfilled.

b.) The annual return for the previous financial year was filed on 15th September.

ANSWER

Computation of ITC that can be availed by XYZ Ltd. for the month of October

S. No.	Inward supplies	ITC (₹)
(1)	Inputs 'A' [ITC cannot be taken on missing invoice. The registered person should have the invoice in its possession to claim ITC-Section 16(2)(a)]	90,000

(2)	Inputs 'B' [When inputs are received in lots, ITC can be availed only on receipt of last lot-First proviso to section 16(2)]	Nil
(3)	Capital goods [Input tax paid on capital goods cannot be availed as ITC, if depreciation has been claimed on such tax component – Section 16(3)]	Nil
(4)	Input services [As per section 16(4), ITC on an invoice cannot be availed after 30th November following the end of financial year to which such invoice pertains or the date of filing annual return, whichever is earlier. Since the annual return for the previous financial year has been filed on 15th September (prior to 30th November), ITC on the invoice pertaining to previous financial year cannot be availed after 15th September]	1,75,000
	Total ITC	2,65,000

ILLUSTRATION 4

XT Pvt. Ltd., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	***Amount (₹)***
Intra-State supply of goods	*8,00,000*
Inter-State supply of goods	*3,00,000*

It has also furnished the following information in respect of purchases made by

it in that tax period:

Particulars	Amount (₹)
Intra-State purchases of goods	2,00,000
Inter-State purchases of goods	50,000

The company has following opening balance of ITCs for the tax period:

Particulars	Amount (₹)
CGST	57,000
SGST	Nil
IGST	70,000

Note:

a. *Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.*

b. *Both inward and outward supplies are exclusive of taxes, wherever applicable.*

c. *All the conditions necessary for availing the ITC have been fulfilled.*

Compute the minimum GST, payable in cash, by XT Pvt. Ltd. for the tax period. Make suitable assumptions as required.

ANSWER

Computation of GST payable on outward supplies

S. No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
(1)	Intra-State supply of goods for (₹) 8,00,000	72,000	72,000		1,44,000

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(2)	Inter-State supply of goods for (₹) 3,00,000			54,000	54,000
	Total GST payable				**1,98,000**

Computation of total ITC

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)
Opening ITC	57,000	Nil	70,000
Add: ITC on Intra-State purchases of goods valuing ₹ 2,00,000	18,000	18,000	Nil
Add: ITC on Intra-State purchases of goods valuing ₹ 50,000	Nil	Nil	9,000
Total ITC	**75,000**	**18,000**	**79,000**

Computation of minimum GST payable from electronic cash ledger

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
GST payable	72,000	72,000	54,000	1,98,000
Less: ITC [First ITC of IGST should be utilized in full - first against IGST liability and then against CGST and SGST liabilities in a	(Nil) IGST	(25,000) IGST	(54,000) IGST	79,000

manner to minimize cash outflow]				
ITC of CGST and SGST set off against CGST and SGST respectively	(72,000) CGST	(18,000) SGST		90,000
Minimum GST payable in cash	**Nil**	**29,000**	**Nil**	**29,000**

Note :

Since sufficient balance of ITC of CGST is available for paying CGST liability and cross utilization of ITC of CGST and SGST is not allowed, ITC of IGST has been used to pay SGST (after paying IGST liability) to minimize cash outflow.

TEST YOUR KNOWLEDGE

1. What is input tax?
2. What are the conditions necessary for availing ITC?
3. Can a person take ITC without payment of consideration for the supply along with tax?
4. What is the time limit for taking ITC and reasons therefor?
5. What is the ITC entitlement of a newly registered person?
6. What is the tax implication of supply of capital goods by a registered person who had taken ITC on such capital goods?
7. A registered person transfers its business to another person. Is such registered person allowed to transfer the unutilized ITC lying in its electronic credit ledger to such transferred business? Discuss.
8. Swastik Pvt. Ltd. is a manufacturer of taxable goods. It purchased a machinery for ₹8,00,000 on which IGST of ₹14,400 is paid. The company has claimed depreciation under the Income-tax Act, 1961 on the full value of the machine, i.e. including the IGST component as also availed ITC of ₹14,400 paid by it as IGST. Examine if the stand taken by the company is correct in law.

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9. A taxable person is in the business of information technology. He buys a car (maximum seating capacity – 5 persons) for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such car?

10. A technical testing agency tests and certifies each batch of machine tools before dispatch by BMT Ltd. Some of these tools are dispatched to a unit in a SEZ for authorised operations without payment of GST as these supplies are not taxable.

11. The finance personnel of BMT Ltd. want to know whether they need to carry out reversal of ITC on the testing agency's services to the extent attributable to the SEZ supplies. Give your comments.

12. 'AB', a registered person, was paying tax under composition scheme up to 30thJuly. However, w.e.f. 31st July, 'AB' becomes liable to pay tax under regular scheme. Is 'AB' eligible for any ITC?

13. Babla Enterprises is exclusively engaged in making exempt supply of goods and is thus, not registered under GST. On 1st October, the exemption available on its goods gets withdrawn. On that day, the turnover of Babla Enterprises was ₹45 lakh.

    Examine the eligibility of Babla Enterprises for availing ITC, if any.

14. Mamta Trade Links trades in exempt goods and provides taxable services. It is registered under GST. On 1st October, the exemption available on its goods gets withdrawn.

    Analyze the scenario and determine the eligibility of Mamta Trade Links for availing ITC, if any, on inputs and/or capital goods used in the supply of exempt goods.

15. Harshgeet Pvt. Ltd., a registered supplier, is engaged in the manufacture of taxable goods. The company provides the following information pertaining to purchases made/services availed by it during the month of July:

S. No.	Particulars	GST (₹)
(A)	Raw materials (to be received in the month of September)	2,50,000
(B)	Membership of a club availed for employees working in the factory (not obligatory to be provided under any law)	1,45,000
(C)	Inputs to be received in 5 lots, out of which 3rd lot was received during the month	80,000
(D)	Trucks used for transport of raw material	40,000
(E)	Capital goods (out of 3 items, invoice for 2 items is missing and GST paid on those items is ₹ 80,000)	1,50,000

Determine the amount of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July by giving the necessary explanation for the treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

16. Jamku Ltd., a registered person, is engaged in the business of spices. It provides following details in relation to GST paid on inward supplies procured by it during the month of October.

S. No.	Particulars	GST (₹)
(A)	Raw spices purchase - Raw spices sold to customers - Raw spices used for personal use of directors	 50,000 20,000

(B)	Electric machinery purchased for being used in the manufacturing process	25,000
(C)	A 6 seater motor vehicle used for transportation of employees	55,000
(D)	Payment made to a contractor for construction of staff quarters	1,25,000

Determine the amount of ITC that can be availed by Jamku Ltd. for the month of October by giving the necessary explanation for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

17. Dina Ltd., a registered supplier from Maharashtra, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/services availed by it during the month of March:

S. No.	Particulars	GST (₹)
(A)	Purchase of iron which is used as a raw material [Goods were received in two lots - first in March and the second in April]	2,50,000
(B)	Purchase of accessories which were delivered directly to the dealers of the company on the direction of Dina Ltd. [Only invoice was received by Dina Ltd.]	90,000
(C)	Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,97,000
(D)	General insurance taken on a car (seating	5,200

	capacity 5) used by executives of the company for official purposes	

You are required to determine the ITC that can be availed by Dina Ltd. for the month of March, by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

18. Comfortable (P) Ltd. is registered under GST in the State of Odisha. It is engaged in the business of manufacturing of iron and steel products. It has received IT engineering services from High-Fi Infotech (P) Ltd. for ₹11,00,000/- (excluding GST @ 18%) on 28thOctober. Invoice for service rendered was issued on 5thNovember.

    Comfortable (P) Ltd. made part payment of ₹4,20,000/- on 30thNovember. Being unhappy with service provided by High-fi Infotech (P) Ltd., it did not make the balance payment. Deficiency in service rendered was made good by High-Fi Infotech (P) Ltd. by 15thApril of next financial year. Comfortable (P) Ltd. made the balance payment on 6thJuly of next financial year.

    Examine the availability of ITC with Comfortable (P) Ltd. in respect of IT engineering services received by it from High-Fi Infotech (P) Ltd.

19. M/s. Diwan & Sons of New Delhi, has placed an order for 250 kg of plastic granules @ ₹50 per kg (exclusive of GST) on M/s. Karim & Bros. of Noida, U.P. M/s. Karim & Bros. has agreed to deliver the goods at the warehouse of M/s. Diwan & Sons at New Delhi.

    While the order was getting packed at the factory of M/s. Karim & Bros., M/s. Diwan & Sons got an order from Shubhkamna Sales of Hapur, U.P.,for 250 kg of plastic granules @ ₹60 per kg (exclusive of GST). In order to save on transportation cost, M/s. Diwan & Sons asks M/s. Karim & Bros. to directly deliver the plastic granules to Shubhkamna Sales at its godown located in Hapur. Accordingly, M/s. Karim & Bros. has delivered the plastic granules at the godown of Shubhkamna Sales at Hapur.

    Examine the availability of ITC with M/s. Diwan & Sons & M/s. Karim & Bros. Note: All the parties are registered under GST and rate of GST is 18%.

20. Paritosh & Co., a supplier of goods, pays GST under regular scheme. It has made the following outward taxable supplies in a tax period:

Particulars	Amount (₹)
Intra-State supply of goods	10,00,000
Inter-State supply of goods	8,00,000

It has also furnished the following information in respect of purchases made by it in that tax period:

Particulars	Amount (₹)
Intra-State purchases of goods	**3,00,000**
Inter-State purchases of goods	**2,50,000**

Paritosh & Co. has following opening balance of ITCs for the tax period:

Particulars	Amount (₹)
CGST	57,000
SGST	60,000
IGST	1,40,000

Note:

(i) Rates of CGST, SGST and IGST are 9%, 9% and 18% respectively.

(ii) Both inward and outward supplies are exclusive of taxes, wherever applicable.

(iii) All the conditions necessary for availing ITC have been fulfilled. Compute the minimum GST, payable in cash, by Paritosh & Co. for the tax period and the ITC to be carried forward to the next month. Make suitable assumptions as required.

ANSWERS

1. Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated goods and services tax charged on import of goods. It does not include tax paid under composition levy.

2. Following conditions are to be satisfied by the registered taxable person for obtaining ITC:

   a. he is in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;

   ➢ the details of the invoice or debit note referred above has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;

   b. he has received the goods or services or both;

   ➢ the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted

   c. subject to section 41, the supplier has actually paid the tax charged in respect of the supply to the Government; and

   d. he has furnished the return under section 39.

3. Yes, the recipient can take ITC. However, he is required to pay the amount towards value of supply along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

4. Refer point (vi) "Time limit for availing ITC: 30th November of succeeding financial year to which such invoice or debit note pertains or date of filing of relevant annual return, whichever is earlier" under Heading No. 3 "Eligibility and Conditions for Taking Input Tax Credit [Section 16]".

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5. (a) A person who has applied for registration within 30days from the date on which he became liable to registration, can take ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken.

   (b) In case of voluntary registration, ITC of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of registration can be taken.

6. In case of supply of capital goods or plant and machinery on which ITC has been taken, the registered person shall pay an amount equal to the ITC taken on the said capital goods or plant and machinery reduced by 5% per quarter or part thereof from the date of invoice or the tax on the transaction value of such capital goods or plant and machinery, whichever is higher.

   However, in case of refractory bricks, moulds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

7. As per section 16(3), in case of sale, merger, demerger, amalgamation, transfer or change in ownership of business etc., the ITC that remains unutilized in the electronic credit ledger of the registered person can be transferred to the new entity, provided there is a specific provision for transfer of liabilities to the new entity.

   The registered person should furnish the details of change in constitution on the common portal and submit a certificate from practicing Chartered Account/Cost Accountant certifying that the change in constitution has been done with a specific provision for transfer of liabilities. Upon acceptance of such details by the transferee on the common portal, the unutilized ITC gets credited to his electronic credit ledger. The transferee should duly account for the inputs and capital goods so transferred in his books of account.

8. As per section 16(3), if the person taking the ITC on capital goods and plant and machinery has claimed depreciation on the tax component

of the cost of the said items under the Income-tax Act 1961, the ITC on the said tax component shall not be allowed.

Since in the given case, Swastik Pvt. Ltd. has claimed depreciation on the tax component of the cost of the machine, it cannot claim ITC of IGST of ₹14,400 paid by it on the machine. It can either claim depreciation on the tax component or avail ITC of such tax but cannot avail both the benefits simultaneously.

9. No. ITC on motor vehicles for transportation of persons with approved seating capacity of up to 13 persons (including driver), can be availed only if the taxable person is in the business of transport of passengers or is providing the services of imparting training on driving such motor vehicles or is in the business of further supply of such motor vehicles. Also, ITC can be availed on motor vehicles used for transportation of goods.

10. ITC is disallowed only to the extent it pertains to supplies used for non-business purposes or supplies other than taxable and zero-rated supplies. Supplies to SEZ units for authorised operations are zero rated supplies in terms of section 16(1) of the IGST Act. Thus, full ITC is allowed on inward supplies of BMT Ltd. used for effecting supplies to the unit in the SEZ for authorised operations.

11. 'AB' is eligible for ITC on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods as on 30th July. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

12. Since the exemption available on goods being supplied by Babla Enterprises, an unregistered person, gets withdrawn, it becomes liable to registration as its turnover had crossed the threshold limit on the day when the exemption is withdrawn.

    Assuming that Babla Enterprises applies for registration within 30 days of 1st October and it obtains such registration, it will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day

immediately preceding the date from which it becomes liable to pay tax, i.e. 30th September [Section 18(1)(a)]. Input tax paid on capital goods will not be available as ITC in this case.

13. If the exempt supply made by a registered person becomes a taxable supply, provisions of section 18(1)(d) become applicable. In the given case, since Mamta Trade Links is a registered person, section 18(1)(d) will be applicable.

As per section 18(1)(d), Mamta Trade Links will be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable, i.e. 30th September. ITC on capital goods will be reduced by 5% per quarter or part thereof from the date of invoice.

14. Computation of ITC that can be availed by Harshgeet Pvt. Ltd. for the month of July:

Particulars	ITC (₹)
Raw Material [ITC not available as raw material is not received in July]	Nil
Membership of a club availed for employees working in the factory (not obligatory to be provided under any law) [Blocked credit in terms of section 17(5)]	Nil
Inputs to be received in 5 lots, out of which 3rd lot was received during the month	Nil

[In case of goods received in lots, ITC can be taken only upon receipt of the last lot]	
Trucks used for transport of raw material [ITC of GST paid on motor vehicles used for transportation of goods is allowed unconditionally]	40,000
Capital goods [ITC can be availed only on the basis of a valid document (invoice). Thus, GST paid on items for which invoice is missing, i.e. ₹ 80,000, is not available.]	70,000
Total ITC	**1,10,000**

15. Computation of ITC that can be availed by Jamku Ltd. for the month of October

Particulars	ITC (₹)
Purchase of raw spices which are sold to customers [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the	50,000

course or furtherance of his business.]	
Purchase of raw spices for personal use of directors [ITC is not available on goods used for personal consumption.]	Nil
Electric machinery purchased for being used in the manufacturing process [Every registered person is entitled to take credit of input tax charged on any supply of goods to him which are used or intended to be used in the course or furtherance of his business.]	25,000
Motor vehicle used for transportation of employee [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles.	Nil

In the given case, since the supplier is in the business of spices, ITC on a 6 seater motor vehicle used for transportation of employees is blocked credit.]	
Payment made to a contractor for construction of staff quarters [ITC is not available for works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service]	Nil
Total ITC	**75,000**

16. **Computation of ITC that can be availed by Dina Ltd. for the month of March:**

Particulars	**ITC (₹)**
Purchase of iron used as a raw material [When inputs are received in lots, ITC can be availed only on the receipt of last lot. Hence, since last lotis received in April, ITC cannot be availed in March.]	Nil
Purchase of accessories	90,000

delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	
Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.	1,97,000
General insurance taken on car (seating capacity 5) used by executives of the company for official purpose [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable	Nil

supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles. Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]	
Total ITC	**2,87,000**

17. Every registered person is entitled to take credit of input tax charged on any supply of goods and/or services which are used or intended to be used in the course or furtherance of his business if, inter alia, he is in possession of a tax invoice issued by a supplier and he has received the goods and/or services.

The registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice. In the event of failure to do so, the corresponding credits availed by the registered person would be required to be reversed or paid by such person alongwith interest. However, once the recipient makes the payment of value of goods and/or services along with tax, he will be entitled to avail the credit again without any time limit. In case part-payment has been made, proportionate credit would be allowed.

In the given case, High-fi Infotech (P) Ltd. provides the service in the month of October and Comfortable (P) Ltd. receives the invoice in the month of November. Therefore, in view of the above provisions and assuming all other conditions required for availing ITC having been fulfilled, ITC of ₹1,98,000 (₹11,00,000 x 18%) will be availed by Comfortable (P) Ltd. For the

month of November when it receives the invoice issued by High-fi Infotech (P) Ltd.

However, proportionate ITC amounting to ₹1,33,932⇒[(₹12,98,000 - ₹4,20,000)/118] x 18] will be reversed in GSTR-3B of Comfortable (P) Ltd. for May month, to be paid along with interest thereon, as full payment has not been made within 180 days of issuance of the invoice, i.e. by 4thMay of next F.Y. ITC of ₹1,33,932 can, however, be availed again by Comfortable (P) Ltd. for the month of July next F.Y. when it makes the balance payment to High-Fi Infotech (P) Ltd.

18. One of the conditions for availing ITC is that the registered person taking the ITC must have received the goods and / or services. However, goods delivered to a third person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. So, ITC is available to the registered person, on whose direction the goods are delivered to a third person even though the registered person does not receive the goods by itself

In the given case, goods have been delivered by M/s. Karim & Bros. (supplier) to Shubhkamna Sales (third person) on the direction of M/s. Diwan & Sons (registered person). Therefore, in view of the above provisions, ITC of ₹ 2,250(₹50 x 250 x 18%) will be available to M/s. Diwan & Sons (registered person) on the purchase of 250 kg of plastic granules @ 50 per kg.

Further, in this case there is another supply between Diwan & Sons (supplier) and Shubhkamna Sales (recipient). Therefore, Shubhkamna Sales can avail ITC of ₹2,700 (₹60 x 250 x 18%) on the purchase of 250 kg of plastic granules @ 60 per kg.

19. Computation of GST payable on outward supplies.

S. No.	Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)

(1)	Intra-State supply of goods for(₹) 10,00,000	90,000	90,000		1,80,000
(2)	Inter-State supply of goods for (₹) 8,00,000			1,44,000	1,44,000
	Total GST payable				**3,24,000**

	Computation of total ITC		
Particulars	**CGST @ 9% (₹)**	**SGST @ 9% (₹)**	**IGST @ 18% (₹)**
Opening ITC	57,000	60,000	1,40,000
Add: ITC on Intra-State purchases of goods valuing (₹) 3,00,000	27,000	27,000	Nil
Add: ITC on Inter-State purchases of goods valuing (₹) 2,50,000	Nil	Nil	45,000
Total ITC	**84,000**	**87,000**	**1,85,000**

Computation of minimum GST payable from electronic cash ledger.

Particulars	CGST @ 9% (₹)	SGST @ 9% (₹)	IGST @ 18% (₹)	Total (₹)
GST	90,000	90,000	1,44,000	3,24,000

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payable				
Less: ITC [First ITC of IGST should be utilized in full -first against IGST liability and then against CGST or SGST liabilities in any order to minimize cash outflow]	(22,000) IGST	(19,000) IGST	(1,44,000) IGST	1,85,000
CGST and SGST ITC utilized against CGST and SGST output Tax liability respectively	(68,000) CGST	(71,000) SGST		1,39,000
Minimum GST payable in cash	Nil	Nil	Nil	Nil
ITC balance to be carried	**16,000**	**16,000**	**Nil**	**32,000**

forward next month				

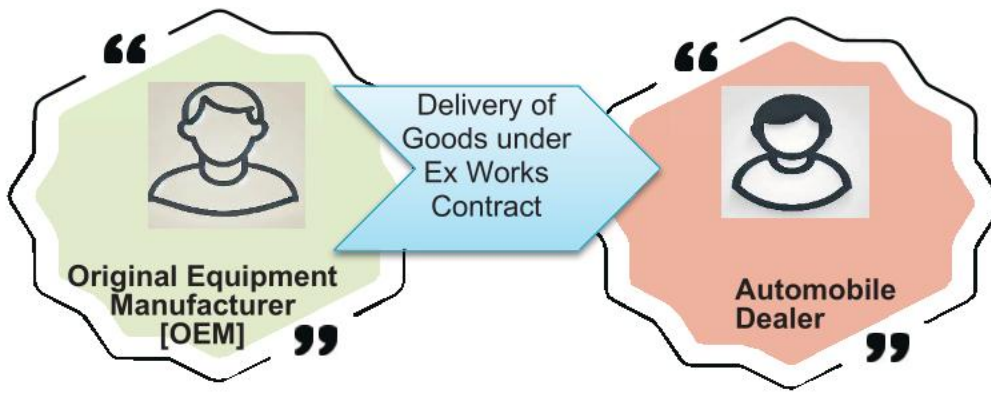
Note: The above computation is one of the many ways to set off the ITC of IGST (₹ 41,000-after set off against IGST liability) against CGST and SGST liability to compute minimum GST payable in cash and carry forward both CGST and SGST ITC equally. To illustrate, IGST of ₹10,000 can be set off against SGST payable and IGST of ₹31,000 can be set off against CGST payable. In this situation also, the net GST payable will be nil but the ITC of CGST and SGST to be carried forward will be ₹25,000and ₹7,000 (totaling to ₹ 32,000), respectively. However, if the entire ITC of ₹41,000 is set off against CGST payable, then SGST of ₹3,000 will be payable in cash thus, increasing the cash outflow. Therefore, such a set-off would not be advisable for computing the minimum GST payable.

CHAPTER 8

INPUT TAX CREDIT

1. Clarification on availability of input tax credit as per clause (b) of section 16(2) of the CGST Act, 2017 in respect of goods which have been delivered by the supplier at his place of business under Ex-Works Contract

In automobile sector, the contract between the automobile dealers and the Original Equipment Manufacturers (OEMs) is generally an Ex-Works (EXW) contract, and as per the terms of the contract, the property in goods (i.e. vehicles) passes to the dealer at the factory gate of the OEM, when the goods are handed over to the transporter at the instance of the dealer, and the delivery on the part of the OEM is complete at his factory gate.



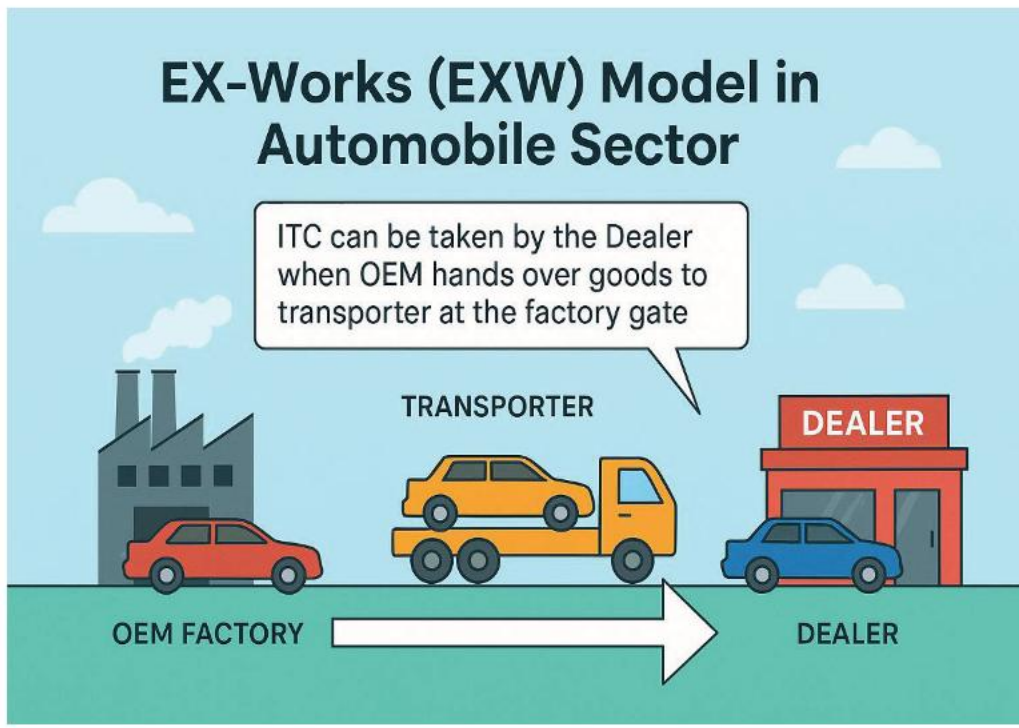
The transport may be arranged by the OEM on behalf of the dealer and where insurance is arranged, it may also be done on behalf of the dealer. Any claim in case of loss has to be lodged by the dealer.

Issue:

Issue which arose for consideration was whether ITC can be availed by the dealer only after the vehicles are physically received by automobile dealers at his business premises or ITC can be availed on the date the vehicles are billed to him and handed over to the transporter by the OEM at his factory gate.

Clarification

In such a scenario, the property in the said goods can be considered to have been passed on to the dealer by the OEM upon handing over of the said goods to the transporter at his factory gate, meaning thereby that the goods can be considered to have been delivered to the registered person (the dealer), through the transporter, by the supplier (the OEM) at his factory gate and the supply of the said goods can be considered to have fructified at the factory gate of the OEM, even though the goods may be physically received by the registered person (the dealer) after the transit period.



Accordingly, it is clarified that as per Explanation to clause (b) of section 16(2) of CGST Act[8], the registered person (the dealer) can be considered to have "received" the said goods at the time of such handing over of the goods by the supplier to the transporter, at his factory gate, for their onward transmission to the said registered person (the dealer).

The same principle is applicable in respect of supply of other goods also where the contract between the supplier and recipient is an EXW contract, and as per terms of the contract, the goods are to be delivered by the supplier to the recipient, or to any other person (including a transporter) on behalf of the recipient, at his (supplier's) place of business and the property in the goods stands transferred to the recipient at the time of such handing over. In such cases, the said goods can be construed to have been "received" by the said recipient at the time of handing over the said goods to the recipient or to the transporter, as the case may be, as per provisions of clause (b) of section 16(2) of CGST Act.

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[8] *Section 16(2)(b)- Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,– he has received the goods or services or both.*
Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services–
(i) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;
(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.

It is also mentioned that as per provisions of section 16(1) of the CGST Act[9], a registered person is entitled to ITC only in respect of supply of goods and/or services, which is used or intended to be used in the course or furtherance of business. **Thus, if the goods are found to have been diverted for non-business purposes at any stage, either before physically receiving the said goods at his business premises or subsequently, the registered person shall not be entitled to ITC on such goods in terms of section 16(1) of CGST Act. Further, if at any time after "receiving" the goods, such goods are lost, stolen, destroyed, written off or disposed of by way of gift or free samples, the registered person would not be entitled to the ITC in respect of such goods as per provisions of clause (h) of section 17(5) of CGST Act[10].**

[Circular No. 241/35/2024 GST dated 31.12.2024]

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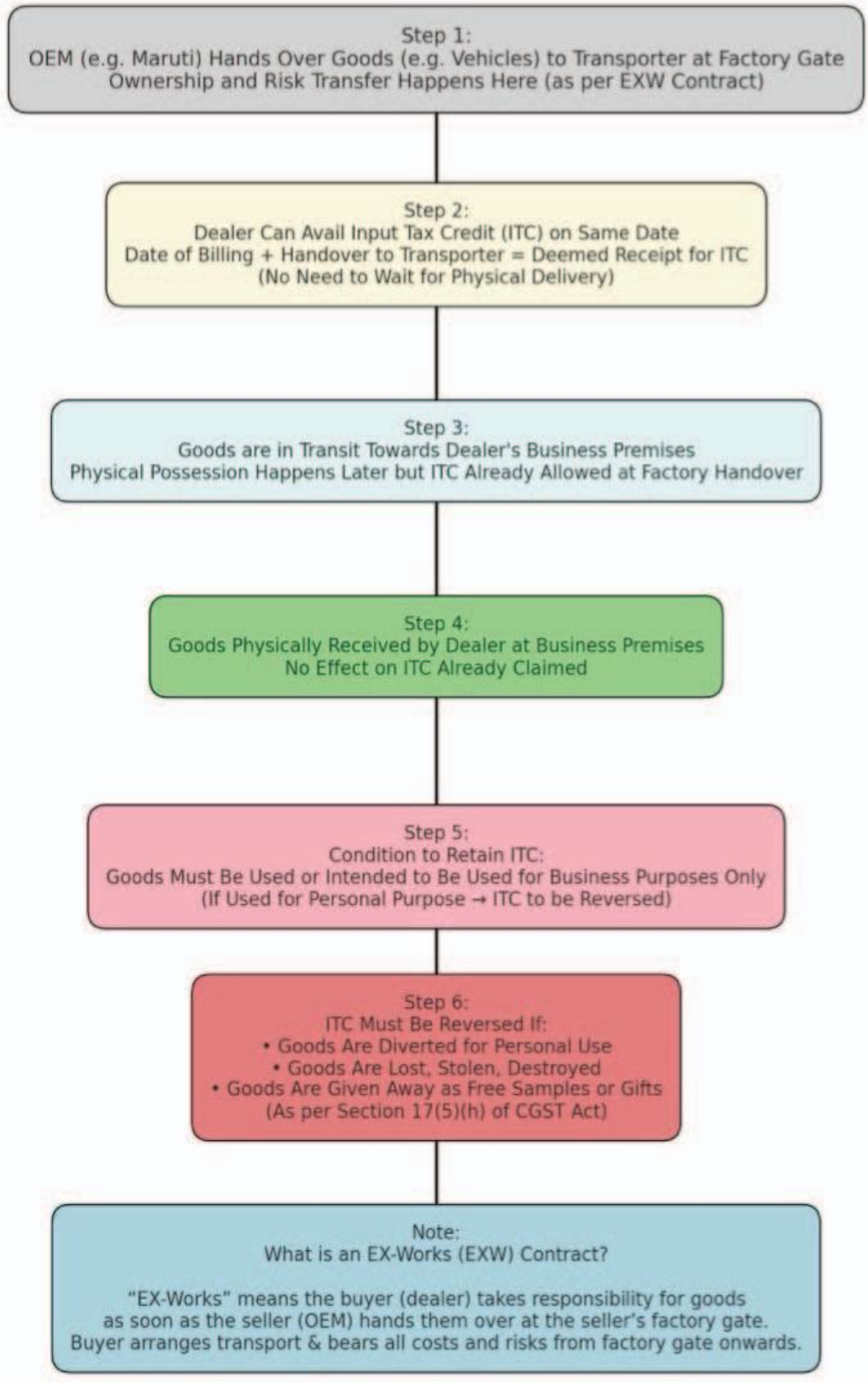
[9] *Section 16(1) - Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*

[10] *Section 17(5)(h)- Notwithstanding anything contained in sub-section (1) of section 16 and sub- section (1) of section 18, input tax credit shall not be available in respect of the following, namely:— goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and*

Detailed Step-Wise Diagram: ITC Availability under EX-Works (EXW) Contract - GST Clarificati



CHAPTER-9 REGISTRATION

1. INTRODUCTION

Under any taxation law, registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. It is the first step towards becoming GST complaint. Under indirect tax regime, without registration, a person can neither collect tax from his customers nor claim any credit of tax paid by him.

Registration legally recognizes a person as supplier of goods or services or both and legally authorizes him 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. He can claim the input tax credit of taxes paid and can utilize the same for payment of taxes due on supply of goods or services. 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 centralized 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.

Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates under the same PAN. Further, he is normally required to obtain single

registration in a State/UT. However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for said State/UT [wherein it can declare one place as principal place of business (PPoB) and other branches as additional place(s) of business (APoB)] or to get separate registrations for each place of business in such State/UT.

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 [Sections 22 to 30] of the CGST Act and Chapter III – Registration [Rules 8 to 26] of the CGST Rules contain the provisions relating to registration. State GST laws also prescribe identical provisions in relation to Registration.

Provisions of registration under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the registration provisions, let us first go through few relevant definitions.

2. RELEVANT DEFINITIONS

- **Common portal:** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- **Taxable supply:** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108)].
- **Taxable territory:** means the territory to which the provisions of this Act apply [Section 2(109)].
- **Place of business:** includes [Section 2(85)]:

a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

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a place where a taxable person maintains his books of account; or

a place where a taxable person is engaged in business through an agent, by whatever name called.

- **Appellate Authority:** means an authority appointed or authorised to hear appeals as referred to in section 107[1] [Section 2(8)].
- **Fixed establishment:** means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs [Section 2(50)].
- **Principal place of business:** means the place of business specified as the principal place of business in the certificate of registration [Section 2(89)].
- **Proper officer:** in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board [Section 2(91)].
- **Registered person:** means a person who is registered under section 25, but does not include a person having a Unique Identity Number [Section 2(94)].
- **Tax period:** means the period for which the return is required to be furnished [Section 2(106)].

1 Section 107 contains the provisions relating to 'Appeals to Appellate Authority'. The same shall be discussed in detail at final level.

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3. CONCEPT OF TAXABLE PERSON [SECTION 2(107)]

Under GST law, the concept of taxable person is significant since tax on supplies of goods and/or services, is to be paid by a taxable person. So, let us understand the concept of taxable person. As per section 2(107), taxable person means a person who is registered or liable to be registered under section 22 or section 24 [These sections have been discussed in detail subsequently in this Chapter].

Thus, even an unregistered person who is liable to be registered is a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

In the subsequent paras, we will see when does a person becomes liable to get registered, what is the procedure for getting registered under GST and how to get the registration application amended, when can registration be cancelled and when the cancellation of the registration by the Department or by the registered person be revoked.

Following sections of Chapter VI – Registration of the CGST Act shall be discussed in this chapter to understand the registration provisions:

Section 23	Persons not liable for registration
Section 24	Compulsory registration in certain cases
Section 25	Procedure for registration.
Section 26	Deemed registration
Section 27	Special provisions relating to casual taxable person and non-resident taxable person
Section 28	Amendment of registration
Section 29	Cancellation or suspension of registration
Section 30	Revocation of cancellation of registration ©

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4. PERSONS LIABLE FOR REGISTRATION [SECTION 22]

STATUTORY PROVISIONS	
Section 22 (Relevant Extract)	**Persons liable for registration**
Sub-section	**Particulars**
1	Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees. Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees. Provided further that the Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ten lakh rupees to such amount, not exceeding twenty lakh rupees and subject to such conditions and limitations, as may be so notified. Provided also that the Government may, at the request of a State and on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified. **Explanation–**For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in 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.

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2	Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.
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 the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
4	Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.
	Explanation[2]–For the purposes of this section, –
	i the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals
	iii the expression "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution except the State of Jammu and Kashmir and States of Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.

2 Clause (ii) to Explanation relates to 'Job work'. The same shall be discussed in detail at final level

ANALYSIS

(i) Threshold limit for registration

- Every supplier of goods or services or both is required to obtain registration
- in the State or the Union territory from where he makes the taxable supply
- if his **aggregate turnover** exceeds specified threshold limit in a FY.

Aggregate Turnover

Before, we study what is the applicable threshold limit for various States/ UTs, let us first understand the concept of **aggregate turnover**.

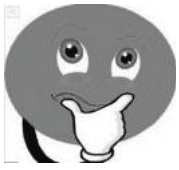
Aggregate turnover is a crucial parameter for deciding the eligibility of a supplier to avail the benefit of threshold exemption from registration, eligibility for composition scheme [Discussed in Chapter 3 – Charge of GST].

'Turnover' in common parlance is the total volume of business. The term 'aggregate turnover' as defined under section 2(6) has been presented in the diagrammatic form as follows:

AGGREGATE TURNOVER	
Includes	**Excludes**
Value of all outward supplies	CGST/SGST/UTGST/IGST/Cess
Taxable supplies	Value of inward supplies on which tax is payable under reverse charge.
Exempt supplies	
Exports	
Inter-State supplies	
Of persons having the same PAN to be computed on all India basis.	

Section 2(6) [definition of 'aggregate turnover' as given above] read with explanation (i) to section 22 has been analysed as follows:

(A) Aggregate turnover to exclude inward supplies on which tax is payable under reverse charge: It may be noted that the inward supplies on which recipient is required to pay tax under Reverse Charge Mechanism (RCM) do not form part of the 'aggregate turnover'. The law stipulates certain supplies like, Goods Transport Agency services, legal services, sponsorship services, to name a few, where the recipient of service is made to pay the tax – Discussed in detail in Chapter 3 – Charge of GST. The value of such supplies would not form part of the 'aggregate turnover' of recipient of such supplies.



Outward Supplies taxable under reverse charge would continue to be part of the 'Aggregate turnover' of the supplier of such supplies

EXAMPLES **(1)** Raghubir Private Ltd. pays GST on sitting fees paid to its directors for the services rendered by them, taxable under reverse charge. Value of services provided by the directors to Raghubir Private Ltd. will form part of the aggregate turnover of the directors and not of Raghubir Private Ltd.

(B) Aggregate turnover excludes the element of CGST, SGST, UTGST, and IGST and compensation cess.

(C) Aggregate turnover to include total turnover of all branches (i.e. all GST registrations) under same PAN

Aggregate turnover is calculated by taking together the value in respect of the activities carried out on all-India basis.

EXAMPLES **(2)** A dealer 'X' has two offices – one in Delhi and another in Haryana. In order to determine whether 'X' is liable for registration, turnover of both the offices would be taken into account and only if the same exceeds the applicable threshold limit, X is liable for registration subject to provisions of section 24.

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(D) Value of exported goods/services, exempted goods/services, inter-State supplies between distinct persons having same PAN, to be included in aggregate turnover.

EXAMPLES

(3) Madhur Oils, Punjab, is engaged in supplying machine oil as well as petrol. Supply of petrol is not leviable to GST, but supply of machine oil is taxable. In order to determine whether Madhur Oils is liable for registration, turnover of both non-taxable[3] as well as taxable supplies would be taken into account and if the same exceeds the applicable threshold limit, Madhur Oils is liable for registration.

(E) Aggregate turnover to include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals.

EXAMPLES

(4) Mohini Enterprises has appointed M/s Bestfords & Associates as its agent. M/s Bestfords & Associates makes supply of goods on its own account and, on behalf of Mohini Enterprises where invoices are issued in name of M/s Bestfords & Associates only.

All the supplies of goods made by M/s Bestfords & Associates as agent of Mohini Enterprises as well as on its own account will be included in the aggregate turnover of M/s Bestfords & Associates.

(F) 'Aggregate turnover' Vs. 'Turnover in a State': The aggregate turnover is different from turnover in a State. The former is used for determining the threshold limit for registration and eligibility for composition scheme [Discussed in Chapter 3 – Charge of GST]. However, once a person is eligible for composition levy, the GST payable under composition levy would be calculated as a specified % of 'turnover in the State/UT'.

Applicable threshold limit

The threshold limit prescribed under section 22(1) is ₹ **20 lakh** in a FY, i.e. every supplier, whose aggregate turnover in a financial year exceeds ₹ 20 lakh, is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services.

3 Exempt supply includes non-taxable supply as per section 2(47).

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However, the limit of ₹ 20 lakh will be reduced to ₹ **10 lakh** if the person is carrying out business in **Special Category States**. As per Article 279A(4)(g) of the Constitution, there are 11 Special Category States, namely, States of Arunachal Pradesh, Assam, Jammu and Kashmir[4], Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand. However, as per the explanation (iii) to section 22, for the purposes of registration, only Mizoram, Tripura, Manipur and Nagaland are Special Category States. Therefore, the threshold limit ₹ 10 lakh is applicable for Mizoram, Tripura, Manipur and Nagaland.

If a person with places of business in different States across India has one branch in a Special Category State from which it makes a taxable supply, the threshold limit for GST registration will be reduced to ₹ 10 lakh.

Government is empowered to enhance the threshold limit of ₹ 20 lakh upto ₹ 40 lakh for a supplier engaged exclusively in the supply of goods, at the request of a State and on the recommendations of the Council. This shall be subject to such conditions and limitations, as may be notified.

For the purposes of section 22(1), a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in 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.

Further, Notification No. 10/2019 CT dated 07.03.2019 exempts any person who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed ₹ 40 lakh, from registration requirement.

Exceptions to this exemption are as follows:

(a) Persons required to take compulsory registration under section 24.

4 The erstwhile State of Jammu and Kashmir was reorganised into the Union territory of Jammu and Kashmir (with Legislature) and Union territory of Ladakh vide the Jammu and Kashmir Reorganisation Act, 2019

4 The erstwhile State of Jammu and Kashmir was reorganised into the Union territory of Jammu and Kashmir (with Legislature) and Union territory of Ladakh vide the Jammu and Kashmir Reorganisation Act, 2019.

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(b) Persons engaged in making supplies of

(i) ice cream and other edible ice, whether or not containing cocoa [2105 00 00],

(ii) pan masala [2106 90 20],

(iii) all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes,

(iv) fly ash bricks; fly ash aggregates; fly ash blocks [6815],

(v) bricks of fossil meals or similar siliceous earths [6901 00 10],

(vi) building bricks [6904 10 00],

(vii) earthen or roofing tiles [6905 10 00].

(c) Persons engaged in making **intra-State supplies** in the States of Arunachal Pradesh, Uttarakhand, Meghalaya, Sikkim, Telangana, Puducherry and Special Category States as per section 22 [Nagaland, Mizoram, Manipur, Tripura]. **Inter-State supplies of goods** are nevertheless liable to compulsory registration and are already covered in exception (a) above.

(d) Person who has opted for **voluntary registration** or such registered persons who intend to continue with their registration under the CGST Act.

In view the above discussion, the registration requirements under GST can be summarised as follows:

			Threshold limit for persons engaged	
			exclusively in supply of goods	**exclusively in supply of services/ both goods & services**
States/UTs other than Special Category States		Puducherry	₹ 20 lakh	₹ 20 Lakh
		Telangana	₹ 20 lakh	₹ 20 Lakh
		Others	₹40 lakh	₹ 20 Lakh
		Manipur	₹ **10 lakh**	₹ **10 lakh**

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Special Category States/ UTs as per Constitution	**Category States as per section 22**	Mizoram	₹ 10 lakh	₹ 10 Lakh
		Nagaland	₹ 10 lakh	₹ 10 lakh
		Tripura	₹ 10 lakh	₹ 10 lakh
	Other States/UTs	Jammu and Kashmir	₹ 40 lakh	₹ 20 Lakh
		Assam	₹ 40 lakh	₹ 20 Lakh
		Himachal Pradesh	₹ 20 Lakh	₹ 20 Lakh
		Arunachal Pradesh	₹ 20 Lakh	₹ 20 Lakh
		Meghalaya	₹ 20 Lakh	₹ 20 Lakh
		Sikkim	₹ 20 Lakh	₹ 20 Lakh
		Uttarakhand	₹ 20 Lakh	₹ 20 Lakh

States with threshold limit of ₹ 10 lakh for supplier of goods and/or services

Manipur

Mizoram

Nagaland

Tripura

States/UTs with threshold limit of ₹ 20 lakh for supplier of goods and/or services

Arunachal Pradesh

Meghalaya

Nagaland

Sikkim

Uttarakhand

Puducherry

Telangana

States/UTs with threshold limit of ₹ 20 lakh for supplier of services/ both goods and services and ₹ 40 lakh for supplier of goods (Intra-State)

Jammu and Kashmir

Assam

Himachal Pradesh

All other States

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EXAMPLES

(5) Prithiviraj of Assam is exclusively engaged in intra-State supply of shoes. His aggregate turnover in the current financial year is ₹ 22 lakh. In view of the discussion in the above paras, the applicable threshold limit for registration for Prithviraj in the given case is ₹ 40 lakh. Thus, he is not liable to get registered under GST.

If in above example, all other things remaining the same, Prithiviraj is exclusively engaged in supply of pan masala instead of shoes, he will not be eligible for higher threshold limit of ₹ 40 lakh and the applicable threshold limit for registration in that given case will be ₹ 20 lakh. Thus, Prithiviraj will be liable to get registered under GST.

If instead of pan masala, Prithiviraj is exclusively engaged in supply of taxable services, the applicable threshold limit for registration will still be ₹ 20 lakh. Thus, Prithiviraj will be liable to get registered under GST.

Further, if Prithiviraj is engaged in supply of both taxable goods and services, the applicable threshold limit for registration will be ₹ 20 lakh only. Thus, Prithiviraj will be liable to get registered under GST.

EXAMPLES

(6) Shivaji of Telangana is exclusively engaged in intra-State supply of toys. Its aggregate turnover in the current financial year is ₹ 22 lakh. Since Shivaji is making taxable supplies from Telangana, he will not be eligible for higher threshold limit available in case of exclusive supply of goods. The applicable threshold limit for registration for Shivaji in the given case is ₹ 20 lakh. Thus, he is liable to get registered under GST.

If in above example, all other things remaining the same, Shivaji is exclusively engaged in supply of taxable services instead of toys, the applicable threshold limit for registration will still be ₹ 20 lakh. Thus, Shivaji will be liable to get registered under GST.

Further, if Shivaji is engaged in supply of both taxable goods and services, the applicable threshold limit for registration will be ₹ 20 lakh only. Thus, Shivaji will be liable to get registered under GST.

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EXAMPLES **(7)** Ashoka of Manipur is exclusively engaged in intra-State supply of paper. Its aggregate turnover in the current financial year is ₹ 12 lakh. Since Ashoka is making taxable supplies from Manipur which is a Special Category State, the applicable threshold limit for registration for Ashoka in the given case is ₹ 10 lakh. Thus, he is liable to get registered under GST. If in above example, all other things remaining the same, Ashoka is exclusively engaged in supply of taxable services instead of paper, the applicable threshold limit for registration will still be ₹ 10 lakh. Thus, Ashoka will be liable to get registered under GST.

Further, if Ashoka is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in that given case will be ₹ 10 lakh only. Thus, Ashoka will be liable to get registered under GST.

EXAMPLES **(8)** Raghav of Assam is exclusively engaged in intra-State supply of readymade garments. His turnover in the current F.Y. from Assam showroom is ₹ 28 lakh. He has another showroom in Tripura with a turnover of ₹ 11 lakh in the current F.Y. Since Raghav is engaged in supplying garments from a Special Category State as per section 22, the applicable threshold limit for him gets reduced to ₹ 10 lakh. Further, Raghav is liable to get registered under GST in both Assam and Tripura on his aggregate turnover crossing the threshold limit of ₹ 10 lakh.

(ii) Registration to be obtained only for a place of business from where taxable supply takes place

A supplier is required to obtain registration with respect to his each place of business in India from where a taxable supply has been made. However, a supplier is not liable to obtain registration in a State/UT from where he makes an exempt/non-taxable supply.

It is pertinent to note here that a supplier is required to obtain registration only in the State(s) **"from where taxable supply is made"** and not **"where taxable supply is made"**. It may be noted that if goods and/or services are supplied **in** different States, GST registration is not required in each such State(s).

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Thus, if a person has only liaison office or marketing office in a State and if there is no taxable supply from that State, he is not required to obtain registration in that State, even if he is registered in other State/s. Thus, in that State where liaison office or marketing office is located, he will be treated as 'unregistered'.

EXAMPLES

(9) Mr. X has a registered office in Delhi. He imports goods which are landed at Mumbai Sea port. Mr. X enters into a sales agreement with Mr. Y located in Mumbai to directly sell the goods from the Mumbai port. In this case, Mr. X is not required to obtain registration in Mumbai as he has no fixed establishment in Mumbai.

Further, in a State from where taxable supply has been made, registration is required to be obtained only if the supplier has a "fixed establishment" in such State. This aspect is more relevant in respect of supply of services like repair & maintenance, transportation, security, erection & commissioning services and construction contracts etc.

Further, the threshold limit of a person having places of business in more than one State/UT in India gets reduced to ₹ 10 lakh only when such person makes **taxable supplies** of goods or services or both **from any of the Special Category States** as per section 22. However, in case he makes exempt/non-taxable supply from a Special Category State and taxable supplies from a State other than Special Category State, the threshold limit shall not be so reduced.

EXAMPLES

(10) Uday Enterprises is engaged in supply of taxable goods and services in Maharashtra. It also supplies alcoholic liquor for human consumption from Nagaland. Its turnover in the current financial year is ₹ 14 lakh in Maharashtra and ₹ 11 lakh in Nagaland.

Since Uday Enterprises is engaged in making taxable supplies of goods and services from Maharashtra, the applicable threshold limit for obtaining registration is ₹ 20 lakh. However, the threshold limit will not be reduced to ₹ 10 lakh in this case, as supply of alcoholic liquor for human consumption from Nagaland (one of the Special Category States) is non-taxable supply[5].

5 in terms of section 9(1)

In the given case, since the aggregate turnover of Uday Enterprises exceeds the applicable threshold limit of ₹ 20 lakh, it is liable to obtain registration. It will obtain registration in Maharashtra but is not required to obtain registration in Nagaland as he is not making any taxable supplies from the said State.

(iii) Person liable for registration in case of transfer of business

Where a business is transferred, whether on account of succession/any other reason [including transfer/change in the ownership of business due to death of the sole proprietor[6]], to another person as a going concern, the transferee/successor, is to be registered with effect from the date of such transfer/succession. Where the business is transferred, pursuant to sanction of a scheme/ arrangement for amalgamation/ de-merger of two or more companies, pursuant to an order of a High Court/Tribunal, the transferee is to be registered with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order.

5. COMPULSORY REGISTRATION IN CERTAIN CASES [SECTION 24]

As we have seen above that a supplier is liable to be registered under GST in the State/ Union territory from where he makes the taxable supply of goods and/or services only if his aggregate turnover in a financial year exceeds the applicable threshold limit. However, there are certain cases wherein a supplier is mandatorily required to obtain registration irrespective of the quantum of his aggregate turnover. In other words, these are the cases wherein a supplier is compulsorily required to obtain registration even though his aggregate turnover does not exceed the applicable threshold limit.

However, certain exemptions from registration have also been provided under section 23. These exceptions have been incorporated briefly at the relevant places in the discussion under this heading in order to provide a holistic picture. The exceptions have also been explained in detail in the next heading 6. Persons not liable for registration.

6 clarified vide Circular No. 96/15/2019 GST dated 28.03.2019.

The category of persons requiring compulsory registration under GST have been enlisted below:

(1) **Persons making any inter-State taxable supply**. However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in case of inter-State supply of **taxable services** and of notified handicraft goods.

(2) **Casual taxable persons (CTP) making taxable supply.** However, threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in case of CTP who is making inter-State taxable supplies of notified handicraft goods and availing the benefit of exemption from registration as mentioned in point (1) above.

(3) **Persons who are required to pay tax under reverse charge on inward supplies received.** However, persons engaged exclusively in making outward supplies, tax on which is liable to be paid on reverse charge basis under section 9(3) **[except suppliers of metal scrap (Chapter 72 to 81)]** are exempt from registration.

(4) **Non-resident taxable persons (NRTP) making taxable supply.**

(5) **E-commerce:**

(i) Every ECO (Electronic Commerce Operator) who is required to collect tax at source under section 52.

(ii) Persons who are required to pay tax under section 9(5)[7] i.e. e-commerce operator who is required to pay tax on specified services.

(iii) Persons who supply goods and/or services, other than supplies specified under section 9(5), through such ECO who is required to collect TCS under section 52. Exceptions are as follows:

- The threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) is available in case of suppliers supplying **services** through ECO.

[7] The provisions of section 9(5) of the CGST Act, 2017 where the ECO is required to pay tax are discussed in detail in Chapter 3 – Charge of GST in Module 1 of this Study Material.

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- The threshold limit for registration is available to persons making intra-State supplies of **goods** through ECO.

(6) Persons who are required to deduct tax under section 51, whether or not separately registered under this Act.

(7) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise.

(8) Input Service Distributor, whether or not separately registered under this Act.

(9) Every person supplying online information and data base access or retrieval (OIDAR) services from a place outside India to a person in India, other than a registered person[8].

(10) **every person supplying online money gaming from a place outside India to a person in India**

(11) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Note: Concept of CTP and NRTP is explained subsequently in this chapter.

6. PERSONS NOT LIABLE FOR REGISTRATION [SECTION 23]

(i) Persons not liable to registration

Section 23 lists the persons who are not liable to registration. Thus, the persons so listed will not be the 'taxable persons.

(A) **Person engaged exclusively in the business of supplying goods and /or services not liable to tax/wholly exempt from tax: As per** section 23, any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under CGST Act/IGST Act shall not be liable to registration.

8 The provisions relating to Input Service Distributor, OIDAR services and supply of service of online money gaming from a place outside India to a person in India will be discussed in detail at the Final Level. Hence, text shaded in blue here is only for the purpose of knowledge of the students and is not relevant for the examinations.

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This provision can be understood with the help of following examples:

EXAMPLES **(11)** Madhur Oils, Punjab, is exclusively engaged in supplying petrol. Supply of petrol is not leviable to GST. Thus, Madhur Oils is not liable for registration as it is engaged exclusively in supplying goods not leviable to tax.

EXAMPLES **(12)** Bhavyajyoti Foundation, a charitable trust registered under section 12AA of the Income-tax Act, 1961, is exclusively engaged in supply of services by way of charitable activities. Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities are exempt from GST. Thus, Bhavyajyoti Foundation is not liable for registration as it is exclusively engaged in supplying services exempt from tax.

(B) **An agriculturist, to the extent of supply of produce out of cultivation of land:** An agriculturist to the extent of supply of produce out of cultivation of land is also not liable to registration. The term agriculturist has been defined under section 2(7) as an individual/Hindu Undivided Family (HUF) who undertakes **cultivation of land**—

(a) by own labour, or

(b) by the labour of family, or

(c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

From the above definition, it is clear that the benefit of not being liable to registration is only restricted to the agriculturists who are individuals or HUFs. Further, if an agriculturist is also engaged in making any supply other than supply of produce out of cultivation of land, he shall be liable to registration based on applicable threshold limit.

EXAMPLES **(13)** Deshbandhu is an agriculturist engaged in cultivation of wheat in his field in the State of Punjab. He was exclusively engaged in intra-State supply of wheat cultivated in his field in the previous year.

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Thus, he was not liable to registration as he was exclusively engaged in supply of produce out of cultivation of land.

In the current year, he decided to start trading in pre-packaged and labelled puffed rice apart from supplying his wheat produce. His turnover in the current year is ₹ 32 lakh from supply of wheat produced and ₹ 9 lakh from trading of pre-packaged and labelled puffed rice.

Since he is engaged in trading of pre-packaged and labelled puffed rice also, he is not covered under section 23 above. The threshold limit for registration applicable to a person exclusively engaged in supply of goods in the State of Punjab is ₹ 40 lakh. The aggregate turnover of Deshbandhu in the current year is ₹ 41 lakh [₹ 32 lakh + ₹ 9 lakh] which exceeds the threshold limit. Thus, he will be liable to registration.

(ii) Specified category of persons notified by the Government exempted from obtaining registration

Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.

The following category of persons have been notified as being exempted from obtaining registration under GST law:

A. Persons making only reverse charge supplies

Persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) have been exempted from obtaining registration.

However, nothing contained in this notification shall apply to any person engaged in the supply of metal scrap, falling under Chapters 72 to 81 in the first schedule to the Customs Tariff Act, 1975.

[Notification No. 5/2017 CT dated 19.06.2017]

EXAMPLES

(14) Manikaran Transporters is a Goods Transport Agency (GTA) engaged exclusively in supplying GTA services liable to tax under reverse charge [since tax is being paid on GTA services @ 5% and Manikaran has not exercised the option to pay GST itself in the given case]. Thus, it is exempt from registration as it is engaged exclusively in making supplies, tax on which is liable to be paid on reverse charge basis.

Further, Manikaran Transporters supplies said service to Diwakar Manufacturing Pvt. Ltd. whose aggregate turnover does not exceed the applicable threshold limit. However, since Diwakar Manufacturing Pvt. Ltd. has to pay tax on GTA services [@ 5%] under reverse charge, it is required to obtain registration mandatorily irrespective of its aggregate turnover.

B. Persons making inter-State supplies of taxable services up to ₹ 20 lakh

The persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 lakh in a financial year have been exempted from obtaining compulsory registration. However, the aggregate value of such supplies, computed on all India basis, should not exceed an amount of ₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland **[Notification No. 10/2017 IT dated 13.10.2017].**

EXAMPLES

(15) Dhola & Co., located in Delhi, is engaged in supply of taxable goods[9] in the neighbouring States of Punjab and Haryana. Its aggregate turnover in current FY is ₹ 10 lakh. Since it is engaged in making inter-State taxable supply of goods, it is required to register mandatorily under GST irrespective of its aggregate turnover.

However, if in the above case, Dhola & Co. is engaged in inter- State supply of taxable services instead of goods, it will be eligible for exemption from registration till its aggregate turnover does not exceed ₹ 20 lakh.

9 other than notified handicraft goods

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C. Persons making inter-State taxable supplies of notified handicraft goods up to ₹ 20,00,000

As we have seen earlier that as per section 24 read with Notification No. 10/2017 IT, a person making inter-State supplies of goods is liable to be registered compulsorily under GST irrespective of the threshold limit.

However, in the following cases, **persons making inter-State supplies** of goods have been exempted from obtaining registration:

(a) Persons making inter-State taxable supplies of **notified[10] handicraft goods**.

(b) Persons making inter-State taxable supplies of **notified products[11]**, when made by craftsmen predominantly by hand even though some machinery may also be used in the process.

Conditions to be fulfilled:

1. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] in a FY.

2. Such persons have obtained a PAN and have generated an e-way bill[12]
[Notification No. 3/2018 IT dated 22.10.2018].

10 Handicraft goods referred herein are goods as defined and notified in Notification No. 21/2018 CT (R) dated 26.07.2018. This notification notifies the handicraft items which are eligible for concessional rate of tax, for instance, handcrafted candles, articles made of paper mache, coir articles, handbags including pouches and purses; jewellery box, hand embroidered articles, art ware of iron/aluminium, etc. These examples are only for the purpose of knowledge and are not relevant for examination purposes. Handicraft goods are defined under said notification as goods predominantly made by hand even though some tools or machinery may also have been used in the process; such goods are graced with visual appeal in the nature of ornamentation or in-lay work or some similar work of a substantial nature; possess distinctive features, which can be aesthetic, artistic, ethnic or culturally attached and are amply different from mechanically produced goods of similar utility.

11 Some of the notified products are leather articles, carved wood products, wood turning and lacquer ware, bamboo products, textiles hand printing, theatre costumes, musical instruments, dolls and toys, etc. These examples are only for the purpose of knowledge and are not relevant for examination purpose.

12 The provisions relating to e-way bill have been discussed in detail in Chapter 12 in this Module of the Study Material.

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EXAMPLES

(16) Ariza Pvt. Ltd., located in Madhya Pradesh, is a supplier of taxable and notified handicraft goods. It supplies these goods in the neighbouring States of Uttar Pradesh and Orissa. Its aggregate turnover in the month of April is ₹ 15 lakh. Although Ariza Pvt. Ltd. is engaged in making inter-State supplies of taxable goods, it is not liable to obtain registration till its aggregate turnover does not exceed ₹ 20 lakh as it has availed the exemption from registration under Notification No. 03/2018 IT[13].

D. Casual Taxable Persons making inter-State taxable supplies of notified handicraft goods up to ₹ 20 lakh

As we have seen earlier that as per section 24, a CTP is liable to be registered compulsorily under GST irrespective of the threshold limit. However following categories of CTPs have been exempted from obtaining registration:

(a) CTPs making inter-State taxable supplies of **notified handicraft goods**, [as referred in Point C. above] or

(b) CTPs making inter-State taxable supplies of **notified products** [as referred in Point C. above], when made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

Conditions to be fulfilled:

1. CTPs are availing benefit of Notification No. 03/2018 IT dated 22.10.2018 [discussed above].
2. The aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] in a FY.
3. Such persons have obtained a PAN and have generated an e-way bill **[Notification No. 56/2018 CT dated 23.10.2018]**.

E. Persons making supplies of services through an ECO [other than supplies specified under section 9(5)] with aggregate turnover up to ₹ 20 lakh

13 subject to fulfilment of other conditions prescribed under said notification.

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Persons making supplies of services, other than supplies specified under section 9(5), through an ECO who is required to collect tax at source under section 52, and having an aggregate turnover, to be computed on all India basis, not exceeding ₹ **20 lakh** (₹ **10 lakh** in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland) in a FY, have been exempted from obtaining compulsory registration [Notification No. 65/2017 CT dated 15.11.2017].

Therefore, all service providers, whether supplying intra-State, inter-State or through ECO, will be exempt from obtaining registration, provided their aggregate turnover does not exceed ₹ 20 lakh (₹ 10 lakh in special category States of Mizoram, Tripura, Manipur and Nagaland).

(F) Persons making intra-State supplies of goods through an ECO with aggregate turnover up to the threshold limit

The persons making supplies of goods through an ECO who is required to collect TCS under section 52 and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit in accordance with the provisions of section 22(1), are exempted from obtaining registration, subject to the following conditions, namely:

(i) such persons shall not make any inter-State supply of goods;

(ii) such persons shall not make supply of goods through ECO in more than one State/Union territory;

(iii) such persons shall be required to have a PAN issued under the Income-tax Act, 1961;

(iv) such persons shall, before making any supply of goods through ECO, declare on the common portal:

a. their PAN

b. address of their place of business and

c. State/UT in which such persons seek to make such supply,

which shall be subjected to validation on the common portal;

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(v) such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared above;

(vi) such persons shall not be granted more than one enrolment number in a State/UT;

(vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and

(viii) where such persons are subsequently granted registration under section 25, the enrolment number shall cease to be valid from the effective date of registration.

[Notification No. 34/2023 CT dated 31.07.2023]

Liability to register in respect of services provided by the commission agent as per APMC Act for sale/ purchase of agricultural produce

CBIC[14] has clarified the issue as to whether the services provided by the commission agent as per APMC Act for sale/ purchase of agricultural produce qualify as supply under GST with the help of the following example. It further examines and clarifies the registration requirements of such commission agents.

Mr. A sells agricultural produce by utilizing the services of Mr. B who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State[15]. Mr. B identifies the buyers and sells the agricultural produce on behalf of Mr. A for which he charges a commission from Mr. A.

In case where the invoice is issued directly by Mr. A to the buyer, the commission agent (Mr. B) doesn't fall under the category of agent covered under Schedule I. However, in case where the invoice is issued by Mr. B to the buyer, Mr. B is an agent as covered under Para 3 of Schedule I to the CGST Act.

14 Circular No. 57/31/2018 GST dated 04.09.2018

15 As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction

Hence, in such cases, the services supplied by commission agent Mr. B on behalf of the principal without consideration shall be deemed to be a supply – Concept of Deemed Supply under Schedule-I has been discussed in detail in Chapter 2 – Supply under GST.

The registration requirements of the commission agents in such cases have been examined and clarified as follows:

(i) As we have already seen, as per section 24, a person is liable for mandatory registration if he makes **taxable supply** of goods or services or both **on behalf of other taxable persons.**

Accordingly, a commission agent will be liable to get mandatorily registered under this provision only when both the following conditions are satisfied:

(a) the principal should be a taxable person; and
(b) the supplies made by the commission agent should be taxable.

However, generally, a commission agent under APMC Act makes supplies on behalf of an **agriculturist** who is not a taxable person if he supplies produce out of cultivation of land[16] [as seen above].

Thus, a commission agent, who is making supplies on behalf of non-taxable person [viz. agriculturist], is not liable for compulsory registration under this provision.

(ii) Further, since the services provided by the commission agent for sale/ purchase of agricultural produce are exempt from GST[17], **such commission agents are not liable to be registered in accordance with provisions of section 23(1)(a)** [as discussed above].

(iii) However, where a commission agent is liable to pay tax under reverse charge, such an agent will be required to get registered compulsorily (We have already seen under previous heading that persons liable to pay tax under reverse charge are required to obtain registration mandatorily).

[16] in terms of section 23(1)(a)

[17] Notification No. 12/2017 CT (R) dated 28.06.2017 [Discussed in Chapter 5 – Exemptions from GST in Module-1 of the Study material.]

The provisions of section 23 can be summarized in the following diagram:

Persons not liable for registration	
Person engaged exclusively in the business of supplying goods/ services/ both not liable to tax	Person engaged exclusively in the business of supplying goods/ services/ both wholly exempt from tax
Agriculturist to the extent of supply of produce out of cultivation of land	Specified category of persons notified by the Government on GST Council recommendation

ILLUSTRATION 1

Examine, with reason, whether registration is required, under CGST Act, in the following independent cases:

(i) Aadhav Computers of Gujarat is providing computer maintenance service. Aggregate turnover of Aadhav Computers is ₹ 15 lakh which comprises both inter-State and intra-State supply.

(ii) Soft Wings of West Bengal, exclusively trading in garments, supplies its taxable goods in various States of India from its outlet in West Bengal. Aggregate turnover of Soft Wings is ₹ 35 lakh.

ANSWER

(i) Registration is compulsory for suppliers engaged in inter-State supply. However, as per Notification No. 10/2017 IT dated 13.10.2017, threshold exemption of ₹ 20 lakh [₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland] is available in case of inter-State supply of taxable services. Therefore, Aadhav Computers [aggregate turnover ₹ 15 lakh] is not required to obtain registration even though it is engaged in inter-State supply of taxable services.

(ii) The threshold limit for registration in the State of West Bengal for the persons engaged exclusively in supply of goods, is ₹ 40 lakh. However, registration is compulsory if the supplier is engaged inter-State supply of

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goods irrespective of the quantum of aggregate turnover. The threshold exemption is not available in case of inter-State supply of taxable goods. Thus, Soft Wings is required to obtain registration.

ILLUSTRATION 2

Examine whether the liability to register compulsorily under section 24 arises in each of the independent cases mentioned below:

(1) Meenu, a supplier in Maharashtra, is exclusively engaged in supply of potatoes produced out of cultivation of her own land, within Maharashtra and also outside Maharashtra.

(2) Jinu Oils, Gujarat, is engaged in supplying machine oil as well as petrol. Further, it provides intra-state services of refining of oil to customers. Total turnover of supply of machine oil is ₹ 10 lakh, supply of petrol is ₹ 5 lakh and supply of services is ₹ 6 lakh.

(3) Tilu is working as an agent, he is supplying taxable goods as an agent of Tiku (who is registered taxable person) and its aggregate turnover does not exceed the applicable threshold limit during the financial year. Invoices to customers are issued in name of Tilu.

ANSWER

(1) Section 24 provides that persons making any inter-State taxable supply of goods are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.

However, as per section 23, an agriculturist, to the extent of supply of produce out of cultivation of land, is not liable to registration.

Meenu is exclusively engaged in cultivation and supply of potatoes. Thus, she is not liable to registration irrespective of the fact that she is engaged in making inter-State supply of goods. Further, Meenu will not be liable to registration, in the given case, even if her turnover exceeds the threshold limit.

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(2) Section 24 specifies the categories of persons who are required to be mandatorily registered under GST irrespective of the quantum of their aggregate turnover.

In the given case, Jinu Oils does not fall in any of the specified categories. Therefore, it is not required to obtain registration compulsorily under GST.

However, as per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making supply of both goods and services is ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland and ₹ 20 lakh for the rest of India. Thus, the applicable threshold limit for the State of Gujarat is ₹ 20 lakh for supply of both goods and services. Further, aggregate turnover includes exempted turnover of goods or services.

Accordingly, Jinu Oils is liable obtain registration since its aggregate turnover [₹ 21 lakh (including turnover of exempt supply of petrol)] exceeds the threshold limit of ₹ 20 lakh.

(3) Section 24 provides that persons who make taxable supply of goods and/or services on behalf of other taxable persons whether as an agent or otherwise are required to obtain registration compulsorily under GST laws irrespective of the quantum of aggregate turnover.
Therefore, Tilu will be mandatorily required to obtain registration.

7. PROCEDURE FOR REGISTRATION [SECTIONS 25, 26 & 27]

STATUTORY PROVISIONS	
Section 25	**Procedure for registration**
Sub-section	**Particulars**
1	*Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in*

	such manner and subject to such conditions as may be prescribed. *Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.* *Provided further that a person having a unit, as defined in the Special Economic Zones Act, 2005, in a Special Economic Zone or being a Special Economic Zone developer shall have to apply for a separate registration, as distinct from his place of business located outside the Special Economic Zone in the same State or Union territory.* ***Explanation**—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.*
2	*A person seeking registration under this Act shall be granted a single registration in a State or Union territory. Provided that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business, subject to such conditions as may be prescribed.*
3	*A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.*
4	*A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act*
5	*Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as*

	establishments of distinct persons for the purposes of this Act.
6	*Every person shall have a Permanent Account Number issued under the Income- tax Act, 1961 in order to be eligible for grant of registration. Provided that a person required to deduct tax under section 51 may have, in lieu of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.*
6(A)	*Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed. Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council, prescribe. Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.*
6(B)	*On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification. Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.*
6(C)	*On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners,*

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	Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendation of the Council, specify in the said notification. *Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.*	
6(D)	*The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or any State or Union territory or part thereof, as the Government may, on the recommendations of the Council, specify by notification.* *Explanation—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016*	
7	*Notwithstanding anything contained in sub-section (6), a non-resident taxable person may be granted registration under sub-section (1) on the basis of such other documents as may be prescribed*	
8	*Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed*	
9	*Notwithstanding anything contained in sub-section (1),–*	
	a	*any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations*

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		(Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and
	b	*any other person or class of persons, as may be notified by the Commissioner,*
	shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.	
10	*The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.*	
11	*A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.*	
12	*A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section (10), if no deficiency has been communicated to the applicant within that period.*	
Section 26	***Deemed registration***	
1	*The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section (10) of section 25*	
2	*Notwithstanding anything contained in sub-section (10) of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.*	

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Section 27	Special provisions relating to casual taxable person and non-resident taxable person
1	The certificate of registration issued to a casual taxable person or a non- resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration. Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.
2	A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. Provided that where any extension of time is sought under sub-section (1), such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.
3	The amount deposited under sub-section (2) shall be credited to the electronic cash ledger of such person and shall be utilized in the manner provided under section 49.

ANALYSIS

Procedure for registration is governed by section 25 read with relevant CGST Rules. Relevant provisions of CGST Rules have been incorporated at the relevant places. Further, special provisions have been provided for registration of casual taxable person and non-resident taxable person under section 27. Concept of deemed registration has been elaborated under section 26. Under GST, the

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EXAMPLES application for registration has to be submitted electronically at the GST Common Portal – www.gst.gov.in, duly signed or verified.

A large number of forms/formats relating to registration have been prescribed in the CGST Rules. For every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, show cause notice for cancellation, reply, cancellation, amendment, field visit report etc., there are separate standard formats[18]. This makes the process uniform all over the country. The decision-making process has also been expedited. Strict time-lines have been stipulated for completion of different stages of registration process.

(i) Where and by when to apply for registration? [Section 25(1)]

Particulars	Where	When
Person who is liable to be registered under section 22 or section 24	in every such State/UT in which he is so liable	within 30 days from the date on which he becomes liable to registration
A casual taxable person or a non-resident taxable person		at least 5 days prior to commencement of business
Every person who makes a supply from the territorial waters of India	in the coastal State/UT where the nearest point of the appropriate base line is located.	within 30 days from the date on which he becomes liable to registration

EXAMPLES **(17)** Sugam Services Ltd. is engaged in taxable supply of services in Delhi. The turnover of Sugam Services Ltd. exceeded ₹ 20 lakh on 1st November. It is liable to apply for registration by 1st December in Delhi.

(ii) State-wise registration [Section 25(2) read with rule 11]

(A) One registration per State

- Registration needs to be taken State-wise, i.e. there is no centralized registration under GST. A business entity having its branches in multiple States will have to take

18 Students are advised to go through various forms/formats relating to registration at http://www.gst.gov.in. for knowledge purpose.

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separate State-wise registration for its branches in different States

- Further, within a State, an entity with different branches shall be granted single registration wherein it can declare one place as principal plac of business (PPoB) and other branches as additional places of business (APoB).

(B) Separate registration for different places of business within a State/UT may be granted

- Although a taxpayer having multiple places of business in one State is not mandatorily required to obtain separate registration for each such place of business in the State, he has an option to obtain independent registrations with respect to each such separate place of business.
- However, separate registration for each place of business shall be granted provided all separately registered places of business of such person pay tax on supply of goods/services/both made to another registered place of business, of such person and issue a tax invoice/bill of supply, for such supply. **Separate registration application needs to be filed for each place of business.**
- A registered person opting to obtain separate registration for a place of business shall submit a separate application in Form GST REG 01 in respect of such place of business.

EXAMPLES

(18) Meethalal & Sons - a supplier in Maharshtra - has three branches in Mumbai, Pune and Mahabaleshwar. Mumbai and Pune branches are engaged in supply of garments and Mahabaleshwar branch engaged in supply of shoes.

It can obtain single registration for Mahrashtra declaring one of the branches as PPoB and other two branches as APoB or it can obtain separate GST registration for each of the three branches in Mumbai, Pune and Mahabaleshwar as separate places of business.

In case Meethalal & Sons opts to have separate registrations for its all three branches and Mumbai branch sends some garments [subject to GST] for sale to

Pune branch, Mumbai branch must raise a tax invoice and pay tax on such transfer of garments to Pune branch.

(C) Composition levy in case of separate registration for multiple places of business within a State/UT

- If a person is paying tax for one of his places of business under normal scheme, he cannot opt to pay tax under composition levy for any other place of business.
- If one of the places of business [separately registered] of a registered person becomes ineligible to pay tax under composition levy, all other registered places of business of said person would also become ineligible to pay tax under composition levy.
- The provisions of rules 9 and 10 [Discussed in subsequent paras] relating to verification and grant of registration shall mutatis mutandis apply to an application submitted under this rule.

(III) Voluntary registration [Section 25(3)]

A person who is not liable to be registered under section 22 or section 24 may get himself registered voluntarily. In case of voluntary registration, all provisions of this Act, as are applicable to a registered person, shall apply to voluntarily registered person. However, once a person obtains voluntary registration, he has to pay tax even though his aggregate turnover does not exceed ₹ 40 lakh/₹ 20 lakh/₹ 10 lakh, as the case may be.

Voluntary registration is usually obtained by businesses for ensuring seamless flow of credit to their customers.

(iv) Distinct Persons/ establishments of distinct persons [Section 25(4) & (5)]

A person who has obtained/ is required to obtain more than one registration, whether in one State/ Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons**.

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Further, where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as **establishments of distinct persons**. These concepts have already been discussed in detail in Chapter 2– Supply under GST.

(v) PAN must for obtaining registration [Section 25(6) & (7)]

Permanent Account Number is mandatory to be eligible for grant of registration.

A Non-Resident Taxable Person (NRTP) may be granted registration on basis of other prescribed documents [Elaborated in subsequent paras].

Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization as notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person notified by the Commissioner, is required to obtain a UIN from the GSTN portal.

This UIN is needed for claiming refund of taxes paid on notified supplies of goods and/or services received by them, and for such other purpose as may be notified. UIN granted is a centralized UIN i.e. it shall be applicable to the territory of India. **A person having UIN is not registered person and thus, is not a taxable person.**

The proper officer may, upon submission of an application in prescribed form or after filling up the said form or after receiving a recommendation from the Ministry of External Affairs, Government of India, assign a UIN to the said person and issue a certificate in Form GST REG 06 within **3 working days** from the date of submission of application.

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(vii) Suo-motu registration by the proper officer [Section 25(8) read with rule 16]

Where, pursuant to any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act** has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in prescribed form.

**Such person shall either:

(i) submit an application for registration in prescribed form within 90 days from the date of grant of temporary registration, or

(ii) file an appeal against such temporary registration.

In case (ii), if the Appellate Authority upholds the liability to registration, application for registration shall be submitted within 30 days from the date of issuance of such order of the Appellate Authority.

Provisions relating to verification and issue of registration certificate [as contained in rules 9 and 10] [discussed in subsequent paras] shall, mutatis mutandis, apply to such application submitted by the person granted temporary registration. GSTIN thereafter granted shall be effective from the date of order of proper officer granting temporary registration.

(viii) Procedure for registration [Section 25 read with rules 8, 9 & 10]

Provisions relating to procedure for application for registration, verification of the application and approval & issue of registration certificate are contained in the rules 8, 9 and 10 respectively. The same have to be read in conjunction with section 25 provisions. The procedure for registration prescribed under rules 8, 9 and 10 are also applicable to a person paying tax under composition levy, every person seeking voluntary registration as well as a casual taxable person.

A person who wants to obtain registration shall apply for the same in **Form GST REG 01**. The application for registration in GST Form REG 01 is divided into two parts – Part A and Part B.

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Above procedure will not apply to:

- **Non-resident taxable person (NRTP)**
- **A person required to deduct tax at source under section 51**
- **A person required to collect tax at source under section 52**
- **A person supplying OIDAR services from a place outside India to a non-taxable online recipient referred to in section 14 of the IGST Act.**
- **A person supplying online money gaming from a place outside India to a person in India referred to in section 14A of the IGST Act.**

Separate registration forms and procedure have been prescribed for each of the aforesaid persons. Procedure relating to NRTP, TDS and TCS has been discussed subsequently in this chapter, but procedure for OIDAR services and online money gaming services provided from a place outside India to a person in India have been covered at the Final level.

FACILITATION CENTRES

In order to cater to the needs of tax payers who are not IT savvy, Facilitation centres have been established which help the taxpayers in submitting the application for registration, amending the registration certificate, submitting application for cancellation of registration, revocation of cancellation of registration, etc. Facilitation Centre shall be responsible for the digitization and/or uploading of the forms and documents.

Application for registration by Special Economic Zone (SEZ) [Second proviso to section 25(1): A person having unit in SEZ/an SEZ devel oper will have to make a separate application for registration as distinct from his place of business located outside SEZ in the same

State/UT. Thus, there may be a case where two units of a tax payer are located in same State/UT - one in SEZ and another outside SEZ. In that case, separate registrations have to be obtained for each of the two units as separate places of business.

EXAMPLES **(19)** Suvarna Industries is engaged in manufacturing activities in Uttar Pradesh. It has two manufacturing units in UP - one in SEZ and another outside SEZ. Under GST, one registration per State is required. However, since in this case, one of the two units of Suvarna Industries is located in SEZ, SEZ unit will have to compulsorily make a separate application for registration as a place of business distinct from unit located outside SEZ in the same State.

PROCEDURE FOR REGISTRATION HAS BEEN DEPICTED BY WAY OF A DIAGRAM BELOW: *

PROCEDURE FOR REGISTRATION

PART I

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

↓

PAN is validated online by Common Portal from CBDT database and is also be verified through separate OTPs sent to the PAN linked mobile number and e-mail address.

↓

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

↓

Using TRN, applicant shall electronically submit application in Part B of application form, along with specified documents at the Common Portal.
Part B of application contains the details, such as, constitution of business, jurisdiction, option for composition, date of commencement of business, reason to obtain registration, address of PPoB and nature of activity carried out therein, details of APoB, details of bank account(s), details of authorized signatory, aadhaar authentication, etc.

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

Application shall be forwarded to the Proper Officer

The procedure after receipt of application by the Proper Officer is depicted in

** Discussed in detail in subsequent paras.*

Part-II

Proper Officer examines the application and accompanying documents.

If same are found in order?

NO → Proper Officer issues notice thereby seeking clarification**, information or documents from the applicant electronically → within 7 working days from application submission date

YES

YES → Registration is granted within **30 days** of application after verification of site & prescribed documents

Registration granted within **7 working days** from the date of submission of application without site verification

- if applicant successfully validates his aadhaar authentication → A
- where applicant fails to undergo Aadhaar authentication/ does not opt for Aadhaar authentication → B
- where PO deem s it fit to carry out site verific ation → B
- where a person, who has undergone Aadhaar authentication, is identified on common portal, based on data analysis & risk parameters, to carry out site verification → B

Other cases

If applicant has furnished the clarification**, information or documents within **7 working days'** time from receipt of notice?

NO → Proper officer may reject the application for reasons to be recorded in writing.

YES → If proper officer is satisfied with it?

NO → Proper officer will grant registration within **7 working days** from the date of receipt of information/ clarification/ documents

within 30 days from application submission date

- where a person fails to undergo Aadhaar authentication/does not opt for Aadhaar authentication
- where PO deems it fit to carry out site verification
- where a person, who has undergone Aadhaar authentication, is identified on common portal, based on data analysis & risk parameters, to carry out site verification

****Clarification** includes modification/correction of particulars declared in the application for registration other than PAN, State Mobile No. & E-mail address.

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★ **Deemed Approval of Application** If the proper officer fails to take any action in the following cases within the stipulated time, the application for grant of registration shall be deemed to have been approved-

In cases where a person is covered in above	•within a period of 30 days from the date of submission of the application
in case of a person covered in above	•within a period of 7 working days date of submission of the application
in cases covered in above	•within 7 working days from the date of receipt of clarification, information or documents furnished by the applicant in cases covered in above

To summarise:

- **In case of successful authentication of Aadhaar and no SCN being issued, registration will be deemed to be approved within 7 working days.**
- **If Aadhar authentication is not opted for/ aadhaar authentication fails in validation/ PO deems it fit to carry out site verification and no SCN is issued, registration will be deemed to be approved within 30 days by tax officer.**
- **Tax Officer can issue SCN within 7 working days, for grant of registration, in cases of successful Aadhar authentication.**
- **In cases when taxpayer do not opt to provide Aadhaar/when Aadhar authentication fails/ PO deems it fit to carry out site verification, he can issue SCN upto 30 days. In both cases, applicants can submit their reply within 7 working days from issue of SCN.**

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AADHAAR AUTHENTICATION

[Section 25(6A), (6B), (6C) & (6D) read with rules 8, 9, 10B and 25]

As seen above, there's a simplified registration procedure under GST. However, this easy registration procedure was unduly misused by fly-by-night operators. Thus, in an endeavour to curb/check such operators and to increase compliance, aadhaar e-KYC based registration was introduced under the GST law. Aadhaar authentication is mandatory for the new applicants (whether an individual applicant or an applicant other than individual) in order to be eligible for grant of registration. Aadhaar Authentication is required to be complied with, by the persons applying for GST registration as normal taxpayer/ composition/ casual taxable person/ Input Service Distributor (ISD)/ SEZ Developer/ SEZ Unit etc, in Form GST REG 01.

Existing registrants (those who are already registered under GST) are also required to undergo aadhaar authentication.

HOW AADHAAR AUTHENTICATION IS DONE?

New registrants

While filing the application for registration, the applicant gets an option as to whether he wants to opt for Aadhaar authentication or not. If he opts 'Yes' for Aadhaar authentication, GST system sends "authentication link" on the mobile numbers and email ids (mentioned in the registration application) of promotor/partner, and primary authorized signatory which are selected by the applicant[19].

On clicking the verification link, a window for Aadhaar authentication opens where they enter the Aadhaar Number and the OTP received by them on the mobile number and email id linked with Aadhaar.

Once Aadhaar authentication has been successfully validated, his application will be deemed to be approved within 7 working days and the registration

19 While opting for Aadhaar authentication, the applicant needs to select atleast 1 Primary Authorized Signatory and 1 Promoter/ Partner/Karta/Director/Member for authentication purposes.

application submitted by him will not be marked for mandatory site visit, unless the tax official raises a show cause notice within stipulated time.

However, in case the applicant does not opt for Aadhaar authentication while applying for registration or where his Aadhar authentication fails in validation, the applicant who has undergone aadhaar authentication is identified for site visit based on data analysis and risk parameters or proper officer deems it fit to carry out site visit, registration application will not be deemed approved within 7 working days and it will be marked for mandatory site visit and approval thereafter, by the tax official. Registration application will get deemed approved after 30 calendar days,

if tax official doesn't take any action. If tax official raises SCN within 30 calendar days, then applicant has 7 working days to reply to it. Tax official can take further action on that reply within 7 working days. If tax official doesn't take any action after receipt of applicant's reply within next 7 working days, his application will get deemed approved.

Existing registrants

All the regular taxpayers and composition taxpayer are required to get Aadhaar authenticated for existing GST registration. An existing taxpayer can get himself Aadhaar authenticated on GST portal using either Aadhaar authentication link or uploading E-KYC documents20.

Let us go through the aadhaar authentication process in detail:

A. Persons required to undergo aadhaar authentication

As per section 25(6A), (6B) and (6C), following persons are required to undergo aadhaar authentication:

(1) New applicant [Rule 8(4A), (4B) and (5)]

Every (i) individual applicant or (ii) an applicant, other than an individual, shall undergo authentication/furnish proof of possession of Aadhaar number, in the manner prescribed in rule [821].

20 It is not mandatory for every authorized signatory, promoter or partner to get Aadhaar authenticated for an existing GST registration. The Aadhaar authentication will be needed only for 1 Primary Authorized Signatory and 1 Promoter/ Partner/ Karta/ Director/ Member. 21 Notification No. 18/2020 CT dated 23.03.2020

(i) **Where an applicant opts for authentication of Aadhaar number**: Rule 8(4A) provides that where an applicant opts for authentication of Aadhaar number, he shall, while submitting an application for registration, undergo authentication of Aadhaar number. **Said authentication is required to be eligible for grant of registration.**

Date of submission of the application in such cases shall be earlier of:

(a) the date of authentication of the Aadhaar number,

or

(b) 15 days from the submission of the application in Part B of Form GST REG-01.

Whose aadhaar numbers shall be verified?

In case applicant is an individual, he shall undergo authentication of his own aadhaar number.

In case applicant is other than individual, the authentication will be of aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other notified class of persons [authorised signatory of all types, Managing and Authorised partners of a partnership firm and Karta of a Hindu Undivided Family, have been so notified[22]].

Risk-based biometric-based aadhaar authentication of registration applicants[23]

An applicant who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by **biometric-based Aadhaar authentication and taking photograph**:

22 Notification No. 19/2020 CT dated 23.03.2020

23 First proviso to rule 8(4A)

(i) of the applicant where the applicant is an individual or

(ii) of notified individuals (mentioned as above) in relation to the applicant where the applicant is not an individual,

along with the verification of the original copy of the documents uploaded with the application form at one of the notified Facilitation Centres.

The application shall be deemed to be complete only after completion of the process laid down hereunder.

An acknowledgement shall Be issued to the applicant only after completion of biometric-based authentication.

(ii) **Where an applicant does not opt for authentication of Aadhaar number[24]: The application of a person who has not opted for authentication of Aadhaar number, shall be followed by taking photograph:**

- **of the applicant where the applicant is an individual or**
- **of notified individuals (mentioned as above) in relation to the applicant where the applicant is not an individual,**

along with the verification of the original copy of the documents uploaded with the application form at one of the notified Facilitation Centers.

The application shall be deemed to be complete only after completion of the process laid down hereunder.

(2) Persons already registered

Every registered person shall undergo authentication/furnish proof of possession of Aadhaar number, in prescribed form and manner and within the prescribed time.

The manner in which aadhaar authentication needs to be done by a registered person is prescribed as under:-

24 Second proviso to rule 8(4A)

A registered person, who has been issued a certificate of registration under GST, shall undergo authentication of the Aadhaar number of:-

- Proprietor, in the case of proprietorship firm,
- Any partner, in the case of a partnership firm,
- Karta, in the case of a Hindu undivided family,
- Managing director or any whole-time director, in the case of a company,
- Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
- Trustee in the Board of Trustees, in the case of a Trust; and of the Authorized Signatory, in order to be eligible for the following purposes;
  - for filing of application for revocation of cancellation of registration [Rule 23]
  - for filing of refund application in Form RFD-01 [Rule 89]
  - for refund of the IGST paid on goods exported out of India [Rule 96].

B. Where Aadhaar number is not assigned

(1) In case of new applicant

If an aadhaar number is not assigned to a new applicant – either (i) an individual or (ii) person/class of persons (other than individual), such individual/person/class of persons shall be offered alternate and viable means of identification in the manner specified in rule 9[25].

Proviso to rule 9 (1) provides that where:

(i) a person fails to undergo authentication of aadhaar number or does not opt for authentication of Aadhaar number, or

(ii) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters for carrying out physical verification of places of business.

25 Provisos to section 25(6B) and 25(6C) read with Notification No.s 18 and 19/2020 CT both dated 23.03.2020

(iii) the proper officer (PO), with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business

The registration shall be granted within 30 days of submission of application only after physical verification of the principal place of business, in the prescribed manner (specified in rule 25 discussed subsequently) and verification of such documents as the proper officer may deem fit.

Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in within a period of 7 working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically within a period of 7 working days from the date of the receipt of such notice [Rule 9(2)].

However, in such cases, i.e. where:

(i) a person fails to undergo Aadhaar authentication/does not opt for Aadhaar authentication or

(ii) a person, who has undergone authentication of Aadhaar number, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or

(iii) PO deems it fit to carry out site verification, the notice (in prescribed form) seeking clarifications/ information/ documents from the applicant may be issued by the proper officer not later than 30 days from the submission of the application for registration [Proviso to rule 9(2)].

2. In case of already registered persons [Rule 10B]

If an Aadhaar number is not assigned to an existing registered person, such person shall be offered alternate and viable means of identification in the prescribed manner[26].

Such manner has been prescribed as follows:

If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: –

(a) his/ her Aadhaar Enrolment ID slip; and

(b) (i) Bank passbook with photograph; or

(ii) Voter identity card issued by the Election Commission of India; or

(iii) Passport; or

(iv) Driving license issued by the Licensing Authority

However, once Aadhaar number is allotted to such person, he shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

In case of failure to undergo aadhaar authentication/furnish proof of possession of Aadhaar number/furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration[27].

C. Persons/class of persons exempt from aadhaar authentication

Section 25(6D) stipulates that above provisions shall not apply to such person or class of persons or any State or Union territory or part thereof, as may be notified.

Following persons have been notified in this regard[28]:

26 First proviso to section 25(6A)

27 Second proviso to section 25(6A)

28 Notification No. 03/2021 CT dated 23.02.2021

- A person who is not a citizen of India
- Department or establishment of State Government or Central Government
- Local authority
- Statutory body
- Public Sector Undertaking
- A person applying for Unique Identity Number under section 25(9)

FURNISHING OF BANK ACCOUNT DETAILS [RULE 10A]

As seen in the diagram outlining the procedure for registration, while filing the application for registration on GST portal, in Part B of the application form, a person is required to furnish the details of his bank account. Rule 10A relaxes this requirement to a limited extent. In pursuance to the same, the registered person is allowed to furnish information **within a period of 30 days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in GSTR-1 or using IFF, whichever is earlier, furnish information with respect to details of bank account on the common portal.**

In short, a taxpayer has an option to give his bank account details after obtaining registration, **within 30 days from the date of grant of registration or the due date of furnishing details of outward supplies, whichever is earlier.**

However, this relaxation is not available for those who have been granted registration as TDS deductor/ TCS collector under rule 12[29] or suo-motu registration under rule 16. They are mandatorily required to furnish the bank account details at the time of filing the application for registration.

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

(1) **Where the proper officer is satisfied that the physical verification of the place of business of a person is required AFTER the grant of registration:**

[29] The provisions relating to TDS and TCS have been discussed in detail in Chapter 14 in this Module of the Study Material.

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he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal within a period of 15 working days following **the date of such verification.**

(2) **Where the physical verification of the place of business of a person is required BEFORE the grant of registration in the circumstances specified in the proviso to rule 9(1) [as given in earlier]:** the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal at least 5 **working days prior to the completion of the time period specified** in the said proviso.

Issuance of registration certificate [Rule 10]

Where the application for grant of registration has been approved, a certificate of registration duly signed or verified through EVC by the proper officer in **Form GST REG-06** showing the PPoB and APoB is made available to the applicant on the Common Portal and a Goods and Services Tax Identification Number (hereinafter referred to as "GSTIN") i.e. the GST registration no. is communicated to applicant, within 3 days after the grant of registration.

GSTIN format

State Code		PAN										Entity Code		Check sum character

Display of registration certificate and GSTIN on the name board [Rule 18]

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

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(ix) Effective date of registration [Rule 10]

Where an applicant submits application for registration	Effective date of registration
Within 30 days from the date the person becomes liable to registration	Date on which person becomes liable to registration
After 30 days from the date the person becomes liable to registration	Date of grant of registration

EXAMPLES **(20)** Sugam Services Ltd. is engaged in taxable supply of services in Madhya Pradesh. The turnover of Sugam Services Ltd. exceeded ₹ 20 lakh on 1st November. It is liable to get registered by 1st December [30 days] in the State of Madhya Pradesh. It applies for registration on 28th November and is granted registration certificate on 5th December. The effective date of registration of Sugam Services Ltd. is 1st November.

EXAMPLES **(21)** In above example, if Sugam Services Ltd. applies for registration on 3rd December and is granted registration certificate on 10th December. The effective date of registration of Sugam Services Ltd. is 10th December.

ILLUSTRATION 3

Determine the effective date of registration under CGST Act in respect of the following cases with proper explanation:

(i) The aggregate turnover of Varun Industries of Mumbai has exceeded ₹ 40 lakh on 1stAugust. Varun Industries manufactures LED TVs in Mumbai and sells them in Pune. It submits the application for registration on 20thAugust. Registration certificate granted on 25thAugust.

(ii) Sweta InfoTech Services is the provider of internet services in Pune. Its aggregate turnover exceeds ₹ 20 lakh on 25th September. It submits the application for registration on 27thOctober. Registration certificate is granted on 5thNovember.

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ANSWER

As per section 22 read with Notification No. 10/2019 CT dated 07.03.2019, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the States of States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) ₹ 40 lakh for rest of India. However, the higher threshold limit of ₹ 40 lakh is not available to persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes,

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

(a) ₹ 10 lakh for the States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the rest of India.

As per rule 10, where a person submits the application for registration within 30 days of becoming liable for registration, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

In the light of the above provisions, in the given cases, the applicable turnover limit for registration will be ₹ 40 lakh and ₹ 20 lakh in case (i) and (ii) respectively.

(i) Since Varun Industries applied for registration within 30 days of becoming liable to registration, the effective date of registration is 1st August.

(ii) Since Sweta InfoTech Services applied for registration after the expiry of 30 days from the date of becoming liable to registration, the effective date of registration is 5th November.

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(x) Special provisions for grant of registration in case of Non-Resident Taxable Person (NRTP) and Casual Taxable Person (CTP) [Sections 25 & 27 read with rules 13 & 15]

(A) Meaning of casual taxable person and non-resident taxable person

Before going into nuances of the registration provisions of CTP and NRTP, let us first understand the meaning of casual taxable person and non-resident taxable person:

Casual Taxable Person

There may be case where a person has a registered business in some State in India, but wants to effect supplies from some other State in which he does not have any fixed place of business. Such person needs to register in the State from where he seeks to supply as a 'casual taxable person'.

The CGST Act defines a casual taxable person as 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/UT where he has no fixed place of business [Section 2(20)]. Further, he cannot exercise the option to pay tax under composition levy.

EXAMPLES **(22)** Krishnadev & Co., engaged in supplying taxable goods, is registered in Rajasthan. It wishes to participate in a 5 days' business exhibition being held in Delhi. However, it does not have a fixed place of business in Delhi. In this case, Krishnadev & Co. has to obtain registration as a casual taxable person in Delhi.

NON-RESIDENT TAXABLE PERSON

A person who is a foreigner and occasionally wants to effect taxable supplies from any State in India needs GST registration for the same. Such person needs to register in the State from where he seeks to supply as a non-

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resident taxable person. CGST Act defines non-resident taxable person as 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 [Section 2(77)]. He cannot exercise the option to pay tax under composition levy.

Based on the aforesaid definitions, following points merit consideration:

- A CTP does not have a fixed place of business in the State/UT where he undertakes supply though he might be registered with regard to his fixed place of business in some other State/UT, while a NRTP does not have fixed place of business/residence in India at all.
- A CTP has to undertake transactions in the course or furtherance of business whereas the business test is absent in the definition of NRTP.

(B) Special registration provisions of casual taxable person and non-resident taxable person

GST law prescribes special procedure for registration, as also for extension of the operation period of such casual or non-resident taxable persons. They have to apply for registration at least 5 days in advance before making any *supply. Also, registration is granted to them or period of operation is extended, only after they make advance deposit of the estimated tax liability. The special registration procedure pertaining to CTP and NRTP is as follows:*

(A) Both CTP[30] and NRTP have to compulsorily get registered under GST irrespective of the threshold limit, at least 5 days prior to commencement of business.

(B) As per section 25(6), every person must have a PAN to be eligible for registration. Since NRTP will generally not have a PAN of India, he may be granted registration on the basis of other prescribed documents.

Thus, a NRTP has to submit a self-attested copy of his valid passport along with the application duly signed or verified through electronic verification code by his authorized signatory who is an Indian Resident having valid PAN.

[30] Subject to exemption from registration under Notification No. 56/2018 CT dated 23.10.2018

However, in case of 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.

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

(C) Period of validity of registration certificate granted to CTP/NRTP

Registration Certificate granted to CTP/NRTP will be valid for:

(i) Period specified in the registration application, or

(ii) 90 days from the effective date of registration [can be extended further by a period not exceeding 90 days by making an application before the end of the validity of registration granted to him**]

whichever is earlier.

Provisions relating to verification of application and grant of registration [under rules 9 and 10] will apply mutatis mutandis, to an application for registration filed by NRTP.

D. ADVANCE DEPOSIT OF TAX

At the time of submitting the registration application, CTP/NRTP are required to make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. Further, CTP/NRTP will get a Temporary Reference Number (TRN) for making an advance deposit of tax which shall be credited to his electronic cash ledger. An acknowledgement of receipt of application for registration is issued only after said deposit.

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

(xi) Deemed registration [Section 26]

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 cess.

Grant of registration/UIN under any SGST Act/ UTGST Act is deemed to be registration/UIN granted under CGST Act provided application for registration has not been rejected under CGST Act.

Further, rejection of application for registration/UIN under SGST Act/UTGST Act is deemed to be rejection of application for registration under CGST Act.

(xii) Special provisions for grant of registration in case of persons required to deduct tax at source under section 51 or to collect tax at source under section 52 [Rule 12]

Application for registration has to be submitted by such persons in a different prescribed form at GST Common Portal. They would be granted registration within 3 working days from the date of submission of application after due verification.

Where, on a request made in writing by a person to whom a registration has been granted under rule 12(2) or upon an enquiry or pursuant to any other proceeding under the CGST Act, the proper officer is satisfied that a person to whom a certificate of registration has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued and such cancellation shall be communicated to the said person electronically.

8. AMENDMENT OF REGISTRATION [SECTION 28]

A registered person or UIN holder may need to make some changes/ amendments in the registration application. There are two categories of details in registration application –

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core and non-core fields. Core fields are name of the business, (legal name) if there is no change in PAN, addition / deletion of stakeholders[31], principal place of business (other than change in State) or additional place of business (other than change in State).

All other fields are **non-core fields** like name of day-to-day functionaries, e-mail ids, mobile numbers, etc.

In case the change is in core information in the registration application, the taxable person will apply for amendment within 15 days of the event necessitating the change. The proper officer, then, will approve the amendment within next 15 days.

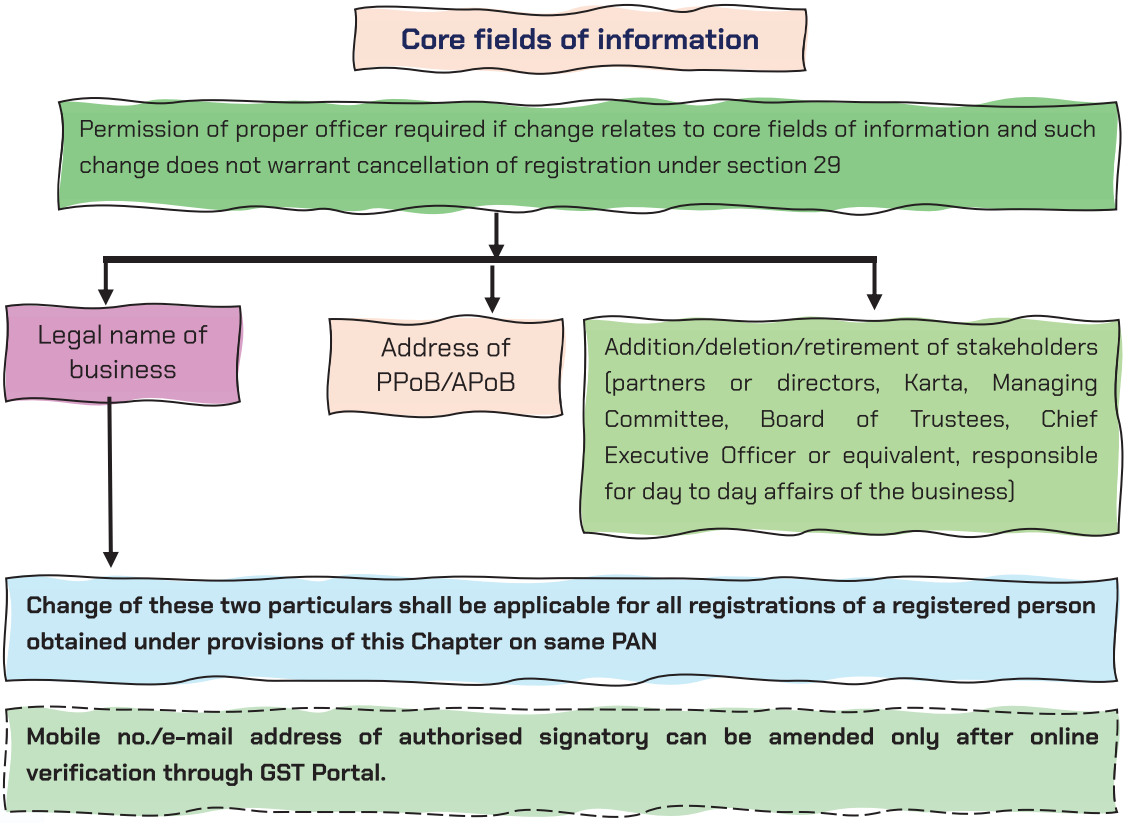
For other changes – **non-core information**, no approval of the proper officer is required, and the amendment can be affected by the taxable person on his own on the common portal.

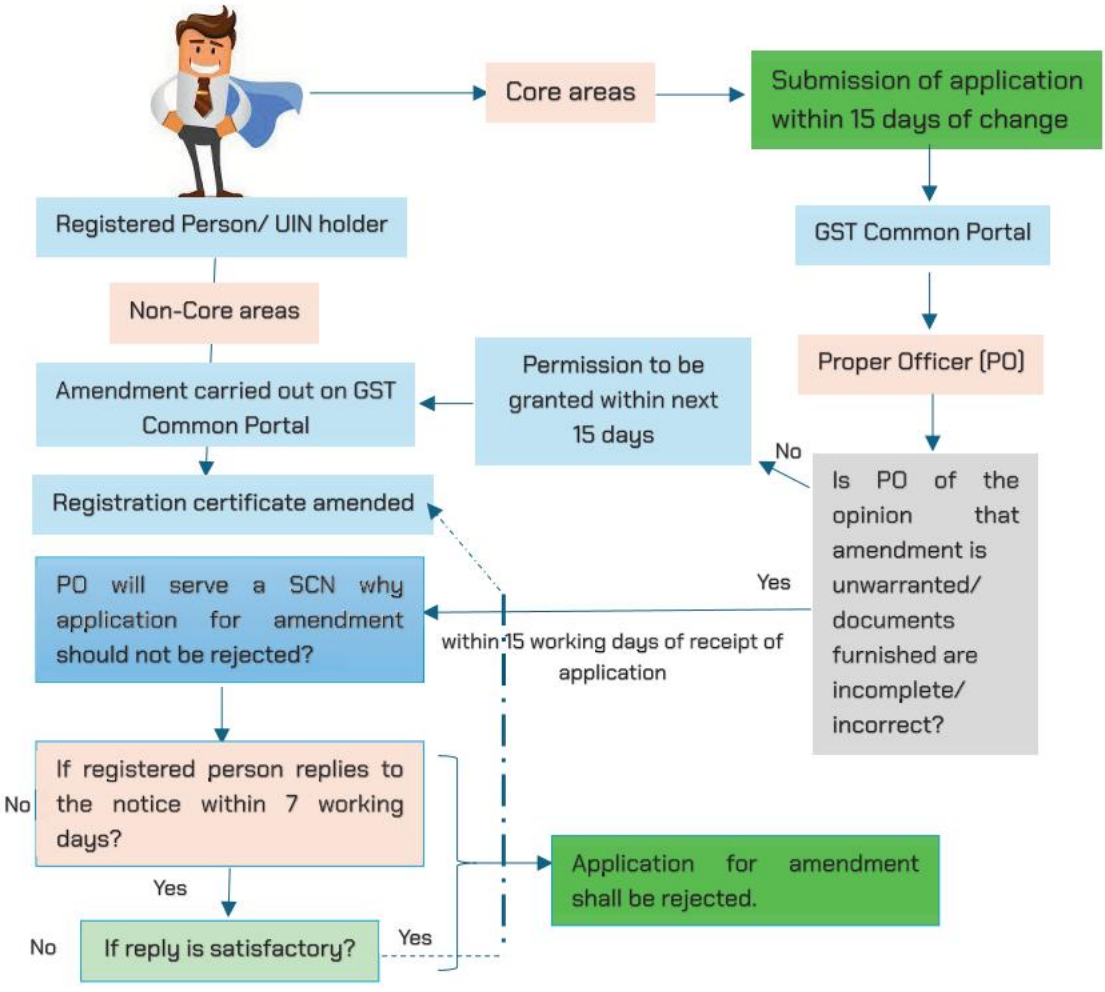
The provisions relating to amendment of registration are contained in section 28 read with rule 19.

The significant aspects of the same are discussed hereunder:

- Where there is any change in the particulars furnished in registration application/UIN application, registered person shall submit an application in prescribed manner, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, within 15 days of such change, along with documents relating to such change at the Common Portal.
- **In case of amendment of core fields of information**, the proper officer may, on the basis of information furnished or as ascertained by him, approve or reject amendments in the registration particulars in the prescribed manner. Such amendment shall take effect from the date of occurrence of event warranting such amendment.
- However, **where change relates to non-core fields of information**, registration certificate shall stand amended upon submission of the application for amendment on the Common Portal.

- The proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.
- Any rejection or approval of amendments under the SGST/UTGST Act shall be deemed to be a rejection or approval under the CGST Act.
- Any particular of the application for registration shall not stand amended with effect from a date earlier than date of submission of application for amendment on common portal except with order of Commissioner for reasons to be recorded in writing and subject to conditions specified by Commissioner in the said order.
- Application for amendment of registration cannot be filed for change in PAN because GST registration is PAN-based. One needs to make fresh application for registration in case there is change in PAN. Thus, where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration.
- Similarly, application for amendment of registration form cannot be filled if there is change in place of business from one State to the other because GST registrations are State-specific. If one wishes to relocate his business to another State, he must voluntarily cancel his current registration and apply for a fresh registration in the State he is relocating his business.





Within 7 working days of receipt of supply

If the proper officer fails to take any action,-

(a) within a period of 15 working days from the date of submission of the application, or

(b) within a period of 7 working days from the date of the receipt of the reply to the show cause notice,

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.

EXAMPLES

(23) Varun Enterprises, a sole proprietorship firm, is engaged in supply of electrical goods in Delhi. The firm is registered under GST. Varun is the proprietor of the firm. He wishes to expand his business and his friend – Arun - approaches him to provide additional capital for his business if he is made a partner in Varun's business.

Varun agrees and changes the constitution of his business and forms a partnership firm – Varun Arun & Co. Since the change in constitution of business from sole proprietorship firm to partnership firm results in change in PAN of the registered person, the partnership firm has to apply for fresh registration. The reason for the same is that GSTIN is PAN based. Any change in PAN would warrant a new registration.

9. CANCELLATION OR SUSPENSION OF REGISTRATION AND REVOCATION OF CANCELLATION [SECTIONS 29 & 30]

STATUTORY PROVISIONS		
Section 29	**Particulars**	
Sub-section	**Cancellation or suspension of registration**	
(1)	The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where:	
	(a)	the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of
	(b)	there is any change in the constitution of the business
	(c)	the taxable person is no longer liable to be registered under section 22 or section 24 or

		intends to optout of the registration voluntarily made under sub-section (3) of section 25.
	Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.	
(2)	The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,–	
	(a)	a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed
	(b)	a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return
	(c)	any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed
	(d)	any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration
	(e)	registration has been obtained by means of fraud, wilful misstatement or suppression of facts *Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.*
	Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed	
3	*The cancellation of registration under this section shall not affect the liability of the person to pay tax*	

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	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.
4	*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.*
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.*
6	*The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.*
Section 30	***Revocation of cancellation of registration***
1	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 such manner, within such time and subject to such conditions and restrictions, as may be prescribed.

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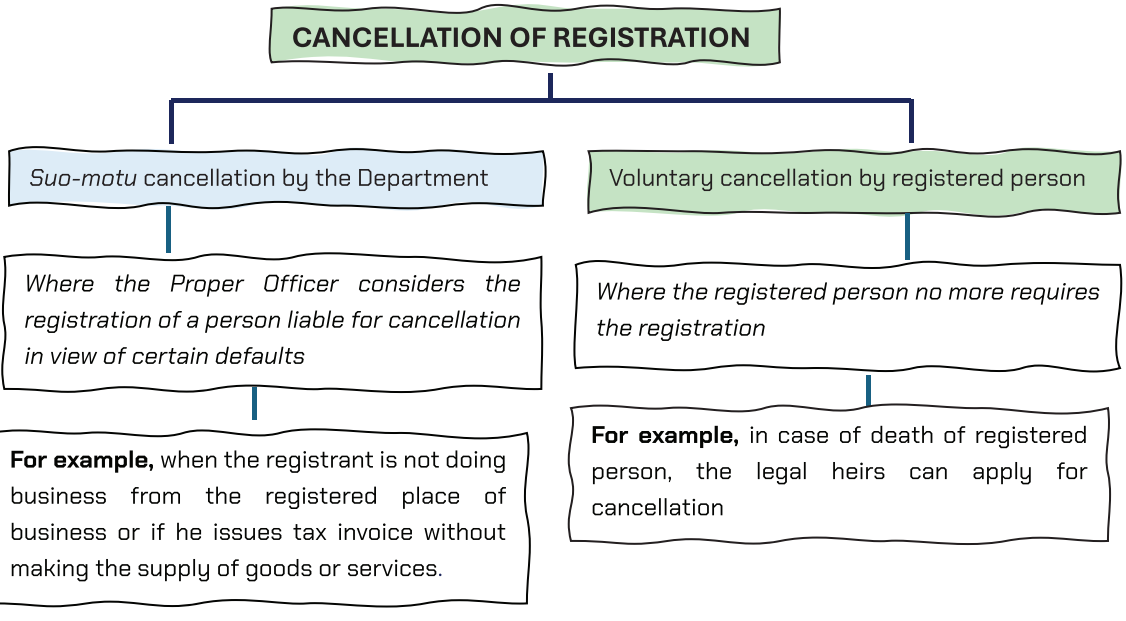
2	*The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application. Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard. Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.*
3	*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.*

ANALYSIS

The provisions relating to cancellation of registration and its revocation are contained in sections 29 & 30 respectively read with rules 20 to 23. The registration granted under GST can be cancelled for specified reasons. The cancellation can either be initiated by the Department on their own motion or the registered person can apply for cancellation of their registration.



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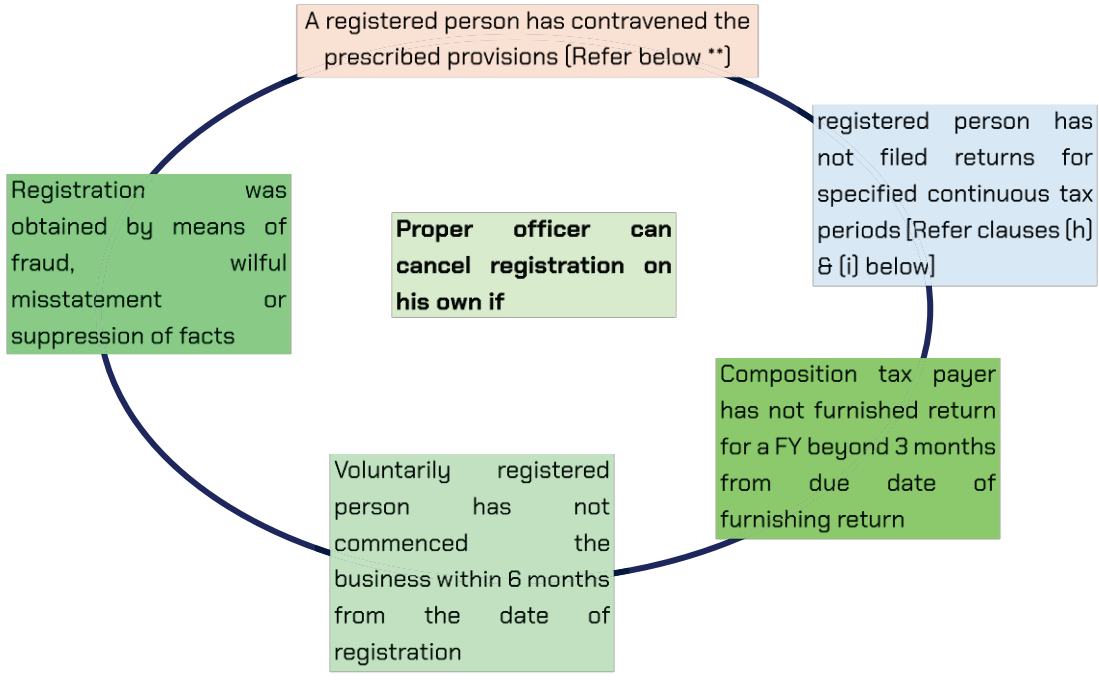
(i) **Circumstances where registration is liable to be cancelled [Section 29(1) & (2)]**

A. Circumstances when the registration can be cancelled either suo motu by proper officer or on an application of the registered person or his legal heirs (in case death of such person)

Cancellation by the registered person on its own or by the Department		
-Business discontinued -Transferred fully for any reason *including death of the proprietor* -Amalgamated with other legal entity -Demerged or -Otherwise disposed of	**Change in the constitution of the business**	Taxable person who is no longer liable to be registered under section 22 or section 24 or who intends to optout of the voluntary registration.

B. Circumstances when the proper officer can cancel registration on his own

In the following cases, registration can be cancelled by the proper officer from such date, including any retrospective date, as he may deem fit, after giving an opportunity of being heard: **



**Prescribed contraventions which make a registered person liable to cancellation of registration [Rule 21]: The registered person-

(a) does not conduct any business from the declared place of business, or

(b) issues invoice/bill without supply of goods/services in violation of the provisions of this Act, or the rules made thereunder.

(c) violates the provisions of section 171. Section 171 contains provisions relating to anti-profiteering measure[32].

(d) violates the provision of rule 10A (discussed earlier in this chapter).

(e) avails input tax credit in violation of the provisions of section 1633 of the shes the details of outward supplies in Form GSTR-1, as amended in FORM GSTR-1A if any, under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods.

(g) violates the provision of rule 86B34.

(ga) violates the provisions of third or fourth proviso to rule 23(1).

(h) required to file return under section 39(1) for each month or part thereof (i.e. monthly return filer), has not furnished returns for a continuous period of 6 months.

(i) required to file return under proviso to section 39(1) for each quarter or part thereof (Quarterly return under QRMP scheme), has not furnished returns for a continuous period of 2 tax periods.

C. Suspension of registration [First proviso to section 29(1) and second proviso to section 29(2) read with rule 21A]

Once a registered person has applied for cancellation of registration or the proper officer seeks to cancel his registration, the proper officer may suspend his registration during pendency of the proceedings relating to cancellation of registration. In this way, a taxpayer is freed from the

[32] Anti-profiteering measure shall be discussed at Final Level.
[33] Provisions of section 16 have been discussed in detail in Chapter 8 – Input Tax Credit.
[34] Provisions of rule 86B have been discussed in detail in Chapter 8 – Input tax credit.

routine compliances, including filing returns, under GST law during the pendency of the proceedings related to cancellation of registration.

The period and manner of suspension of registration is as follows:

1. **Where registered person has applied for cancellation of registration:** Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from:

   (a) the date of submission of the application

   or

   (b) the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

2. Where cancellation of the registration has been initiated by the Department on its own motion: Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he may suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration.

Where,-

(a) a comparison of the returns furnished by a registered person under section 39 with the details of outward supplies furnished in GSTR-1, as amended in GSTR-1A if any, or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their GSTR-1, as amended in GSTR- 1A if any, of the previous tax period, if any, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or

(b) there is a contravention of the provisions of rule 10A [furnishing of bank account details] by the registered person, the registration of such person shall be suspended and the said person shall be intimated in the

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prescribed form, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled.

In cases where the cancellation is initiated by the Department on its own and registration of a person has been suspended, such person shall not be granted any refund under section 5435, during the period of suspension of his registration.

3. A registered person, whose registration has been suspended as above:

- **shall not make any taxable supply**** during the period of suspension and
- shall not be required to furnish any return under section 39.

The expression **"shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

4. The suspension of registration shall be deemed to be revoked upon completion of the cancellation proceedings by the proper officer. Such revocation shall be effective from the date on which the suspension had come into effect.

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

5. Further, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending GST returns, where GST registration was suspended due to non-filing of GST return for a financial year beyond 3 months from the due date of furnishing the said return by a composition taxpayer or returns for such continuous tax period as may be prescribed by registered persons [other

[35] Section 54 contains provisions relating to refund of GST. The same shall be discussed at the Final level.

than composition taxpayer] subject to the condition that the registration has not been cancelled by the proper officer under rule 22.

6. Further also, where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A [furnishing of bank account details] and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

7. Where any order having the effect of revocation of suspension of registration has been passed, the provisions of section 31(3)(a) [revised tax invoices] and section 40 [first return] in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.

(ii) Procedure for cancellation of registration [Rules 20 and 22]

(a) Voluntary cancellation by registered person

Application

❖ A registered person seeking cancellation of registration[36] shall electronically submit the application for cancellation of registration in prescribed form within 30 days of occurrence of the event warranting cancellation.

He is required to furnish in the application the details of inputs held in stock or inputs contained in semi-finished/finished goods held in stock and of capital goods held in stock on the date from which cancellation of registration is sought, liability thereon, details of the payment, if any, made against such liability and may furnish relevant documents thereof.

[36] Section 29(1)

ORDER

- Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered, proper officer shall issue the order of cancellation of registration within 30 days from the date of submission of application for cancellation.

(b) Suo-motu cancellation by the Department

- Where the proper officer cancels the registration suo-motu, he shall not cancel the same without giving a show cause notice and without giving a reasonable opportunity of being heard, to the registered person. The reply to such show cause notice (SCN) has to be submitted within 7 days of service of notice.

- If reply to SCN is satisfactory, proper officer shall drop the proceedings and pass an order in prescribed form. However, where the person instead of replying to the SCN served for failure to furnish returns for a continuous period of 6 months or 2 tax periods, as the case may be [return for a F.Y. beyond 3 months from due date of furnishing the said return in case of composition scheme supplier][37] furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order.

  Where registration of a person is liable to be cancelled, proper officer shall issue the order of cancellation of registration within 30 days from the date of reply to SCN.

(c) Effective date of cancellation

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

[37] viz. contravention of the provisions contained in section 29(2)(b)/(c) read with clauses (h) & (i) of rule 21

(III) AMOUNT PAYABLE ON CANCELLATION OF REGISTRATION [SECTION 29(5) & (6)]

A registered person whose registration is cancelled will have to debit the electronic credit or cash ledger by an amount equivalent to:

(i) Input tax credit (ITC) in respect of:

- stock of inputs and inputs contained in semi-finished/finished goods' stock or
- capital goods or plant and machinery on the day immediately preceding the date of cancellation, or

(ii) the output tax payable on such goods whichever is higher, calculated in such manner as may be prescribed.

However, **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.

The manner of determination of amount of credit to be reversed is prescribed under rule 44. On conjoint reading of section 29(5) and rule 44, it can be inferred as follows:

AMOUNT OF CREDIT TO BE REVERSED IN RESPECT OF INPUTS: *

ITC in respect of inputs calculated in accordance with rule 44 of the CGST Rules* → ITC on inputs computed proportionately on the basis of corresponding invoices** on which credit had been availed on such inputs.

Output tax payable on such goods

→ whichever is higher

* Discussed in detail in Chapter-8: Input Tax Credit in this Module of Study Material

**If tax invoices are not available, the ITC to be reversed will be based on the prevailing market price (MP) of such goods on the date of cancellation.

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- **Amount of credit to be reversed in respect of CAPITAL GOODS OR PLANT & MACHINERY**

ITC in respect of capital goods or plant & machinery calculated in accordance with rule 44 →

- ITC involved in the remaining useful life in months of the capital goods computed on pro-rata basis, taking the useful life as 5 years.
- **Tax on the transaction value of such capital goods or plant and**

→ whichever is higher

EXAMPLES **(24)** Capital goods have been in use for 4 years, 6 month and 15 days. The useful remaining life in months = 5 months ignoring a part of the month.

ITC taken on such capital goods = C

ITC attributable to remaining useful life = C x 5/60

(IV) OTHER POINTS ABOUT CANCELLATION

- A person to whom a UIN has been granted under rule 17 cannot apply for cancellation of registration [Rule 20]
- The cancellation of registration will not affect liability of registered person to pay tax and other dues under the Act for any period prior to the date of cancellation[38] [Section 29(3)].

EXAMPLES **(25)** The proper officer cancelled the registration of Naman Associates on 11th October. The tax dues of Naman Associates for July-September quarter (determined by the proper officer on 16th December) are ₹ 50,000. The cancellation of registration of Naman Associates shall have no effect on his liability of tax dues of ₹ 50,000 even though the tax dues are determined after the cancellation of registration.

- The cancellation of registration under either SGST Act/UTGST Act shall be deemed to be a cancellation of registration under CGST Act [Section 29(4)].

[38] whether or not such tax and other dues are determined before or after the date of cancellation

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- Once registration is cancelled by the tax authority, the taxpayer will be intimated about the same via SMS and email. Order for cancellation of registration will be issued and intimated to the primary authorized signatory by email and SMS.
- Taxpayer would not be allowed by the Common portal to file return for the period after date of cancellation mentioned in the cancellation order. However, he can submit returns of the earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order for which registration was active).

(v) revocation of cancellation of registration [section 30 read with rule 23]

(A) Procedure for revocation of cancellation

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

**Said period of 90 days may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner/Joint Commissioner, as the case may be, for a further period not exceeding 180 days.

✓ Thus, a registered person, whose registration is cancelled by the proper officer on his own motion, may subject to provisions of rule 10B submit an application for revocation of cancellation of registration, in prescribed form, to such proper officer, within a period of 90 days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

✓ If the proper officer is satisfied that there are sufficient grounds for revocation of cancellation, he may revoke the cancellation of registration, by an order within 30 days of receipt of application and communicate the same to applicant.

- ✓ Otherwise, he may reject the revocation application. However, before rejecting the application, he has to first issue SCN to the applicant who shall furnish the clarification within 7 working days of service of SCN. The proper officer shall dipose the application (accept/reject the same) within 30 days of receipt of clarification.

(B) Where registration was cancelled for failure of registered person to furnish returns

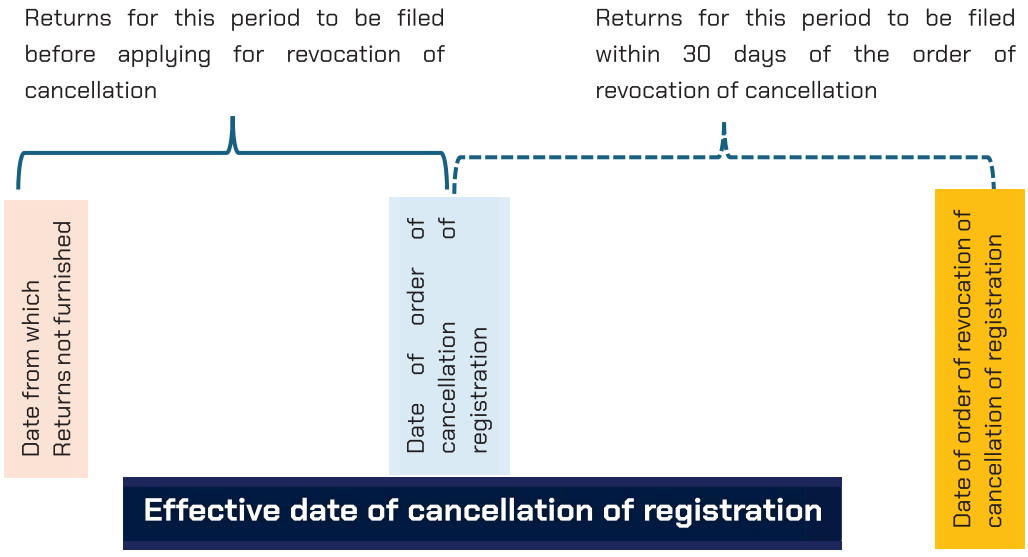
Where registration was cancelled for failure of registered person to furnish returns, before applying for revocation, the person has to make good the defaults, i.e. the person needs to file such returns and pay any amount due as tax along with any amount payable towards interest, penalty and late fee in respect of the said returns. However, the registration may have been cancelled by the proper officer either from the date of order of cancellation of registration or from a retrospective date.

(1) Where the registration has been cancelled with effect from the date of order of cancellation of registration

As we have already seen that the common portal does not allow furnishing of returns for the period after the effective date of cancellation, but returns for the earlier period (i.e. for the period before date of cancellation mentioned in the cancellation order) can be furnished after cancellation.

Where the registration is cancelled with effect from the date of order of cancellation of registration, person applying for revocation of cancellation has to furnish all returns due till the date of such cancellation before the application for revocation can be filed and has to pay any amount due as tax, in terms of such returns along with any amount payable towards interest, penalties or late fee payable in respect of the said returns. However, since the portal does not allow to furnish returns for the period after the date of cancellation of registration, all returns due for the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of 30 days from the date of the order of revocation.

EXAMPLES **(26)** The registration of Naman Associates was cancelled by the proper officer by an order dated 1st June for its failure to furnish returns. The registration was cancelled with effect from 1st June itself. It applied for revocation of cancellation of registration and the order for revocation of cancellation of Naman Associates is 31st July. In this case, Naman Associates shall be required to furnish all the returns for the period from 1st June to 31st July within a period of 30 days from 31st July, i.e. by 30th August.



(2) Where the registration has been cancelled with retrospective effect

Where the registration has been cancelled with retrospective effect, it is not possible to furnish the returns before filing the application for revocation of cancellation of registration. In that case, the application for revocation of cancellation of registration is allowed to be filed, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of 30 days from the date of order of such revocation of cancellation of registration. Returns for this period to be filed before applying for revocation of cancellation Date.

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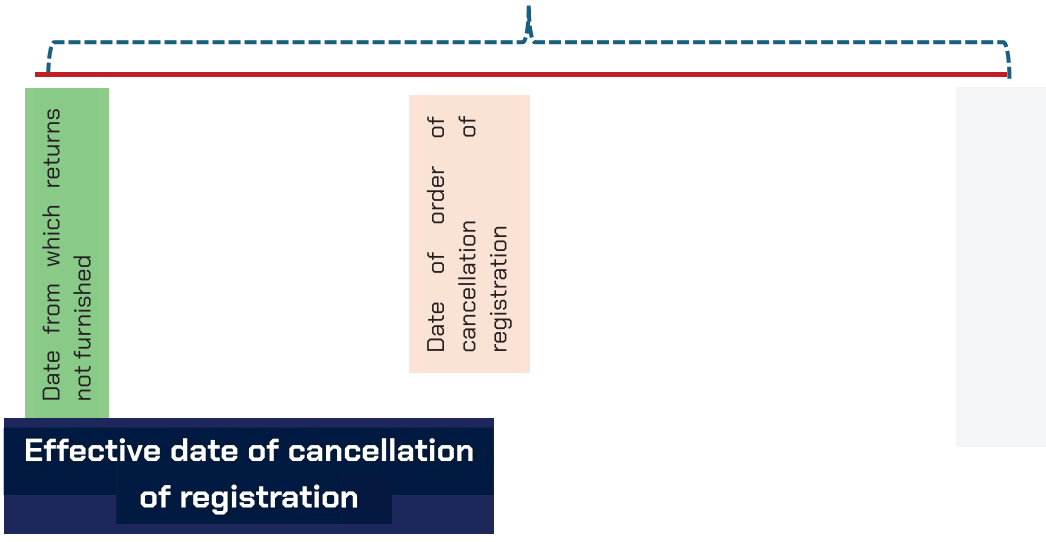
EXAMPLES

(27) The registration of Naman Associates was cancelled by the proper officer by an order dated 1st June for its failure to furnish returns. The registration was cancelled with effect from 1st January itself. It applied for revocation of cancellation of registration and the order for revocation of cancellation of Naman Associates is passed on 31st July. In this case, Naman Associates shall be required to furnish all the returns for the period from 1st January to 31st July within a period of 30 days from 31st July, i.e. by 30th August



POINTS TO BE NOTED

- UIN Holders (i.e. UN Bodies, Embassies and Other Notified Persons), GST Practitioner cannot apply for revocation of cancelled registration.
- In case the registration is cancelled on the request of the taxpayer or his legal heir, one cannot apply for revocation of cancelled registration.
- The revocation of cancellation of registration under the SGST Act/ UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act

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TEST YOUR KNOWLEDGE

1. Determine the effective date of registration in following cases:

   (a) The aggregate turnover of Dhampur Footwear Industries of Delhi has exceeded the applicable threshold limit of ₹ 40 lakh on 1st September. It submits the application for registration on 20th September. Registration certificate is granted to it on 25th September.

   (b) Mehta Teleservices is an architect in Lucknow. Its aggregate turnover exceeds ₹ 20 lakh on 25th October. It submits the application for registration on 27th November. Registration certificate is granted to it on 5th December.

2. In order to be eligible for grant of registration, a person must have a Permanent Account Number issued under the Income- tax Act, 1961. State one exception to it.

3. State which of the following suppliers are liable to be registered:

   (a) Agents supplying taxable goods on behalf of some other taxable person and such agent's aggregate turnover does not exceed the applicable threshold limit during the financial year. Note: Invoices are issued to customers in the name of agent.

   (b) An agriculturist who is engaged exclusively in supply of produce out of cultivation of land and its aggregate turnover exceeds the applicable threshold limit during the financial year.

4. Pure Oils, Delhi has supplied machine oil and high-speed diesel in the month of April as per the details given in table below. Pure Oils is not yet registered.

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Sl. No.	Particulars	Amount (₹)*
(i)	Supply of machine oil in Delhi	15,00,000
(ii)	Supply of high speed diesel in Delhi	10,00,000
(iii)	Supply of machine oil made in Punjab by Pure Oils from its branch located in Punjab	10,00,000

*excluding GST

Determine whether Pure Oils is liable for registration.

5. What will be your answer if in question 4 above, in S.No. (ii), Pure Oils supplies the high speed diesel in Delhi in the capacity of an agent of Mixed Oils Ltd., (non-registered), where invoices to customers are issued in name of Pure Oils?

6. Examine whether the supplier of goods is liable to get registered in the following independent cases:-

   (i) Raghav of Assam is exclusively engaged in intra-State taxable supply of readymade garments. His turnover in the current financial year (FY) from Assam showroom is ₹ 33 lakh. He has another showroom in Tripura with a turnover of ₹ 11 lakh in the current FY.

   (ii) Pulkit of Panjim, Goa is exclusively engaged in intra-State taxable supply of shoes. His aggregate turnover in the current financial year is ₹ 22 lakh.

   (iii) Harshit of Himachal Pradesh is exclusively engaged in intra-State supply of pan masala. His aggregate turnover in the current financial year is ₹ 24 lakh.

7. Examine whether the supplier is liable to get registered in the following independent cases:-

   (i) Ankit of Assam is exclusively engaged in intra-State supply of taxable *services. His aggregate turnover in the current financial year is ₹ 25 lakh.*

(ii) Sanchit of Assam is engaged in intra-State supply of both taxable goods and services. His aggregate turnover in the current financial year is ₹ 30 lakh.

8. What are the advantages of taking registration in GST?

9. Can a person without GST registration collect GST and claim ITC?

10. If a person is making taxable supplies from different States, with the same PAN number, can he operate with a single registration?

11. Can a person having multiple places of business in a State obtain separate registrations for each place of business?

12. Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

13. Can the Department, through the proper officer, suo-moto proceed to register a person under GST?

14. Whether the registration granted to any person is permanent?

15. Is it necessary for the UN bodies to get registration under GST?

16. What is the responsibility of the taxable person making supplies to UN bodies?

17 What is the validity period of the registration certificate issued to a casual taxable person and non-resident taxable person?

18. What happens when the registration is obtained by means of wilful mis-statement, fraud or suppression of facts?

19. Is there an option to take centralized registration for services under GST Law?

20. What could be the liabilities (in so far as registration is concerned) on transfer of a business?

21. At the time of registration, will the assesses have to declare all his places of business?

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22. Does cancellation of registration impose any tax obligations on the person whose registration is so cancelled?

ANSWERS

1. (a) Every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit [₹ 40 lakh in this case] in a financial year [Section 22 read with Notification No. 10/2019 CT dated 07.03.2019]. Since in the given case, the turnover of Dhampur Industries exceeded ₹ 40 lakh on 1st September, it becomes liable to registration on said date.

Further, since the application for registration has been submitted within 30 days from such date, the registration shall be effective from the date on which the person becomes liable to registration [Section 25 read with rule 10]. Therefore, the effective date of registration is 1st September.

(b) Since in the given case, the turnover of Mehta Teleservices exceeds the applicable threshold limit [₹ 20 lakh] on 25th October, it becomes liable to registration on said date.

Further, since the application for registration has been submitted after 30 days from the date such person becomes liable to registration, the registration shall be effective from the date of grant of registration. Therefore, the effective date of registration is 5th December.

2. A Permanent Account Number is mandatory to be eligible for grant of registration. One of the exceptions to this is a non-resident taxable person. A non-resident taxable person may be granted registration on the basis of other prescribed documents instead of PAN. He has to submit a self-attested copy of his valid passport along with the application duly signed or verified through electronic verification code by his authorized signatory who is an Indian Resident having valid PAN and application will be submitted in a different prescribed form [Section 25(6) & (7)].

3. (a) Section 22 stipulates that every supplier becomes liable to registration if his turnover exceeds the applicable threshold limit in a financial year. However, as per section 24, a person making

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taxable supply of goods/services or both on behalf of other taxable persons whether as an agent or not is liable to be compulsorily registered even if its aggregate turnover does not exceed the applicable threshold limit during the financial year.

(b) As per section 23, an agriculturist who is engaged exclusively in supply of produce out of cultivation of land is not required to obtain registration even if his turnover exceeded the applicable threshold limit for registration.

4. As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, fly ash bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.

The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the rest of India. As per section 2(6), aggregate turnover includes the aggregate value of:

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(i) all taxable supplies,

(ii) all exempt supplies,

(iii) exports of goods and/or services and

(iv) all inter-State supplies of persons having the same PAN.

The above aggregate turnover is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

Section 9(2) provides that CGST is not leviable on five petroleum products i.e. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel. As per section 2(47), exempt supply includes non-taxable supply. Thus, supply of high speed diesel in Delhi, being a non-taxable supply, is an exempt supply and is, therefore, includible while computing the aggregate turnover.

In the backdrop of the above-mentioned discussion, the aggregate turnover of Pure Oils for the month of April is computed as under:

S. No.	Particulars	Amount (in ₹)
(i)	Supply of machine oils in Delhi	15,00,000
(ii)	Add: Supply of high speed diesel in Delhi	10,00,000
(iii)	Add: Supply of machine oil made by Pure Oils from its branch located in Punjab	10,00,000
	Aggregate Turnover	35,00,000

Pure Oils is making exclusive supply of goods and hence the threshold limit for registration would be ₹ 40,00,000. Since the aggregate turnover does not exceed ₹ 40,00,000, Pure Oils is not liable to be registered till April. However, if in remaining months of the financial year, its turnover exceeds the said limit, then it would be liable to be registered.

5. In case Pure Oils makes the supply in capacity of an agent of Mixed Oils Ltd.:

Section 24 provides that an agent who is engaged in making taxable supplying of goods on behalf of other taxable persons, shall be liable to obtain registration irrespective of the threshold turnover limit. However, in the present case, if Pure Oils supply high speed diesel on behalf of Mixed Oil Ltd. in Delhi as its agent where invoices to customers are issued in name of Pure Oils, it shall still not be liable to obtain registration in Delhi since section 24 comes into play only when agent or in other capacity is making taxable supply of goods on behalf of taxable persons (principal) whereas in the given case, Pure Oils is supplying non-taxable goods on behalf of Mixed Oils Ltd., who is not registered.

6. As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive intra-State taxable supplies of goods is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the States, namely, States of Arunachal Pradesh, Meghalaya, Puducherry, Sikkim, Telangana and Uttarakhand.

(c) ₹ 40 lakh for rest of India except persons engaged in making supplies of ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes, fly ash bricks; fly ash aggregates; fly ash blocks, bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles.

In the light of the afore-mentioned provisions, the answer to the independent cases is as under:-

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(i) Raghav is eligible for higher threshold limit of turnover for registration, i.e. ₹ 40 lakh as he is exclusively engaged in intra-State supply of goods. However, since Raghav is engaged in supplying readymade garments from a Special Category State i.e. Tripura, the threshold limit gets reduced to ₹ 10 lakh. Thus, Raghav is liable to get registered under GST as his turnover has exceeded limit of ₹10 lakh. Further, he is required to obtain registration in both Assam and Tripura as he is making taxable supplies from both the States.

(ii) The applicable threshold limit for GST registration for Pulkit in the given case is ₹ 40 lakh as he is exclusively engaged in intra-State taxable supply of goods in Goa. Thus, he is not liable to get registered under GST as his turnover is less than the threshold limit.

(iii) Harshit being exclusively engaged in supply of pan masala is not eligible for higher threshold limit of ₹40 lakh. The applicable threshold limit for registration in this case is ₹20 lakh. Thus, Harshit is liable to get registered under GST.

7. As per section 22 read with *Notification No. 10/2019 CT dated 07.03.2019*, a supplier is liable to be registered in the State/Union territory from where he makes a taxable supply of goods and/or services, if his aggregate turnover in a financial year exceeds the threshold limit. The threshold limit for a person making exclusive taxable supply of services or supply of both goods and services is as under:-

(a) ₹ 10 lakh for the Special Category States of Mizoram, Tripura, Manipur and Nagaland.

(b) ₹ 20 lakh for the rest of India.

(i) Though Ankit is dealing in Assam, he is not entitled for higher threshold limit for registration as the same is applicable only in case of exclusively supply of goods and he is exclusively engaged in providing services. Thus, the applicable threshold limit for registration in this case is ₹ 20 lakh and hence, Ankit is liable to get registered under GST.

(ii) Since Sanchit is engaged in supply of both taxable goods and services, the applicable threshold limit for registration in his case is ₹ 20 lakh. Thus, Sanchit is liable to get registered under GST as his turnover is more than the threshold limit.

8. Registration will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.
- Become eligible to avail various other benefits and privileges rendered under the GST laws.

9. No, a person without GST registration can neither collect GST from his customers nor can claim any input tax credit of GST paid by him.

10. No. Every person who is liable to take a registration will have to get registered separately for each of the States from where he makes taxable supply(ies) provided his aggregate turnover exceeds applicable threshold limit in a financial year.

11. Yes. In terms of the proviso to sub-section (2) of section 25, a person havi.ng multiple places of business in a State may obtain a separate registration for each place of business, subject to such conditions as may be prescribed.

12. Yes. In terms of sub-section (3) of section 25, a person, though not liable to be registered under sections 22 or 24 may get himself registered voluntarily, and all provisions of the GST law, as are applicable to a registered person, shall apply to such person.

13. Yes. In terms of sub-section (8) of section 25, where a person who is liable to be registered under GST law fails to obtain registration, the proper

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officer may, without prejudice to any action which may be taken under CGST Act, or under any other law for the time being in force, proceed to register such person in the manner as prescribed in the CGST Rules.

14. Yes, the registration certificate once granted is permanent unless surrendered, cancelled or suspended.

15. In terms of section 25(9), all notified UN bodies, Consulate or Embassy of foreign countries and any other class of persons as may be notified would be required to obtain a unique identification number (UIN) from the GST portal.

The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid on notified supplies of goods and services received by them, and for any other purpose as may be notified.

16. The taxable supplier making supplies to UN bodies is expected to mention the UIN on the invoices and treat such supplies as if supplies are made to another registered person (B2B).

17. In terms of section 27(1) read with proviso thereto, the certificate of registration issued to a "casual taxable person" or a "non-resident taxable person" shall be valid for a period specified in the application for registration or 90 days from the effective date of registration, whichever is earlier. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of 90 days by a further period not exceeding 90 days.

18. In such cases, the registration may be cancelled from such date, including any retrospective date, as may deem fit by the proper officer [Section 29(2)(e)].

19. No, the tax paper has to take separate registration in every State from where he makes taxable supply of services.

20. The transferee or the successor shall be liable to be registered with effect from the date of such transfer or succession and he will have to obtain a

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fresh registration with effect from the date of such transfer or succession [Section 22(3)].

21. Yes. The principal place of business and place of business have been separately defined under sections 2(89) & 2(85) respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

22. Yes, as per section 29(3), 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.

Further, as per section 29(5), every registered taxable 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 prescribed manner.

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CHAPTER-10 TAX INVOICE; CREDIT AND DEBIT NOTES

1. INTRODUCTION

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 goods 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.

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 the issuance of an invoice or a bill of supply for every supply of goods or services.

Under GST law, a tax invoice is an important document. It not only evidences supply of goods or services, 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.

The provisions relating to tax invoices, credit and debit notes are contained in Chapter VII - Tax Invoice, Credit and Debit Notes [Sections 31 to 34] of the CGST Act and Chapter-VI: Tax Invoice, Credit and Debit Notes [Rules 46 to 55A] of Central Goods and Services (CGST) Rules, 2017. State GST laws also prescribe identical provisions in relation to Tax Invoice; Credit and Debit Notes.

Before proceeding to understand the provisions of Tax Invoice, Credit and Debit Notes, let us first go through few relevant definitions.

Provisions of Tax invoice; Credit and Debit Notes under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

2. RELEVANT DEFINITIONS

- **Credit note:** means a document issued by a registered person under sub-section (1) of section 34 [Section 2(37)].
- **Debit note:** means a document issued by a registered person under sub-section (3) of section 34 [Section 2(38)].
- **Continuous supply of goods:** means [Section 2(32)]:

  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

- **Continuous supply of services:** means [Section 2(33)]:

  supply of services which is provided, or agreed to be provided, continuously or on recurrent basis

  under a contract

  for a period exceeding 3 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

❖ **Document:** includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000 [Section 2(41)].

❖ **Exempt supply:** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under

section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47)].

- **Invoice or tax invoice:** means the tax invoice referred to in section 31 *(discussed subsequently)* [Section 2(66)].
- **Quarter:** shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year [Section 2(92)].
- **Return:** means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder [Section 2(97)].

3. TAX INVOICE [SECTION 31]

STATUTORY PROVISIONS	
Section 31	**Tax invoice**
Sub-section	**Particulars**
1	*A registered person supplying taxable goods shall, before or at the time of,—* *(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or* *(b) delivery of goods or making available thereof to the recipient, in any other case issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed.* *Provided that 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.*
2	*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 may be prescribed.* *Provided that the Government may, on the recommendations*

	of the Council, by notification— *(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;* *(b) subject to the condition mentioned therein, specify the categories of services in respect of which—* *(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or* *(ii) tax invoice may not be issued.*
3	*Notwithstanding anything contained in sub-sections (1) and (2)–* *(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;* *(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;* *(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed: Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;* *(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;*

	(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment; *(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;* *(g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.*
4	*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.*
5	*Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,––* *(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;* *(b) where 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) where 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.*

6	*In a case where the supply of services ceases under a contract before the completion of the 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.*
7	*Notwithstanding anything contained in sub-section (1), 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.*
Explanation. –	*For the purposes of this section, the expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier*
Section 31A	***Facility of digital payment to recipient***
	The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.

ANALYSIS

The provisions relating to Tax Invoice are provided under section 31 of the CGST Act as well as Chapter-VI: Tax Invoice, Credit and Debit Notes of Central Goods and Services (CGST) Rules, 2017. The provisions contained in these rules have been incorporated at the relevant places.

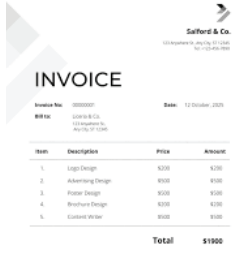
There is no format prescribed for the Tax Invoice. Only certain fields have been prescribed as mandatory fields.

A. TAX INVOICE ISSUED BY A SUPPLIER OF TAXABLE GOODS/ TAXABLE SERVICES

A tax invoice shall be issued by a registered person supplying taxable goods or taxable services or both. Such tax invoice shall show the prescribed particulars.

(i) Time limit for issuance of invoice [Sections 31(1), (2), (4) & (5) read with rule 47]

The time for issuing an invoice would depend on the nature of supply viz. whether it is a supply of goods or supply of services.



A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods (where supply involves movement of goods) or in any other case, before or at the time of delivery or making available the said goods to the recipient.

In case of supply of taxable services, tax invoice may be issued before or after the provision of services, but within the specified period.

Government may notify the categories of services in respect of which any other document issued in relation to supply shall be deemed to be a tax invoice or tax invoice may not be issued.

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

<table>
<tr><th>In case of taxable supply of goods</th><th colspan="2">In case of taxable supply of services</th></tr>
<tr><td>Invoice shall be issued before or at the time of,—</td><td colspan="2">Invoice shall be issued before or after the provision of service, but within a period of 30 days* from the date of supply of service.</td></tr>
<tr><td>(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or</td><td colspan="2">*45 days in case of an insurer or banking company or financial institution, including a non-banking financial company (NBFC)</td></tr>
<tr><td>(b) delivery of goods or making available thereof to the recipient, in any other case.</td><td colspan="2">An insurer or a banking company or a financial institution, including NBFC, or a telecom operator, or any other class of supplier of services as may be notified by the Government, making taxable supplies of services between distinct persons as specified in section 25
⬇ May issue the invoice
Before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made</td></tr>
<tr><td>In case of continuous supply of goods</td><td colspan="2">In case of continuous supply of services</td></tr>
<tr><td rowspan="3">Where successive statements of accounts/ successive payments are involved, the invoice shall be issued before/at the time each such statement is issued or each such payment is received.</td><td>Where</td><td>the invoice shall be issued</td></tr>
<tr><td>(a) due date of payment is ascertainable from the contract</td><td>on or before the due date of payment</td></tr>
<tr><td>(b) due date of payment is not ascertainable from the contract</td><td>before or at the time when the supplier of service receives the payment</td></tr>
<tr><td></td><td>(c) payment is linked to the completion of an event</td><td>on or before the date of completion of that event.</td></tr>
</table>

EXAMPLE

(1) Ritu Manufacturers, Delhi supplies goods to Prakhar Electronics, Haryana. The goods were removed from its factory in Delhi on 23rdSeptember.Ritu Manufacturers needs to issue a tax invoice on or before 23rd September.

EXAMPLE

(2) Katyani Security Services Ltd. provides security services to Royal Jewellers for their Jewellery Exhibition to be organized on 5th October. Katyani Security Services Ltd. needs to issue a tax invoice within 30 days of supply of security services, i.e. on or before 4th November.

(ii) Where supply of services ceases before its completion [Section 31(6)]

In a case where the supply of services ceases under a contract before the completion of the 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.

(iii) Goods sent on sale or return basis [Section 31(7)]

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:

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:

(i) before/at the time of supply

or

(ii) 6 months from the date of removal

whichever is earlier.

(iv) Particulars of a tax invoice [Sections 31(1) & (2) read with rule 46]

As discussed earlier, there is no format prescribed for an invoice, but rules make it mandatory for an invoice to have the following fields (only applicable fields are to be filled):

Name, address and GSTIN of the supplier;	
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets/numerals/special characters hyphen or dash and slash, and any combination thereof, unique for a FY;	
Date of its issue;	
If recipient is registered- Name, address and GSTIN or UIN of recipient	
If recipient is unregistered and value of supply is	**Particulars of invoice**
` 50,000 or more	Name and address of the recipient and the address of delivery, along with the name of State and its code
less than ` 50,000	unregistered recipient may still request the aforesaid details to be recorded in the tax invoice
In cases involving supply of online money gaming or in cases where any taxable service is supplied by or through an ECO to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the ***name of the State of the recipient and the same shall be deemed to be the address on record of the recipient***[1]**.**	
HSN code for goods or services; Description of goods or services;	
Description of goods or services;	
Quantity in case of goods and unit or Unique Quantity Code thereof;	
Total value of supply of goods or services or both;	
Taxable value of supply of goods or services or both taking into account discount or abatement, if any; Rate of tax (central tax, State tax, integrated	

1 This provision is also applicable in cases where any taxable service is supplied by a supplier of OIDAR services to a recipient who is unregistered. However, the provisions relating to OIDAR services are discussed at the Final level.

Total value of supply of goods or services or both;
Taxable value of supply of goods or services or both taking into account discount or abatement, if any;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
Place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
Address of delivery where the same is different from the place of supply;
Whether the tax is payable on reverse charge basis; and
Signature or digital signature of the supplier or his authorized representative (not required in case of issuance of an electronic invoice in accordance with the provisions of the Information Technology (IT)Act, 2000).
Quick Response code, having embedded Invoice Reference Number (IRN) in it, in case e-invoice has been issued[2]

Note: The taxpayers exempted from the mandatory requirement of e-invoicing *(discussed subsequently)* are required to provide a declaration on the tax invoice stating that though their aggregate turnover exceeds the notified aggregate turnover for e-invoicing, they are not required to prepare an e-invoice.

(v) Number of HSN digits required on tax invoice and class of registered person not required to mention HSN [Rule 46]

Board may, on the recommendations of the Council, by notification, specify:

(i) the number of digits of Harmonised System of Nomenclature (HSN) code for goods or services that a class of registered persons shall be required to mention; or

(ii) a class of supply of goods or services for which specified number of digits of HSN code shall be required to be mentioned by all registered taxpayers; and

2 in the manner prescribed under rule 48(4)

(iii) the class of registered persons that would not be required to mention the HSN code for goods or services.

This provision is also applicable to Bill of Supply [The concept of Bill of Supply is discussed in subsequent paras].

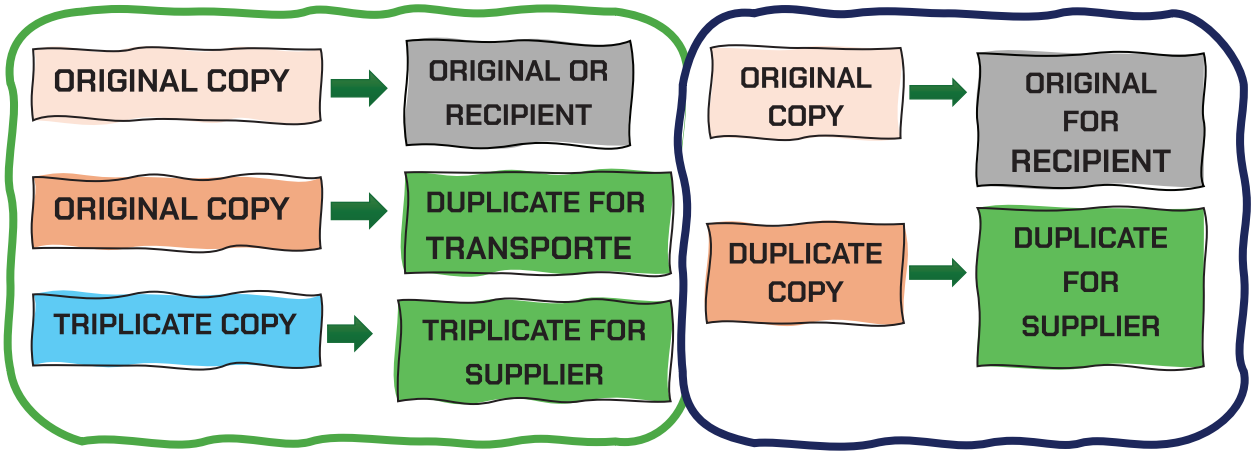
In view of the above powers, following has been notified vide Notification No. 12/2017 CT dated 28.06.2017 as amended:

S. No.	Annual Turnover (AT) in the preceding FY	Number of Digits of HSN Code
1	AT ≤ ` 5 crores	For B2B supply – 4 For B2C supply – 4 (optional)*
2	AT > ` 5 crores	For B2B supply and B2C supply – 6

As mentioned above, a registered person having aggregate turnover up to ` 5 crores in the previous financial year has been exempted from the requirement of mentioning the HSN Code in the manner specified in above table in a tax invoice issued by him under the said rules **in respect of supplies made to unregistered persons.*

(VI) MANNER OF ISSUING THE INVOICE [SECTIONS 31(1) & (2) READ WITH RULE 48]

In case of taxable supply of goods	In case of taxable supply of services
Invoice shall be prepared in **TRIPLICATE**	Invoice shall be prepared in **DUPLICATE**
Triplicate	**Duplicate**



The serial number of invoices issued during a tax period shall be furnished electronically [through the Common Portal – www.gst.gov.in], in FORM GSTR-1 [Details of outward Supplies of goods or services] ***or GSTR1A***.

Key points from aforesaid discussion have been summarized as follows:

1. All GST taxpayers are free to design their own Tax Invoice Format.
2. The law requires that only certain fields as mandatory fields in the Tax Invoice. The same have been listed under heading (iv) above. The mandatory fields have also been circled in the following Sample Tax Invoice.
3. The time period for issuance of invoice is different for goods and services. For goods, it is any time before or at its delivery and for services, it is within 30 days from the date of supply of services.

Sample Tax Invoice

ABC Enterprises Pvt. Ltd.

GSTIN 22AAAAA0000A1Z5
Branch Karnatka (22)
PAN AAAAA0000A

Total ₹ 6500.00

Invoice Date 10/05/2017
Invoice No. CLR-00054
Reference No. PO-9987

TAX INVOICE

Customer Name
Kantech Solutions Private Ltd.

Customer GSTIN
22BBBBB0007A1Z5

Billing Address
Kantech Solutions Private Ltd.
Ground Floor, Building 2A, 23 & 24
AMR Tech Park Internal Road
Hongasandra, Bengaluru
Karnatka 560068

Shipping Address
Kantech Solutions Private Ltd.
Ground Floor, Building 2A, 23 & 24
AMR Tech Park Internal Road
Hongasandra, Bengaluru
Karnatka 560068

Payment Terms Net 15 Due Date 19/06/2016 Place of Supply Karnataka (22)

	Item	HSN	Qty.	Rate/ Item(₹)	Discount/ Item(₹)	Taxable Value(₹)	SGST	CGST	CESS	Total
1.	Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
2.	Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
3.	Himalaya Herbal Cream Neem Edition	440003	10 kg	1000.00	30.00	9700.00	970.00 @10%	970.00 @10%	00.00 @0%	11640.00
4.	Frieght Charges	—	1 no	1000.00	—	1000.00	50.00 @5%	50.00 @5%	00.00 @0%	1100.00
				Total (₹)		30100.00	2960.00	2960.00	00.00	36020.00

Taxable amount	₹ 30100.00
Total Tax*	₹ 5920.00
Invoice Total	₹ 36020.00
Invoice Total (In words)	Thirty Six Thousand Twenty Only

*Tax to be paid on Reverse Charge

Notes
All payments to be made in cash.
Contact us for queries on these quotations.

DUPLICATE
For Transporter

for ABC Enterprises Pvt. Ltd.
(Signature)

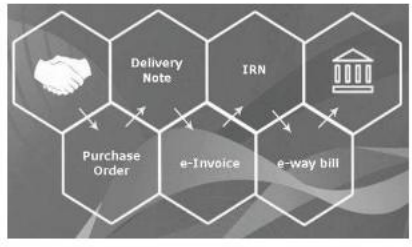
Thank you for your business.

Powered by clearTax

ABC Enterprises Pvt. Ltd., Ground Floor, Building 2A, 23 & 24, AMR Tech Park Internal Road, Hongasandra, Bengaluru, Karnatka 560068
+91-9876543210, +91-9876543210, contact@abcenterprises.in

'E-invoicing' has been introduced for reporting of business to business (B2B) invoices to GST System for certain notified category of taxpayers.

All registered businesses with an aggregate turnover (based on PAN) in any preceding financial year from 2017-18 onwards greater than ` ***5 crore*** (hereinafter referred to as 'notified persons') will be required to issue e-invoices. E-invoicing is not voluntary; only notified persons are enabled to report invoices on IRP (Invoice Registration Portal).



Before we proceed further, let us first understand what is 'e-invoicing'? E-invoicing is not generation of invoice by a government portal. Taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems as per e-invoice scheme. These invoices will then be reported to IRP. On such reporting, IRP will generate a unique 'Invoice Reference Number (IRN)', digitally sign it and return the e-invoice to the supplier. A GST e-invoice will be valid only with a valid IRN.

Presently, invoices, credit notes and debit notes, when issued by notified persons (to registered persons (B2B) or for the purpose of exports) are covered under e-invoice. Though different documents are covered, for ease of reference and understanding, the system is referred as 'e-invoicing'.

Advantages of e-invoicing

E-invoice has many advantages for businesses. One such advantage is auto-reporting of invoices into GST return and auto-generation of e-way bill[3] (wherever required). Under e-invoicing, business has to report the B2B invoice data only once in the e-invoice form and the same is reported in multiple forms (GSTR-1, e-way bill etc.).

3 The provisions relating to e-way bill have been discussed in Chapter 12: E-way bill in this Module of the Study Material

E-way bill can be auto-generated using e-invoice data. GSTR-1 can also be auto-populated with the e-invoice data. It will become part of the business process of the taxpayer.

Consequently, there will be a substantial reduction in transcription errors as same data will get reported to tax department as well as to the buyer to prepare his inward supplies (purchase) register. On receipt of information through GST System, buyer can reconcile the same with his Purchase Order.

Thus, it will facilitate standardisation and inter-operability leading to reduction of disputes among transacting parties, improve payment cycles, reduction of processing costs and thereby greatly improving overall business efficiency.

Further, since a complete trail of B2B invoices is available with the Department, it will enable the system-level matching of input tax credit and output tax thereby reducing the tax evasion.

Last but not the least, e-invoicing will eliminate the fake invoices. Claiming fictitious input tax credit (ITC) by raising fake invoices is also one of the biggest challenges currently faced by tax-authorities. The e-invoice system will help to curb the actions of unscrupulous taxpayers and reduce the number of fraud cases as the tax authorities will have access to data in real-time.

E-INVOICING STATUTORY PROVISIONS

Rule 48(4) stipulates that the e-invoice shall be prepared by notified class of registered persons, by uploading such particulars as contained in Form GST INV-01 on the Common GST Electronic Portal[4] and obtain an IRN (Invoice Reference Number), in prescribed manner and subject to prescribed conditions and restrictions.

However, the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice under rule 48(4) for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

4Ten dedicated Invoice Reference Portals have been notified as Common Goods and Service Tax (GST) Electronic Portal for the purpose of preparing e-invoice. These portals are enlisted in subsequent paras.

Every invoice, issued by above persons, in any manner other than the manner specified in rule 48(4) shall not be treated as an invoice.

Where e-invoicing is applicable, there is no need of issuing invoice copies in triplicate/duplicate.

Class of persons notified to mandatorily issue e-invoice

In view of said powers, a registered person (except specified class of persons[5]), whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ` ***5 crore***, has been notified as class of persons who shall prepare e-invoice in respect of B2B supplies (supply of goods or services or both to a registered person) and for exports[6].Thus, presently, such notified persons are not required to report B2C invoices on IRP. However, reporting of B2C invoices will be brought under e-invoice in the next phase. Further, e-invoicing is also not applicable to invoices issued by Input Service Distributor (ISD)[7].

If the invoice issued by a notified person is in respect of supplies made by him, tax on which is payable under reverse charge under section 9(3), e-invoicing is applicable.

(3) A taxpayer (say a firm of advocates) having aggregate turnover in a FY of more than ` 5 crore is supplying services to a company (who will be discharging tax liability as recipient under reverse charge mechanism), such invoices have to be reported by said tax payer (since it is a notified person) on IRP.

On the other hand, where specified category of supplies are received by notified person from unregistered persons [attracting reverse charge under section 9(4)] or through import of services, e-invoicing doesn't arise/ not applicable. E-invoicing is also not applicable in case of import of goods (Bills of Entry).

5Special Economic Zones and insurer or banking company or financial institution including NBFC, GTA, supplier of passenger transportation service, person supplying services by way of admission to exhibition of cinematograph films in multiplex screens, a Government Department and a local authority.
6 Notification No. 13/2020 CT dated 21.03.2020 as amended
7 Provisions relating to ISD have been discussed at Final level.

EXEMPTION FROM E-INVOICING

Following entities are exempt from the mandatory requirement of e-invoicing:

- Special Economic Zone units**
- Insurer or banking company or financial institution including NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- a Government Department and a local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds ` **5 crore** in any preceding financial year from 2017-18 onwards.

Further, the above taxpayers exempted from the mandatory requirement of e-invoicing are required to provide a **declaration as below** that invoice is not required to be issued in the manner specified under rule 48(4), in all cases where an invoice is issued, other than in the manner so specified under the said rule 48(4), by the taxpayer having aggregate turnover in any preceding financial year from 2017-18 onwards more than the aggregate turnover as notified under rule 48(4) [*presently its* ` ***5 crore***]-

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

It is important to note here that only SEZ units and not SEZ developers are exempt from issuing e-invoices. Thus, SEZ developers whose turnover exceeds ` ***5 crore* in any preceding financial year from 2017-18 onwards are mandatorily required to issue e-invoices. Further, in case of supplies made by notified persons to SEZ units, e-invoices need to be issued.

EXAMPLE **(4)** Maharaja Private Limited has an SEZ unit and a regular DTA unit (both having same PAN). The aggregate total turnover of Maharaja Private Limited is more than ` 5 crore (considering both the GSTINs). However, the turnover of DTA unit is `2.5 crore for preceding financial year.

In this scenario, SEZ unit is exempt from e-invoicing. However, e-invoicing will be applicable to DTA Unit because the aggregate turnover of the legal entity in this case is >` 5 crore. The applicability is based on annual aggregate turnover on the common PAN.

It has been clarified8 that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

EXAMPLE **(5)** A banking company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of *Notification No. 13/2020 CT dated 21.03.2020*, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

How e-invoice is generated?

The taxpayer first prepares and generates his invoice using his own ERP/accounting/billing system or manual system[9].The invoice must conform to the e-invoice schema (standard notified format - *discussed in detail subsequent paras*) and must have the mandatory parameters.

The details of this invoice are uploaded/reported by the taxpayer to the Invoice Registration Portal (IRP). This way taxpayer registers his supply transaction on IRP.

On uploading, IRP returns the e-invoice with a unique 'Invoice Reference Number (IRN)' (explained in detail subsequent paras)

8 Circular No. 186/18/2022 GST dated 27.12.2022

9 For entities not having their own ERP/Software solutions, they can use the free offline utility ('bulk generation tool') downloadable from the e-invoice portal. Through this, invoice data can be easily reported to IRP and obtain IRN/signed e-invoice

after digitally signing the e-invoice and adding a QR Code (Quick Response Code). Then, the supplier shares the e-invoice with the receiver (along with QR Code).

How e-invoice data is consumed by GST System for generation of e-way bill or populating relevant parts of GST Returns?

On successful reporting of invoice details to IRP, the invoice data (payload) including IRN, will be saved in GST System.

The GST system will auto-populate them into GSTR-1 of the supplier and GSTR-2A of respective receivers. IRN and IRN date will also be shown along with source marked as 'e-invoice' (except where such details were modified/re-uploaded by taxpayer).

The e-invoice schema *(discussed subsequently)* includes parameters e.g. 'Transporter ID' and 'Vehicle Number', etc. that are required for creating and generating e-way bills. These can be entered if available with seller, at the time of generation of e-invoice so that e-way bill can be created using this data without any further requirement of data entry by the user. The e-invoice reporting software already allows reporting of e-invoice and generation of e-way bill with same data.

Cancellation/ amendment of reported invoice

Where needed, the seller can **cancel IRN** for an e-invoice already reported **by reporting it on IRP** within specified time[10].

Amendment of e-invoice already uploaded on IRP will be done only on GST portal (while filing GSTR-1). Amendment of invoices is not possible through the IRP.

Implications for businesses As apparent from the above discussion, e-invoicing does not mean that the invoice needs to be prepared/ generated on the Government portal. It is only intimating the Government portal that invoice has been issued to the buyer, by registering that particular invoice on the Government portal. Consequently, businesses will continue to issue invoices as they were doing earlier. Necessary changes on account of e-invoicing requirement (i.e. to enable reporting of invoices to IRP and obtain IRN), be made by ERP/Accounting and Billing Software providers in their respective software. They need to get the updated version having this facility.

Important terms E-invoice Schema

Businesses use various accounting/billing software, each generating and storing invoices in their own electronic formats. These different formats are neither understood by GST System nor by the systems of suppliers and receivers.

EXAMPLE **(6)** An invoice generated by SAP system cannot be read by a machine which is using 'Tally' system, unless a connector is used. With more than 300 accounting/billing software products, there was no way to have connectors for all.

In this scenario, 'e-invoicing' was introduced aiming at machine-readability and uniform interpretation. To ensure this complete 'inter-operability' of e-invoices across the entire GST eco-system, an invoice standard is a must. By this, e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh/manual data entry.

10However, if the connected e-way bill is active or verified by officer during transit, cancellation of IRN will not be permitted.

Since, there was no such standard for e-invoice available earlier, as a first step, a standard format for e-invoice has been finalized.

This uniform standard format (containing specified fields) applicable for all the businesses across the country is known as 'e-invoice schema'. It is notified as **Form GST INV-1**. E-invoice schema mandates what particulars shall be reported in electronic format to IRP. Invoice details in prescribed schema to be reported to IRP in JSON format (JavaScript Object Notation). 'JSON' can be understood as a common language for systems/machines to communicate between each other and exchange data.

Invoice Registration Portal (IRP)

IRP is the website for uploading/reporting of invoices by the notified persons. Following IRPs have been notified for the purpose of preparation of the e-invoice:

www.einvoice1.gst.gov.in
www.einvoice2.gst.gov.in
www.einvoice3.gst.gov.in
www.einvoice4.gst.gov.in
www.einvoice5.gst.gov.in
www.einvoice6.gst.gov.in
www.einvoice7.gst.gov.in
www.einvoice8.gst.gov.in
www.einvoice9.gst.gov.in
www.einvoice10.gst.gov.in

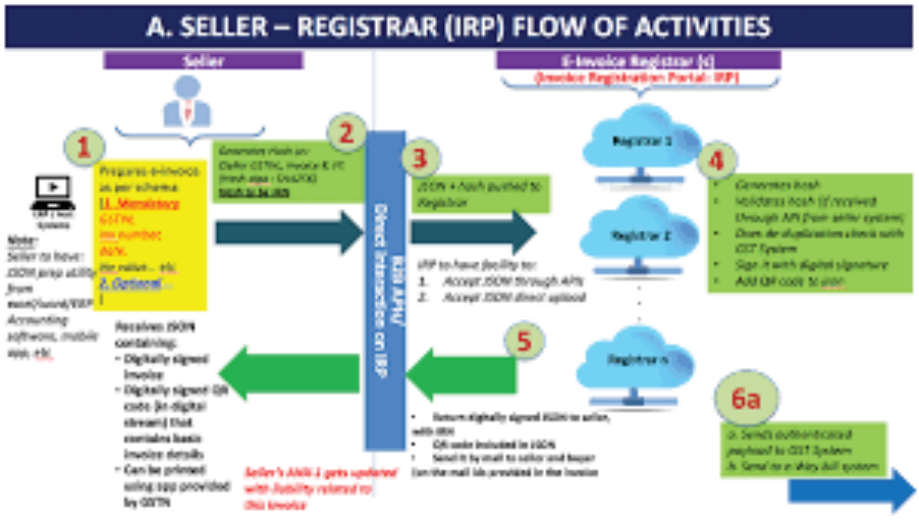
Invoice Reference Number

As seen earlier, GST invoice will be valid only with a valid IRN. IRN is different from invoice number. Invoice no. (e.g. ABC/1/2019-20) is assigned by supplier and is internal to business. Its format can differ from business to business and also governed by relevant GST rules. IRN, on other hand, is a unique reference number (hash) generated and returned by IRP, on successful registration of e-invoice. IRN is a unique 64-character hash, e.g.

35054cc24d97033afc24f49ec4444dbab81f542c555f9d30359dc75794e06bbe

The overall workflow of e-invoice generation, its reporting/registration and receipt of confirmation is depicted below:

A. Interaction between the business (supplier) and the Invoice Registration Portal (IRP).



B. Interaction between the IRP and the GST/E-Way Bill Systems and the Buyer.

Other points:

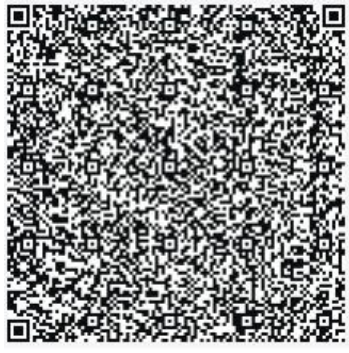
- The e-invoicing system is also available for the E-Commerce Operators (ECO) to report the invoices to the Invoice Registration portal, generated by them on behalf of the suppliers.
- Bulk uploading of invoices to IRP is also possible[11].
- CBIC has clarified[12] that **there is no requirement to carry the physical copy of tax invoice in cases where e-**

11 Discussion on e-invoicing is primarily based on the relevant rules, notifications and FAQS on e-invoicing hosted on GSTN website.

12 Circular No. 160/16/2021 GST dated 20.09.2021

invoice has been generated by the supplier. Whenever e-invoice has been generated, production of the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

Quick Response (QR) code



Upon successful registration of invoice on IRP, it will return a signed e-invoice to the supplier with IRN and QR Code. IRN is embedded in the QR Code which shall be extracted and printed on the invoice. The QR code enables quick view, validation and access of the invoices from the GST system from hand-held devices. The digitally signed QR code will have a unique IRN which can be verified on the central portal as well as by an offline app by the officer. **This will be helpful for tax officers checking the invoice offline on the roadside where internet may not be available all the time.**

The QR code consists of the following e-invoice parameters:

- GSTIN of supplier
- GSTIN of recipient
- Invoice number as given by supplier
- Date of generation of invoice
- Invoice value (taxable value and gross tax)
- Number of line items
- HSN code of main item (the line item having highest taxable value)
- Unique Invoice Reference Number (hash)
- Date of generation of IRN

E-invoicing applicable to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51

- The issue which arose for consideration was whether e-invoicing is applicable for supplies made by a registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to

Government Departments or establishments/ Government agencies/ local authorities/ PSUs which are registered solely for the purpose of deduction of TDS as per provisions of section 51.

- ***It is clarified that Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS under section 51, are liable for compulsory registration in accordance with section 24(vi).***
- ***Therefore, Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of deduction of TDS as per provisions of section 51, are to be treated as registered persons under the GST law as per provisions of section 2(94).***
- ***Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc. under rule 48(4)[13].***

DYNAMIC QR CODE ON B2C INVOICES

All B2C invoices issued by a registered person whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ` 500 crores will have a QR code.

Sixth proviso to rule 46 has empowered the Government to specify that the tax invoice shall have Quick Response (QR) code. Resultantly, it has been notified[14] that invoice issued by a registered person [except specified class of persons *(discussed subsequently)*], whose aggregate turnover in a financial year exceeds ` 500 crores, in respect of B2C supplies (supply of goods or services or both to an unregistered person) shall have Dynamic QR code.

13 Circular No. 198/10/2023 GST dated 17.07.2023
14 Notification No. 14/2020 CT dated 21.03.2020

Today, many shops have static QR code at the payment counter which is scanned by the buyer, but the buyer has to enter the amount to be paid to the shop in the mobile payment App. The dynamic QR code, on the other hand, will have the payment details and thus 'scan and pay' in one go is possible.

This has no relevance or applicability to the e-invoicing in respect to B2B supplies by notified class of taxpayers. Dynamic QR Code will be generated by the seller himself either on the Point of Sale (PoS) machine or the invoice issued.

Dynamic QR Code in case of an invoice, issued to a person having a UIN

Any person, who has obtained a Unique Identity Number (UIN), is not a "registered person" as per the definition of registered person provided in section 2(94)[15]. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

Non-applicability of requirement of Dynamic QR code

Dynamic QR code is not applicable to an invoice issued to an unregistered person by following suppliers:

(i) Insurer or banking company or financial institution including NBFC
(ii) Goods transport agency supplying services in relation to transportation of goods by road in a goods carriage
(iii) Supplier of passenger transportation service
(iv) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
(v) Supplier of online information and database access or retrieval (OIDAR) services[16].

15 A registered person means a person who is registered under section 25 but does not include a person having a Unique Identity Number [Section 2(94)].
16The provisions relating to OIDAR services have been discussed at the Final level

No Dynamic QR code in case of exports:

As regards the supplies made for exports, though such supplies are made by a registered person to an unregistered person, however, since e-invoices are required to be issued in respect of supplies for exports treating them as B2B supplies, Dynamic QR code requirement will not be applicable to them.

Parameters/ details to be captured in the Dynamic QR Code

Dynamic QR Code, *inter-alia*, shall contain the following information: -

- Supplier GSTIN number
- Supplier UPI ID
- Payee's Bank A/c number and IFSC
- Invoice number & invoice date,
- Total invoice value and
- GST amount along with breakup i.e. CGST, SGST, IGST, Cess, etc.

Further, Dynamic QR Code should be such that it can be scanned to make a digital payment.

The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. If the supplier has issued invoice having Dynamic QR Code for payment, the said invoice shall be deemed to have complied with Dynamic QR Code requirements.

B. SPECIAL CASES

(i) Revised Tax Invoice [Section 31(3)(a) read with rule 53]

When issued?

- 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. Such invoices shall be issued against the invoices already issued during said period.

*For the purposes of section 31, the expression **"tax invoice"** shall include any **revised invoice** issued by the supplier in respect of a supply made earlier [Explanation to section 31].*

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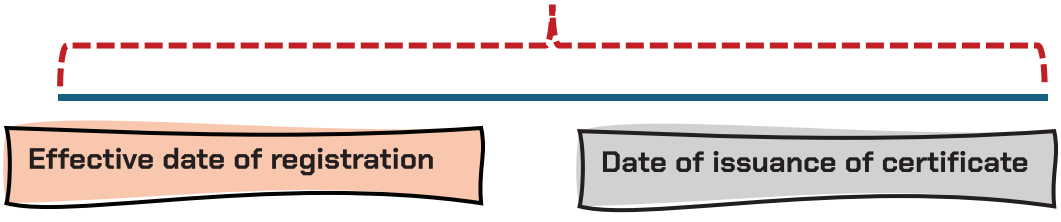
Revised Tax Invoices shall be issued within 1 month from the date of issuance of certificate of registration.

- The words "Revised Invoice" shall be indicated prominently on such invoices.
- 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 stipulated 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 the issuance of revised invoice(s), so that ITC can be availed by the recipient on such supplies.

Revised Tax Invoices to be issued in respect of taxable supplies effected during this period



(7) Sarabhai Private Ltd. commenced business of supply of goods on 1st April in Delhi. Its turnover exceeded the applicable threshold limit on 3rd September. Thus, it became liable to registration on 3rd September. It applied for registration on 29th September and was granted registration certificate on 5th October. Since it applied for registration within 30 days of becoming liable to registration, registration granted is effective from 3rd September. Sarabhai Private Ltd. may issue Revised Tax Invoices on or before 5th November in respect of taxable supplies effected between 3rd September and 5th October.

Consolidated Revised Tax Invoices in certain cases

A registered person may issue a Consolidated Revised Tax Invoice in respect of all taxable supplies made to an unregistered recipient **during such period**.

However, **in case of inter-State supplies** where the value of supply does not exceed ` 2.5 Lakh, a consolidated revised invoice may be issued separately in respect of all unregistered recipients located in a State.

Thus, a revised/ consolidated revised invoice may be issued within one month from the date of registration as follows:

- **For each inter-State B2C taxable supply upto ` 2,50,000:** State-wise consolidated revised invoice
- **For each inter-State B2C taxable supply more than ` 2,50,000:** Recipient wise revised invoice
- **For all intra-State B2C taxable supplies irrespective of the amount:** Consolidated revised invoice

Particulars of Revised Tax Invoice

Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY;
Date of issue of the document;
Name, address and GSTIN or UIN, if registered, of the recipient;
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;
Serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;
Signature/digital signature of the supplier/his authorized representative.

ILLUSTRATION 1

Luv & Kush Pvt. Ltd. of Meghalaya engaged in the supply of gifts items and repair services, provides you the following details:-

S. No.	Particulars	Date
1	Commencement of the business of supplying goods and services	*1st August*
2	Turnover exceeds ` 10,00,000 on	*15th August*
3	Turnover exceeds ` 20,00,000 on	*5thSeptember*
4	Application for registration made on	*28th September*
5	Registration certificate granted on	*6th October*

The company seeks your advice as to how it should raise revised tax invoices for supplies made. Is there any specific provision for issuance of revised tax invoices to unregistered customers? Explain.

ANSWER

A supplier of both goods and services whose aggregate turnover in a financial year exceeds ` 20 lakh in a State/UT [` 10 lakh in specified Special Category States] is liable to apply for registration within 30 days from the date of becoming liable to registration (i.e., the date of crossing the threshold limit of ` 20 lakh/ ` 10 lakh) in terms of section 22. Since Meghalaya is not a specified Special Category State, applicable threshold limit is ` 20 lakh.

Further, where the application is submitted within said period, the effective date of registration is the date on which the person becomes liable to registration; otherwise it is the date of grant of registration.

Every registered person who has been granted registration with effect from a date earlier than the date of issuance of registration certificate to him, may issue revised tax invoices within 1 month from the date of issuance of registration certificate in respect of taxable supplies effected during this period

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i.e. from the effective date of registration till the date of issuance of registration.

Since Luv & Kush Pvt. Ltd. has made the application for registration within 30 days of becoming liable for registration, the effective date of registration becomes the date on which the company becomes liable to registration i.e. 5th September.

Thus, Luv & Kush Pvt. Ltd. may issue revised tax invoices against the invoices already issued during the period between effective date of registration (5th September) and the date of issuance of registration certificate (6th October), within 1 month from 6th October.

Further, Luv & Kush Pvt. Ltd may issue a consolidated revised tax invoice in respect of all taxable supplies made to unregistered dealers during such period. However, in case of inter-State supplies where the value of supply does not exceed ` 2.5 Lakh, a consolidated revised invoice may be issued separately in respect of all unregistered recipients located in a State.

(ii) No Tax Invoice required to be issued if value <` 200 – A consolidated Tax Invoice can be issued [Section 31(3)(b) read with fourth proviso to rule 46]

A registered person may not issue a Tax Invoice if:

(i) Value of the goods/services/both supplied<` 200,

(ii) the recipient is unregistered; and

(iv) the recipient does not require such invoice.

Instead, such registered person shall issue a **Consolidated Tax Invoice** for such supplies at the close of each day in respect of all such supplies.

Thus, small taxpayers, like small retailers, doing a large number of small transactions for upto a value of ` 200 per transaction to unregistered customers need not issue invoice for every such transaction. They can issue one consolidated invoice at the end of each day for all transactions done during the day. However, they need to issue an invoice when the customer demands.

However, this option is not available to a supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex

screens.

Above provision is also applicable to Bill of Supply.

ILLUSTRATION 2

Jain & Sons is a trader dealing in stationery items. It is registered under GST and has undertaken following sales during the day:

S. No.	Recipient of supply	Amount (`)
1	*Raghav Traders - a registered retail dealer*	*190*
2	*Dhruv Enterprises – an unregistered trader*	*358*
3	*Gaurav – a painter [unregistered]*	*500*
4	*Oberoi Orphanage –an unregistered entity*	*188*
5	*Aaradhya – a student [unregistered]*	*158*

None of the recipients require a tax invoice [Raghav Traders being a composition dealer].
Determine in respect of which of the above supplies, Jain & Sons may issue a Consolidated Tax Invoice instead of Tax Invoice, at the end of the day.

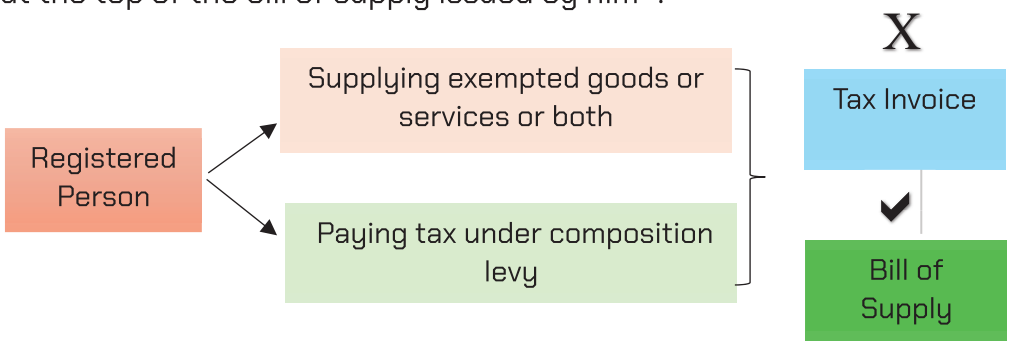
ANSWER

In the given illustration, Jain & Sons can issue a Consolidated Tax Invoice only with respect to supplies made to Oberoi Orphanage [worth `188] and Aaradhya [worth `158] as the value of goods supplied to these recipients is less than `200 as also these recipients are unregistered and don't require a tax invoice.

As regards the supply made to Raghav Traders, although the value of goods supplied to it is less than `200, Raghav Traders is registered under GST. So, Consolidated Tax Invoice cannot be issued. Consolidated Tax Invoice can also not be issued for supplies of goods made to Dhruv Enterprises and Gaurav although both of them are unregistered. The reason for the same is that the value of goods supplied is not less than ` 200.

(iii) Bill of Supply [Section 31(3)(c) read with rule 49]

Section 31(3)(c) stipulates that a registered person supplying exempted goods or services or both or a registered person paying tax under composition levy, shall issue a bill of supply instead of a tax invoice[17].Person opting for composition levy shall mention the words **"composition taxable person, not eligible to collect tax on supplies"** at the top of the bill of supply issued by him[18].



Particulars of Bill of Supply

A registered person opting for the composition levy does not collect tax from the recipient on outward supplies made by him. Similarly, in case of a registered person supplying exempted goods and/or services, no tax implications are there. Recipients should not expect Tax Invoice from such suppliers as they cannot issue tax invoice.

Since no tax is collected from the recipient by a registered person opting for the composition levy and a registered person supplying exempted goods and/or services, Bill of Supply issued by such persons does not contain the details pertaining to rate of tax and amount of tax. Further, value to be mentioned in the Bill of Supply is not also taxable value.

17Order No. 3/2019 CT dated 08.03.2019 has stipulated that a person paying tax under Notification No. 2/2019 will also issue a bill of supply instead of tax invoice.

18 Fourth proviso to rule 49 stipulates that the Bill of supply shall have a Quick Response Code. However, the same is not yet made effective.

Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or more multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash and any combination thereof, unique for a FY;
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
HSN Code for goods or services;
Description of goods or services or both;
Value of supply of goods or services or both taking into account discount/ abatement, if any; and
Signature/ digital signature of supplier/his authorized representative. However, signature or digital signature of the supplier or his authorized representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000.

Note: Any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as bill of supply for the purposes of the Act.

EXAMPLE **(8)** Patel & Sons is a manufacturer of goods who has opted for composition levy under section 10(1) and 10(2). It will issue a Bill of Supply to the buyers of goods and not the tax invoice.

Invoice-cum-bill of supply [Rule 46A]

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. Rule 46A is notwithstanding anything contained in rule 46 or rule 49 or rule 54 of CGST Rules. The said single "invoice-cum-bill of supply" shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

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(iv) Receipt Voucher [Section 31(3)(d) read with rule 50]

A registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a Receipt Voucher evidencing receipt of such payment.

Particulars of Receipt Voucher

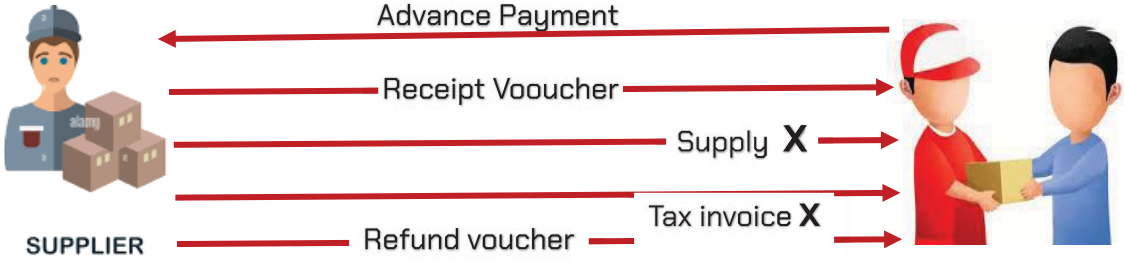
Name, address and GSTIN of the supplier;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
Description of goods or services;
Amount of advance taken;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
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;
Whether the tax is payable on reverse charge basis; and
Signature/digital signature of supplier/his authorized representative

Where at the time of receipt of advance, rate of tax and/or nature of supply is not determinable

Where at the time of receipt of advance -	
(i) rate of tax is not determinable	tax shall be paid at the rate of 18%
(ii)nature of supply is not determinable	same shall be treated as inter-State supply

(v) Refund Voucher [Section 31(3)(e) read with rule 51]

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a **Receipt Voucher**, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a **Refund Voucher** against such payment.



Particulars of Refund Voucher

Name, address and GSTIN of the supplier;
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 and any combination thereof, unique for a FY;
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
Number and date of Receipt Voucher issued
Description of goods/services in respect of which refund is made
Amount of refund made
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess)
Amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess)
Whether the tax is payable on reverse charge basis; and
Signature/digital signature of supplier/his authorized representative

(vi) Invoice and Payment Voucher [Section 31(3)(f) & (g) read with second proviso to rule 46 and rule 52]

The recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes under section 9(3). Such supplies can be received from a registered or an unregistered supplier.

Further, a builder/promoter is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:

(i) A builder/promoter must purchase 80% of inputs and input services used in supplying the service from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

(ii) Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement on reverse charge basis and

(iii) GST on capital goods purchased from unregistered person is payable by the promoter on reverse charge basis.

Invoice to be issued by recipient if he is liable to pay tax under section 9(3)/(4) and receives supplies from an unregistered person

A registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue an **Invoice** in respect of goods or services or both **received by him from the supplier who is not registered on the date of receipt of goods or services or both.** Thus, a recipient liable to pay tax by virtue of section 9(3) has to issue invoice only when supplies have been received from an unregistered supplier.

Payment voucher to be issued by recipient at the time of making payment if he is liable to pay tax under section 9(3)/(4)

Besides, a registered person who is liable to pay tax under reverse charge [under section 9(3)/9(4) of the CGST Act] shall issue a **Payment Voucher** at the time of making payment to the supplier.

Particulars of Payment Voucher

Name, address and GSTIN of the supplier if registered;
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and any combination thereof, unique for a FY
Date of its issue;
Name, address and GSTIN or UIN, if registered, of the recipient;
Description of goods or services;
Amount paid;
Rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
Amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
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; and
Signature/digital signature of supplier/his authorized representative

(vii) Supplier permitted to issue any document other than tax invoice [Section 31(2) and proviso to section 31(1) read with rules 54 and 55]

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.

Following suppliers may issue a tax invoice, but they are also permitted to issue any other document in lieu of tax invoice, by whatever name called:

Supplier of taxable service	Document in lieu of the tax invoice	
	Optional information	**Mandatory information**
Insurer/Banking company/Financial institution, including NBFC	• Serial number (It is not mandatory for a bank/insurance company to serially number the invoices/document). • Address of the recipient of taxable service.	Other information (other than serial no. and address of recipient) as prescribed for a Tax Invoice, under rule 46.
		A customer may avail numerous services from the bank / insurer in a given tax period. Such entities may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available, physically/ electronically, for supply of services made during a month at the end of the month. However, the signature or digital signature of the supplier/his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the

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		Information Technology Act, 2000.
Goods Transport Agency (GTA) supplying services in relation to transportation of goods by road in a **goods carriage**		**Gross weight of the consignment** Name of the consignor and the consignee
		Registration number of goods carriage in which the goods are transported
		Details of goods transported
		Details of place of origin and destination
		GSTIN of the person liable for paying tax whether as consignor, consignee or GTA
		Other information as prescribed for a tax invoice, under rule 46
Supplier of passenger transportation service	• Serial number • Address of the recipient of taxable service	Tax invoice shall include ticket in any form, by whatever name called
		Other information (other than serial no. and address of recipient) as prescribed for a tax invoice, under rule 46. However, signature or

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		digital signature of the supplier or his authorized representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000.
Registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens	Details of recipient of service	Supplier is required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice.
		Other information (other than details of recipient of service) as prescribed for a tax invoice, under rule 46. However, supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.

*It is important to note here that keeping in view the large number of transactions in banking, insurance and passenger transportation sector, taxpayers need not mention the address of the customer and the serial number in their invoices.

Delivery challan

Rule 55 specifies the cases where at the time of removal of goods for transportation, goods can be removed on delivery challan and invoice may be issued after delivery. These are provided in the following table:

Nature of supply[19]	Deliver challan to be issued	Particulars of Delivery Challan
(1) Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known, (2) Transportation of goods for reasons other than by way of supply, or **(3)** Such other supplies as may be notified by the Board	➢ serially numbered not exceeding 16 characters ➢ in one or multiple series ➢ at the time of removal of goods for transportation	Date and number of the delivery challan
		Name, address and GSTIN of the consigner, if registered
		Name, address and GSTIN or UIN of the consignee, if registered
		HSN code and description of goods,
		Quantity (provisional, where the exact quantity being supplied is not known)
		Taxable value
		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
		Place of supply, in case of inter-state movement
		Signature

19 It may be noted that delivery challan is to be issued in case of transportation of goods for job work also. The provisions relating to job work will be discussed at Final level.

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A. Delivery challan in Triplicate

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

Original copy	→	Original For Consignee
Duplicate copy	→	Duplicate For Transport
Triplicate copy	→	Triplicate for Consigner

B. Declaration in E-way Bill

Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in E-Way Bill.

C. Tax invoice to be issued after delivery of goods

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.

D. Goods transported in SKD/CKD conditioner in batches or lots

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) Copies of the corresponding delivery challan shall accompany each consignment 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.

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Goods may be moved within the State/from the State of registration to another State for supply on approval basis and art works may be sent by artists to galleries for exhibition on delivery challan along with e-way bill wherever applicable

Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply.

Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.

In view of relevant provisions of rule 55, it is clarified that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.

For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified *[Circular No. 10/10/2017 GST dated 18.10.2017]*.

Likewise, in case where artists supply art works in different States - other than the State in which they are registered as a taxable person and if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply, it is clarified that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work *[Circular No. 22/22/2017 GST dated 21.12.2017]*.

4. CREDIT AND DEBIT NOTES [SECTION 34]

STATUTORY PROVISIONS	
Section 34	***Credit and Debit Notes***
Sub-section	***Particulars***
1	Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.
2	*Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than the 30th day of November following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed. Provided that 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.*
3	*Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing such particulars as may be*

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	prescribed.
4	*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.*
	Explanation––For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

ANALYSIS

(i) Issuance of Credit Note:

During the course of trade or commerce, after the invoice has been issued, there can be situations like:

- The supplier has erroneously declared a value which is more than the actual value of the goods or services provided.
- The supplier has erroneously declared a higher tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is less than what has been declared in the tax invoice.
- The quality of the goods or services or both supplied is not to the satisfaction of the recipient thereby necessitating a partial or total reimbursement on the invoice value
- Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as **credit note** to the recipient. Once the credit note has been issued, the tax liability of the supplier will reduce.

The credit note is a convenient and legal method by which the value of the goods or services in the original tax invoice can be amended or revised. The issuance of the credit note easily allows the supplier to decrease his tax liability in his returns without requiring him to undertake any tedious process of refunds.

Section 34(1) provides that where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in

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that/those tax invoice(s) is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing the prescribed particulars.

SECONDARY DISCOUNT

It is important to note that credit note(s)are not permitted to be issued in case secondary discounts[20]are allowed by the supplier since the tax liability of the supplier does not get reduced in such case. However, supplier can issue financial/ commercial credit note(s) to reduce the value of supply payable by the recipient to the supplier *[Circular 92/11/2019 GST dated 07.03.2019].*

(ii) Issuance of Debit Note: There can be situations when after the invoice has been issued:

- The supplier has erroneously declared a value which is less than the actual value of the goods or services or both provided.
- The supplier has erroneously declared a lower tax rate than what is applicable for the kind of the goods or services or both supplied.
- The quantity received by the recipient is more than what has been declared in the tax invoice.
- Any other similar reasons.

In order to regularize these kinds of situations, the supplier is allowed to issue a document called as ***debit note*** *to the recipient.*

Debit note *shall include a supplementary invoice.*

Section 34(3) provides that where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply,

20 Secondary discounts are the discounts which are not known at the time of supply/are offered after the supply is already over. These discounts are not excluded from the value of supply since conditions laid down in section 15(3)(b) are not satisfied. Provisions of section 15 have been discussed in detail in Chapter 7- Value of Supply of Module-1 of this Study material.

the registered person, who has supplied such goods or services or both, shall issue to the recipient one or more debit notes for supplies made in a financial year containing the prescribed particulars.

The issuance of a debit note/supplementary invoice creates additional tax liability. The treatment of a debit note/supplementary invoice is identical to the treatment of a tax invoice as far as returns and payment are concerned.

The debit note/supplementary invoice is a convenient and legal method by which the value of the goods and/or services in the original tax invoice can be enhanced. The issuance of the debit note allows the supplier to pay his enhanced tax liability in his returns without requiring him to undertake any other tedious process.

(iii) Details of Debit Note/Credit Note to be declared in return

I. Credit Note:

Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than:

(i) 30th November following the end of the financial year in which such supply was made,

or

(ii) the date of furnishing of the relevant annual return, whichever is earlier.

The tax liability shall be adjusted in such manner as may be prescribed. 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.

II. Debit Note: 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. The tax liability shall be adjusted in such manner as may be

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prescribed.

III. Particulars of the Debit and Credit Notes [Rule 53(1A)]

There is no prescribed format, but credit and debit note issued by a supplier must contain the following particulars, namely: –

Name, address and GSTIN of the supplier.
Nature of the document.
A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash and any combination thereof, unique for a FY.
Date of issue of the document
Name, address and GSTIN or UIN, if registered, of the recipient.
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.
Serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply.
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
Signature/digital signature of the supplier/his authorized representative.

ILLUSTRATION 3

Kartik & Co., a registered supplier under GST, provides the following information regarding various tax invoices issued by it during the month of March:

(i) Value of supply charged in invoice no. 1 was ` 2,50,000 against the actual taxable value of ` 2,30,000.

(ii) Tax charged in invoice no. 4 was ` 32,000 against the actual tax liability of ` 68,000 due to wrong HSN code being chosen while issuing invoice.

(iii) Value charged in invoice no. 8 was ` 3,20,000 as against the actual value of ` 4,20,000 due to wrong quantity considered while billing.

Kartik & Co. asks you to answer the following:

(1) Who shall issue a debit/credit note under the CGST Act, 2017 in each of the above circumstances?

(2) Whether debit note or credit note has to be issued in each of the above circumstances?

(3) What is the maximum time-limit available for declaring the credit note in the GST Return?

ANSWER

(1) The debit/credit note shall be issued by the registered person who has supplied the goods and/or services, i.e. Kartik & Co. in all the cases.

(2) Yes, debit/credit note need to be issued in each of the circumstances as under:

(i) A credit note is required to be issued as the taxable value in invoice no. 1 exceeds the actual taxable value.

(ii) A debit note is required to be issued as the tax charged in the invoice no. 4 is less than the actual tax payable.

(iii) A debit note is required to be issued as the value of supply charged in the invoice no. 8 is less than the actual value.

(3) The details of the credit note cannot be declared later than **30th November** following the end of the financial year in which such supply was made or the date of furnishing of the relevant annual return, whichever is earlier.

5. PROHIBITION OF UNAUTHORISED COLLECTION OF TAX [SECTION 32]

A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

(9) Rujuta is engaged in providing grooming services. She is not registered under GST law as her turnover is below the threshold limit. Rujuta cannot collect tax on the grooming services provided by her as a person who is not a registered person cannot collect any amount by way of tax under GST law in respect of any supply of goods or services or both.

6. AMOUNT OF TAX TO BE INDICATED IN TAX INVOICE AND OTHER DOCUMENTS [SECTION 33]

Notwithstanding anything contained in this Act or any other law for the time being in force, 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.

In case of continuous supply of goods

- before/at the time each successive statements of accounts is issued or each successive payment is received

In case of continuous supply of services

due date of payment is ascertainable from the contract	on/before due date of payment
not so ascertainable	before/at the time of receipt of payment
payment is linked to the completion of an event	on/before the date of completion of that event

IMPORTANT CONTENTS OF TAX INVOICE

Name, address & GSTIN of supplier	Consecutive Serial Number & date of issue	Name, address & GSTIN of recipient, if registered	Name & address of recipient along with delivery address , name & State code, if not registered
HSN	Description of goods or services	Quantity in case of goods	Total Value of supply

Taxable Value of supply	Tax rate – Central tax & State tax or Integrated tax, cess	Amount of tax charged	Place of supply
Address of delivery where different than place of supply	Tax payable on reverse charge basis	Signature of supplier or authorised signatory - not req. if e-invoice issued as per IT Act, 2000	QR code having embedded IRN in it - in case if e-invoice issued

TEST YOUR KNOWLEDGE

1. Sultan Industries Ltd., Delhi, entered into a contract with Prakash Entrepreneurs, Delhi, for supply of spare parts of a machine on 7th September. The spare parts were to be delivered on 30th September. Sultan Industries Ltd. removed the finished spare parts from its factory on 29th September for supply to Prakash Entrepreneurs. Determine the date by which tax invoice must be issued by Sultan Industries Ltd. under GST law.

2. MBM Caretakers, a registered person, provides the services of repair and maintenance of electrical appliances. On April 1, it has entered into an annual maintenance contract with P for its Air Conditioner and Washing Machine. As per the terms of contract, maintenance services will be provided on the first day of each quarter of the relevant financial year and payment for the same will also be due on the date on which service is rendered. During the year, it provided the services on April 1, July 1, October 1, and January 1 in accordance with the terms of contract. When should MBM Caretakers issue the invoice for the services rendered?

3. The aggregate turnover of Sangri Services Ltd., Delhi, exceeded ` 20 lakh on 12th August. He applied for registration on 3rd September and was granted the registration certificate on 6th September. You are required to advice

Sangri Services Ltd. as to what is the effective date of registration in its case. It has also sought your advice regarding period for issuance of Revised Tax Invoices.

4. Shyam Fabrics has opted for composition levy scheme in the current financial year. It has approached you for advice whether it is mandatory for it to issue a tax invoice. You are required to advise him regarding same.

5. Royal Fashions, a registered supplier of designer outfits in Delhi, decides to exhibit its products in a Fashion Show being organised at Hotel Park Royal, Delhi on 4th January. For the occasion, it gets the service by way of makeover of its models from Aura Beauty Services Ltd., Ashok Vihar, on 4th January, for which a consideration of ` 5,00,000 (excluding GST) has been charged. Aura Beauty Services Ltd. issued a duly signed tax invoice on 10th February showing the lumpsum amount of ` 5,90,000 inclusive of CGST and SGST @ 9% each for the services provided. Answer the following questions:

   (I) Examine whether the tax invoice has been issued within the time limit prescribed under law.

   (II) Tax consultant of Royal Fashions objected to the invoice raised suggesting that the amount of tax charged in respect of the taxable supply should be shown separately in the invoice raised by Aura Beauty Services Ltd. However, Aura Beauty Services Ltd. contended that there is no mandatory requirement of showing tax component separately in the invoice. You are required to examine the validity of the objection raised by tax consultant of Royal Fashions.

6. Kidzee Toys Ltd., a wholesaler of toys registered in Chandigarh, is renowned in the local market for the variety of toys and their reasonable prices. Kidzee Toys Ltd. makes supply of 100 pieces of baby's learning laptops and chat learning phones to Nancy General Store on 25th September by issuing a tax invoice amounting to ` 1,00,000.

   However, the said toys were returned by Nancy General Store on 30th September. Discuss which document Kidzee Toys Ltd. is required to issue in such a case?

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7. Rana Sanga Ltd., a registered supplier, has made following taxable supplies to its customer Babur in the quarter ending 30th June.

Date	Bill No.	Particulars	Invoice value (including GST)[`]
5th April	102	Notebooks [10 in numbers]	1,200
10th May	197	Chart Paper [4 in number]	600
20th May	230	Crayon colors [2 packets]	500
2nd June	254	Poster colors [5 packets]	900
22nd June	304	Pencil box [4 sets]	700

Goods in respect of bill no. 102, 230 and 254 have been returned by Babur. You are required to advise Rana Sanga Ltd. whether it can issue a consolidated credit note against all the three invoices?

8. Chidanand Products Pvt. Ltd. is a registered supplier who has opted for composition levy in the current financial year. He wishes to know whether the issue of a bill of supply can be dispensed with under any circumstances. You are required to advise him.

9. A registered person has to mandatorily issue separate invoices for taxable and exempted goods when supplying both taxable as well as exempted goods to an unregistered person. Examine the validity of the statement.

10. A non-banking financial company can issue a consolidated tax invoice at the end of every month for the supply made during that month. Examine the validity of the statement.

11. Sakthi Enterprises, Kolkata entered into a contract with Suraj Enterprises, Surat for supply of goods and the delivery shall be made on or before 31st October. The goods were removed from the factory at Kolkata on 11th October for supply to Suraj Enterprises. As per the agreement, the goods were to be delivered on or before 31st October. Suraj Enterprises has received the goods on 14th October. Determine the time of issue of invoice as per the provisions of CGST Act.

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12. Trust and Fun Ltd., an event management company, has provided its services for an event at Kapoor Film Agencies, Mumbai on 5th June. Payment for the event was made on 19th June. Determine the time of issue of invoice as per the provisions of CGST Act.

13. Udai Singh, a registered supplier, has received advance payment with respect to services to be supplied to Sujamal. His accountant asked him to issue the receipt voucher with respect to such services to be supplied. However, he is apprehensive as to what would happen in case a receipt voucher is issued, but subsequently no services are supplied. You are required to advise Udai Singh regarding the same.

14. Bhoj Raj, a registered person, has availed GTA services from unregistered supplier, on which he is liable to pay tax under reverse charge. He wishes to know whether he is required to issue an invoice. Please advise him discussing the relevant provisions under CGST Act and rules thereunder.

ANSWERS

1. As per the provisions of section 31, invoice shall be issued before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods. Accordingly, in the given case, the tax invoice must be issued on or before 29th September.

2. Continuous supply of service means, *inter alia*, supply of any service which is provided, or agreed to be provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the periodic payment obligations.

Therefore, the given situation is a case of continuous supply of service as repair and maintenance services have been provided by MBM Caretakers on a quarterly basis, under a contract, for a period of one year with the obligation for quarterly payment.

In terms of section 31, in case of continuous supply of service, where due date of payment is ascertainable from the contract (as in the given case), invoice shall be issued on or before the due date of payment. Therefore, in the given case, MBM Caretakers should issue quarterly invoices on or before April 1, July 1, October 1, and January 1.

3. As per section 25 read with CGST Rules, where an applicant submits application for registration within 30 days from the date he becomes liable to registration, effective date of registration is the date on which he becomes liable to registration. Since, Sangri Services Ltd.'s turnover exceeded `20 lakh on 12th August, it became liable to registration on same day. Further, it applied for registration within 30 days of so becoming liable to registration, the effective date of registration is the date on which he becomes liable to registration, i.e. 12th August.

As per section 31read with CGST Rules, 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. Revised Tax Invoices shall be issued within 1 month from the date

of issuance of certificate of registration. Revised Tax Invoices shall be issued within 1 month from the date of issuance of registration in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

Therefore, in the given case, Sangri Services Ltd. has to issue the Revised Tax Invoices in respect of taxable supplies effected during the period starting from the effective date of registration (12th August) till the date of issuance of certificate of registration (6th September) within 1 month from the date of issuance of certificate of registration, i.e. on or before 6th October.

4. A registered person paying tax under the provisions of section 10 [composition levy] shall issue, instead of a tax invoice, a bill of supply containing such particulars and, in such manner, as may be prescribed [Section 31(3)(c) read with the CGST Rules, 2017].

5. **(i)** As per section 31 read with the CGST Rules, in case of taxable supply of services, invoices should be issued before or after the provision of service, but within a period of 30 days [45 days in case of insurer/ banking company or financial institutions including NBFCs] from the date of supply of service.

In view of said provisions, in the present case, the tax invoice should have been issued in the prescribed time limit of 30 days from the date of supply of service i.e. upto 3rd February. However, the invoice has been issued on 10th February.

(ii) Section 31 read with the CGST Rules, inter alia, provides that tax invoice in addition to other mandatory details shall also contain the amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess). Further, 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 charged in respect of taxable goods or services which shall form part of the price at which such

supply is made.

The objection raised by the tax consultant of Royal Fashions suggesting that the amount of tax charged in respect of the taxable supply of makeover services should be shown separately in the invoice raised by Aura Beauty Services Ltd., is valid in law.

6. Kidzee Ltd. is required to issue a credit note in such a case.
As per section 34, where one or more tax invoices have been issued for supply of any goods or services or both and the goods supplied are returned by the recipient the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed. Therefore, Kidzee Ltd.is required to issue a credit note to Nancy General Store for the good returned.

7. Where one or more tax invoices have been issued for supply of any goods and/or services and

(a) the taxable value/tax charged in that tax invoice is found to exceed the taxable value/tax payable in respect of such supply, or

(b) where the goods supplied are returned by the recipient, or

(c) where goods and/or services supplied are found to be deficient,

the registered person, who has supplied such goods and/or services, may issue to the recipient one or more credit notes for supplies made in a financial year containing prescribed particulars.

Thus, one (consolidated) or more credit notes can be issued in respect of multiple invoices issued in a financial year without linking the same to individual invoices.

Hence, in view of the above-mentioned provisions, Rana Sanga Ltd. can issue a consolidated credit note for the goods returned in respect of all the three invoices.

8. Yes. Chidanand Products Pvt. Ltd. may not issue a bill of supply if the value of the goods or services or both supplied is less than ` 200 subject to the condition that:

(a) the recipient is not a registered person; and

(b) the recipient does not require such bill of supply, and he shall issue a consolidated bill of supply for such supplies at the close of each day in respect of all such supplies.

9. The statement is not valid in law. As per the CGST Rules, 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.

10. The said statement is valid in law. A customer may avail numerous services from a non-banking financial company in a given tax period. It may issue a consolidated tax invoice/ statement/ advice, any other document in lieu thereof, by whatever name called may be issued/ made available, physically/ electronically, for supply of services made during a month at the end of the month.

11. A registered person supplying taxable goods shall issue a tax invoice, before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods.

Therefore, in the given case, invoice has to be issued on or before, 11th October (the time of removal of goods).

12. A registered person [other than an insurer/banking company/financial institution, including an NBFC] supplying taxable services shall issue a tax invoice before or after the provision of service, but within a period of 30 days from the date of supply of service.

Thus, in the given case, invoice has to be issued within 30 days of 5th June (date of supply of service), i.e. on or before, 5th July.

13. Udai Singh is required to issue a receipt voucher at the time of receipt of advance payment with respect to services to be supplied to Sujamal. A receipt voucher is a document evidencing receipt of advance money towards a supply of goods and/or services or both. A registered person, on receipt of advance payment with respect to any supply of goods or services or both, shall issue a receipt voucher or any other document, evidencing receipt of such payment.

Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment. Therefore, in case subsequently no services are supplied by Udai Singh, and no tax invoice is issued in pursuance thereof, Udai Singh may issue a refund voucher against such payment to Sujamal.

14. Bhoj Raj is required to issue an invoice with regard to the GTA services availed by him. A registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 (i.e. where the recipient is liable to discharge GST on reverse charge basis) shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both.

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CHAPTER 10

TAX INVOICE; CREDIT AND DEBIT NOTES

1. Time limit for issuing tax invoice specified in cases where recipient is required to issue invoice [Rule 47A inserted]

Rule 47A has been inserted vide CGST (Second) Amendment Rules, 2024 issued vide ***Notification No. 20/2024 CT dated 8th October, 2024 with effect from 01.11.2024.***

Erstwhile section 31(3)(f) provides that a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

However, section 31(3)(f) was amended vide the Finance (No. 2) Act, 2024 with effect from 01.11.2024 so as to incorporate an enabling provision for prescribing the time period for issuance of invoice by the recipient in case of reverse charge mechanism supplies. This amendment was not applicable for May, 2025 examinations, but are applicable for September, 2025 and January, 2026 examinations.

Amended section 31(3)(f) provides as follows:

Notwithstanding anything contained in sub-sections (1) and (2)—

(f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall ***within the period as may be prescribed*** issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

Thus, invoice to be issued by recipient within the prescribed time if he is liable to pay tax under section 9(3)/(4) and receives supplies from an unregistered person

Consequently, the time limit for issuing tax invoice in case of reverse charge mechanism supplies has been prescribed in newly inserted rule 47A simultaneously with effect from 01.11.2024.

Newly inserted rule 47A provides as follows:

Rule 47A provides that where an invoice referred to in rule 46 is required to be issued under clause (f) of sub-section (3)[11] of section 31 by a registered person, who is liable to pay tax under sub-section (3) or sub-section (4)[12] of section 9, he shall issue the said invoice within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

Invoice to be issued within a period of 30 days from the date of receipt of the said supply

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[11] Section 9(3)-The recipient is liable to pay tax on reverse charge basis where he receives supply of such goods/services/both which are notified for reverse charge purposes under section 9(3). Such supplies can be received from a registered or an unregistered supplier.

[12] Section 9(4) A builder/promoter is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:

(i) A builder/promoter must purchase 80% of inputs and input services used in supplying the service from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

(ii) Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement on reverse charge basis and

(iii) GST on capital goods purchased from unregistered person is payable by the promoter on reverse charge basis.

Thus, invoice to be issued within a period of 30 days from the date of receipt of the said supply of goods and/or services, as the case may be.

[Notification No. 20/2024 CT dated 08.10.2024

[Effective from 01.11.2024]]

CHAPTER-11 ACCOUNTS AND RECORDS

1. INTRODUCTION

Assessment in GST is mainly focused on self-assessment by the taxpayers themselves. Every taxpayer is required to self-assess the taxes payable and furnish a return for each tax period i.e. the period for which return is required to be filed.

The compliance verification is done by the Department through scrutiny of returns and/or investigation. Thus, the compliance verification is to be done through documentary checks rather than physical controls. This requires certain obligations to be cast on the taxpayer for keeping and maintaining accounts and records. Such accounts and records may be used by the department for compliance verification.

Every registered person shall keep and maintain all records at his principal place of business. Responsibility has been casted on the owner or operator of warehouse or godown or any other place used for storage of goods and on every transporter to maintain specified records even if they are not registered under GST. They need not enroll for this purpose.

Further, Commissioner is empowered to notify a class of taxable persons to maintain additional accounts or documents for specified purpose or to maintain accounts in other prescribed manner. Similarly, the Commissioner can permit a class of taxable persons to maintain accounts in such manner as may be prescribed if that class of taxable person is not in a position to keep and maintain

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accounts in accordance with the provisions of GST Laws. It is not mandatory to maintain the accounts in electronic form. Accounts and records may be maintained either electronically or manually. Further, there is no prescribed format for maintaining the accounts.

Chapter VIII – Accounts and Records [Sections 35 and 36] of the CGST Act and Chapter VII – Accounts and Records [Rules 56 to 58] of the CGST Rules, 2017, enumerates the accounts and records required to be maintained by a taxpayer and the period for which such accounts and records are required to be preserved. State GST laws also prescribe identical provisions in relation to accounts and records.

Provisions relating to Accounts and Records under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the accounts and records provisions, let us first go through few relevant definitions.

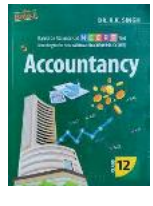
3. ACCOUNTS AND OTHER RECORDS [SECTION 35]

STATUTORY PROVISIONS	
Section 35	**Accounts and Other Records**
Sub-section	**Particulars**
1	Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of (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) output tax payable and paid; and (f) such other particulars as may be prescribed Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business: Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

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.*
3	*The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.*
4	*Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.*
6	*Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), 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 section 74, as the case may be, shall, mutatis mutandis, apply for determination of such tax.*

ANALYSIS

The provisions relating to accounts and records required to be maintained under GST are contained in sections 35 and 36 read along with Chapter VII - Accounts and Records of CGST Rules, 2017. Relevant provisions of CGST Rules, 2017 have been incorporated at relevant places.



(I) Who is required to maintain books of accounts and at which place? [1]

Every registered person shall keep and maintain, books of accounts at his **principal place of business** (hereinafter

referred to as PPoB) and books of account relating to additional place of business (hereinafter referred to as APoB) [as mentioned in the certificate of registration].

Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

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.

(II) Which accounts and records are required to be maintained?

A true and correct account of 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) output tax payable and paid

(f) such other particulars as may be prescribed[2]

1 *Section 35(1) read with rule 56(7) and 56(10)*

2 Section 35(1)

The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.[3]

Where the Commissioner considers that any class of taxable persons is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.[4]

The additional records to be maintained by specified persons are as under:-

(i) Registered person

In addition to the particulars mentioned in section 35(1), the rules also provide that the registered person[5] is required to maintain a true and correct account of:

- the goods/services imported/exported,
- supplies attracting payment of tax on reverse charge along with relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers[6].
- separate account of advances received, paid and adjustments made thereto.

- particulars of:
  - ✓ names and complete addresses of suppliers **from whom he has received** the goods or services chargeable to tax under the Act;

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3 Section 35(3)

4 Section 35(4)

5 *Rule 56(1), (3), (5) and (6)*

6 *The detailed provisions relating to all such documents have already been discussed in Chapter 10: Tax invoice, Credit and Debit Notes of this Module.*

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- ✓ names and complete addresses of the persons **to whom he has supplied** goods or services, where required under the provisions of this Chapter.

❖ 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.

However, if any taxable goods are found to be stored at any place(s) other than those so 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.

A supplier is required to maintain following records relating to stock of goods and tax details. However, a supplier who has opted for composition scheme is not required to maintain such records[7].

(a) Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off 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) Details of tax: Account, containing the details of tax payable (including tax payable under reverse charge), 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.

(ii) Agent[8]

Every agent shall maintain accounts depicting the-

(a) particulars of authorisation received by him from each principal to receive/supply goods/services on behalf of such principal separately;

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7 *Rule 56(2) and (4)*
8 *Rule 56(11)*

(b) particulars including description, value and quantity (wherever applicable) of goods/services received on behalf of every principal;

(c) particulars including description, value and quantity (wherever applicable) of goods/services supplied on behalf of every principal;

(d) details of accounts furnished to every principal; and

(e) tax paid on receipts/ supply of goods/services effected on behalf of every principal.

(iii) Manufacturer[9]

Apart from other records, every registered person manufacturing goods has to maintain monthly production accounts showing quantitative details of raw materials/services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

(iv) Service Provider[10]

Every registered person supplying services has to additionally maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

(v) Person executing works contract[11]

Every registered person executing works contract shall keep separate accounts for works contract showing –

- the names and addresses of the persons on whose behalf the works contract is executed;

9 Rule 56(12)
10 Rule 56(13)
11 Rule 56(14)

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- description, value and quantity (wherever applicable) of goods/services received for the execution of works contract;
- description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- the details of payment received in respect of each works contract; and
- the names and addresses of suppliers from whom he received goods or services.

(vi) Custodian/clearing and forwarding agent[12]

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.

(vii) Owner/operator of a warehouse/godown and transporter[13]

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.

Enrolment, if not already registered in GST[14]:

If such persons are not already registered, they shall obtain a unique enrolment number by applying electronically15 at the GST Common Portal.

The person enrolled as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.

Such person may also amend the details furnished in the prescribed form. Such person, once obtained unique enrollment number, shall not be eligible to use any of the GSTIN.

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12 Rule 56(17)
13 Section 35(2) read with rule 58
14 Rule 58(1), 58(2) & 58(3)
15 in Form GST ENR-01

Transporter[16] :

Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.

Owner/operator of a warehouse/ godown[17]:-

Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

(III) How the accounts and records will be maintained[18]?

- **Records may be maintained manually**
  - ✓ Each volume of books of account maintained **manually** by the registered person shall be serially numbered.
  - ✓ **Records may be maintained in electronic form**
  - ✓ **Books of account** include any electronic form of data stored on any electronic device.

16 Rule 58(4)(a)

17 Rule 58(4)(b) & rule 58(5)

18 Second proviso to section 35(1) read with rule 56(7), (8), (9), (15), (16) and (18) and rule 57

- The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature.

- Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.

- The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

- Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

NO ENTRY TO BE ERASED/OVERWRITTEN

- Any entry in registers, accounts and documents shall not be erased, effaced or overwritten.
- All incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and there after correct entry shall be recorded.

- Where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained.

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 *[discussed subsequently in this Chapter]* 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.

(IV) What are the consequences of failure to maintain the accounts[19] ?

Where the registered person fails to account for the goods and/or services in accordance with the provisions of section 35(1), 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/section 74[20], as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

4. PERIOD OF RETENTION OF ACCOUNTS [SECTION 36]

Every registered person 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.

However, a registered person, who is a party to an appeal or revision[21] or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

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19 Section 35(6)

20 The provisions of section 73 and section 74 will be discussed in detail at Final level.

21 The provisions pertaining to appeals and revision will be discussed in detail at the Final level.

TEST YOUR KNOWLEDGE

1. Who is required to maintain books of accounts and at which place in terms of section 35 read with relevant rules?
2. Mr. Sky is engaged in the business of trading of mobiles. He is eligible for composition scheme and has opted for the same. He seeks your advice for records which are not required to be maintained by him as composition taxable person.
3. Mr. Harsh Manjula is engaged in the business of works contract services and seeks your guidance as to specific re*cords required to be maintained by him under GST law, if any.*
4. Chill Chain Cold is operating cold storage warehouse and seeks your guidance on the GST accounts and records to be maintained by them in terms of section 35.
5. Mr. X is of the view that records are to be mandatorily maintained manually only. You are required to examine the view taken by Mr. X.

ANSWERS

1. 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. Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

2. A supplier who has opted for composition scheme is not required to maintain records relating to;

(a) Stock of goods: Accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost stolen, destroyed, written off 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) **Details of tax:** Account, containing the details of tax payable (including tax payable under reverse charge), 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.

Thus, Mr. Sky is not required to maintain above mentioned records.

3. Mr. Harsh Manjula, executing works contract shall keep separate accounts for works contract showing -

- ❖ the names and addresses of the persons on whose behalf the works contract is executed;
- ❖ description, value and quantity (wherever applicable) of goods/services received for the execution of works contract; • description, value and quantity (wherever applicable) of goods/services utilized in the execution of works contract;
- ❖ the details of payment received in respect of each works contract; and the names and addresses of suppliers from whom he received goods or services.

4. Chill Chain Cold shall maintain records of the consigner, consignee and other relevant details of the goods in the prescribed manner.

Chill Chain Cold shall also maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.

Chill Chain Cold shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

5. The view taken by Mr. X is not valid in law. Books of account include any electronic form of data stored on any electronic device. The registered person may keep and maintain such accounts and other particulars in electronic form stored on any electronic device and record so maintained shall be authenticated by means of a digital signature. The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by

him, in hard copy or in any electronically readable format.

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

1. •State the correctness of statement -*"Place of business includes a place where a taxable person is engaged in business through an agent, by whatever name called".*

2. •Is it valid that document includes written or printed record of any sort but does not include electronic record, under GST law?

3. •For how many months from the due date of furnishing of the relevant annual return, a registered person is required to maintain his books of account?

4. •Mr. Yuvi, a registered person imported raw material to be used in the manufacture of finished goods. He opines that he is not required to maintain account of goods imported. Is he correct?

5. •Miss Taavi, a composition dealer, is of the view that she is not mandatorily required to maintain account of goods disposed of by way of gift. Is her view valid in law?

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CHAPTER-12

E-WAY BILLS

1. INTRODUCTION

Under GST regime, for quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced.

Under this system, a taxpayer - prior to movement of goods via a conveyance - would inform each transaction's details to the tax department, obtain an acknowledgement number for having thus informed, and then use this acknowledgement number as a valid document accompanying the conveyance carrying goods.

The idea is that the taxpayer be made to upload the details of each transaction to a common portal through the internet, and once uploaded, the common portal would automatically generate a document which can be tracked and verified easily by any stakeholder.

E-way Bill provisions discussed in this Chapter are contained in section 68 read with rules 138, 138A, 138B, 138C 138D and 138E [Chapter XVI] of the CGST Rules, 2017. State GST laws also prescribe identical provisions in relation to E-Way Bill.

Provisions relating to E-way Bill under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

Before proceeding to understand the e-way bill provisions, let us first go through few relevant definitions.

2. E-WAY BILL [SECTION 68 READ WITH RELEVANT CGST RULES, 2017]

Under GST regime, for quick and easy movement of goods across India without any hindrance, all the check posts across the country are abolished. However, in order to monitor the movement of goods for controlling any tax evasion, e-way bill system has been introduced.

Under this system, a taxpayer - prior to movement of goods via a conveyance - would inform each transaction's details to the tax department, obtain an acknowledgement number for having thus informed, and then use this acknowledgement number as a valid document accompanying the conveyance carrying goods.

The idea is that the taxpayer be made to upload the details of each transaction to a common portal through the internet, and once uploaded, the common portal would automatically generate a document which can be tracked and verified easily by any stakeholder.

Statutory requirement

Section 68 stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed. Rule 138 prescribes e-way bill as the document to be carried for the consignment of goods in certain prescribed cases.

What is e-way bill?

A **waybill** is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route.

Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, **E-way bill is an electronic document generated on the GST portal evidencing movement of goods**.

What are the benefits of e-way bill?

Following are the benefits of e-way bill mechanism:

(i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts

(ii) It will facilitate faster movement of goods

(iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

E-way Bill is generated **electronically** in **Form GST EWB 01** on the common portal (www.ewaybillgst.gov.in). E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.

E-way Bill is generated **electronically** in **Form GST EWB 01** on the common portal (www.ewaybillgst.gov.in). E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API (Application Program Interface) based site to site integration etc.

The facility of generation, cancellation, updation and assignment of e-way bill is available to the supplier, recipient and the transporter, as the case may be. The pre-requisite for generation of e-way bill is that the person who generates e-way bill should be a registered person on GST portal and he should register on the e-way bill portal using his GSTIN. If the transporter is generating the e-way bill, but he is not registered person under GST law, it is mandatory for him to get enrolled on e-waybill portal before generation of the e-way bill to get 15-digit Unique Transporter Id called TRANSIN.

TRANSIN or Transporter id is a unique number generated by EWB system for unregistered transporter, once he enrolls on the system which is similar to GSTIN format and is based on State code, PAN and check sum digit. This TRANSIN or Transporter id can be shared by transporter with his clients, who may enter this number while generating e-waybills for assigning goods to him for transportation.

E-way Bill provisions [as contained in rules 138, 138A, 138B, 138C, 138D and 138E– Chapter XVI of the CGST Rules, 2017] are elaborated as under:

(1) When is e-way bill required to be generated? [Rule 138(1)]

Whenever there is a movement of goods of consignment value exceeding ₹ 50,000: (i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB-01 before commencement of such movement.

It is important to note that "information is to be furnished prior to the commencement of movement of goods" and "is to be issued whether the movement is in relation to a supply or for reasons other than supply".

Who causes movement of goods?

If supplier is registered and undertakes to transport the goods, movement of goods is caused by the supplier. If recipient arranges transport, movement is caused by him. If goods are supplied by an unregistered supplier to a registered recipient, movement shall said to be caused by such recipient, if the recipient is known at the time of commencement of the movement of goods.

Meaning of consignment value of goods

Consignment value of goods shall be the value:

- determined in accordance with the provisions of section 15,
- declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
- also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
- shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

As discussed earlier in this chapter, in case of movement of goods for reasons other than supply, the movement is occasioned by means of a delivery challan which has to necessarily contain the value of goods. The value given in the delivery challan should be adopted in the e-way bill[1].

EXAMPLE

(1) Bhanupratap Shoe Manufacturers, registered in Punjab, sold shoes to a retail seller in Gujarat, at a value of ₹ 48,000 (excluding GST leviable @ 18%) and wants to send the consignment of such shoes to Gujarat. The consignment value will be ₹ 56,640 [₹ 48,000 × 118%]. Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹ 50,000, e-way bill is mandatorily required to be issued in the given case.

Special situation(s) where e-way bill needs to be issued even if the value of the consignment is less than ₹ 50,000[2]:

Inter-State transfer of handicraft goods by a person exempted from obtaining registration

Where handicraft goods* are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration [under clauses (i) and (ii) of section 24], the e-way bill shall be generated by the said person irrespective of the value of the consignment [Fourth proviso to rule 138].

***Handicraft goods** are the goods specified in *Notification No. 56/2018 CT dated 23.10.2018* which exempts the casual taxable persons making inter- State taxable supplies of such handicraft goods from obtaining registration upto specified turnover limit *[Refer Chapter 9 – Registration]*.

1 As clarified by CBIC FAQs on E-way Bill.

2 E-way bill also needs to be issued even if the value of consignment is less than ₹ 50,000 in case of inter-State transfer of goods by principal to job-worker. The provisions relating to job-work are discussed in detail at the Final Level. This is only for the purpose of information and not relevant from examination point of view.

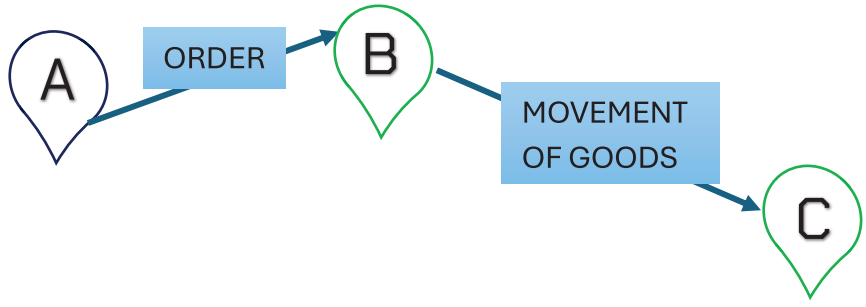
E-way Bill in case of 'Bill To Ship To' Model

In a "Bill To Ship To" model of supply, there are three persons involved in a transaction, namely:

'A' is the person who has ordered 'B' to send goods directly to 'C'.

'B' is the person who is sending goods directly to 'C' on behalf of 'A'.

'C' is the recipient of goods.



In this complete scenario. two supplies are involved and accordingly two tax invoices are required to be issued:

Invoice -1: which would be issued by 'B' to 'A'.
Invoice -2: which would be issued by 'A' to 'C'.

It is clarified that as per the CGST Rules, 2017, for the movement of goods which is taking place from "B" to "C" on behalf of "A", either A or B can generate the e-Way Bill, but it may be noted that **only one e-Way Bill** is required to be generated *[Press Release dated 23.04.2018]*

(2) Information to be furnished in e-way bill:

An e-way bill Form GST EWB-01 contains two parts:

(I) **Part A** [comprising of details of GSTIN of supplier & recipient, place of delivery (indicating PIN Code also), document (Tax invoice, Bill of Supply, Delivery Challan or Bill of Entry) number and date, value of goods, HSN code, and reasons for transportation, etc.]: to be furnished by the **registered person** who is causing movement of goods** of consignment value exceeding ₹ 50,000 and

(II) Part B (transport details) [Transporter document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and Vehicle number, in case of transport by road]: to be furnished by the **person who is transporting the goods**.

**However, information in Part-A may be furnished:

- by the transporter, on an authorization received from such registered person [First proviso to rule 138(1)] or
- by the e-commerce operator or courier agency, where the goods to be transported are supplied through such an e-commerce operator or a courier agency, on an authorization received from the consignor [Second proviso to rule 138(1)].

Once the consignor/consignee enters all the details in Part-A of e-way bill, a Part-A slip is generated which contains a temporary number. This slip can be shared with the transporter or used by the supplier himself later to enter the details in Part-B of e-way bill and generate the e-way bill.

This will be useful, when supplier has prepared invoice relating to his business transaction, but doesn't have the transportation details. Thus, he can enter invoice details in Part A of e-way bill and keep it ready for entering details of mode of transportation in Part B of e-way bill.

Once the goods are ready for movement from the business premises and transportation details are known, the user can enter the Part-B details and generate the e-way bill for movement of goods. **E-way Bill can be generated only after entering the details of Part-B.**

(3) Who is mandatorily required to generate e-way bill?

E-way bill is to be generated by the consignor or consignee himself if the transportation is being done in own/hired conveyance or by railways by air or by vessel. If the goods are handed over to a transporter for transportation by road, e-way bill is to be generated by the transporter. Where neither the consignor nor consignee generates the e-way bill and the value of goods is

more than ₹ 50,000, it shall be the responsibility of the transporter to generate it. This has been explained in detail below:

- **Where the goods are transported by a registered person - whether as consignor or recipient as the consignee** (whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) [Rule 138(2)].

- **Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road**, the registered person shall furnish the information relating to the transporter in Part B on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

- **Where the goods are transported by railways or by air or by vessel**, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B [viz transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number)] on the common portal [Rule 138(2A)].

Other important points:

- ✓ **Where the goods are transported by railways:** there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply, as the case may be along with goods. Further, e-way bill generated for the movement is required to be produced at the time of delivery of the goods. Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery [Proviso to rule 138(2A)].

- ✓ The registered person or, the transporter may, at his **option**, generate and carry the e-way bill even if the value of the consignment is less than ₹ 50,000 [First proviso to rule 138(3)].

- ✓ **Where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter**, he or the transporter may, at their option, generate the e-way bill [Second proviso to rule 138(3)].

- ✓ **Where the goods are supplied by an unregistered supplier to a recipient who is registered**, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods [Explanation 1 to rule 138(3)].

(4) When is it not mandatory to furnish the details of conveyance in Part-B?

E-way bill is valid for movement of goods by road only when the information in Part-B is furnished[3].

Exceptions:

However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported **for a distance of upto 50 km** within the State/Union territory:

- ❖ from the place of business of the consignor to the place of business of the transporter for further transportation[4] or
- ❖ from the place of business of the transporter finally to the place of business of the consignee[5].

(5) Unique e-way bill number (EBN)

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal [Rule 138(4)].

(6) Transfer of goods from one conveyance to another

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part A**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in **Part B** of the e-way bill on the common

portal [Rule 138(5)].

Consignment of goods may be required to be transferred from the original conveyance to due to unforeseen exigencies like break down of the vehicle. In such case, the transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of the conveyance.

In some cases, consignments are transported by the transporter through transshipment using multiple vehicles (same mode of transportation) for carrying the same consignment before it is delivered to the recipient at the place of destination. Hence for each movement from one place to another, the transporter needs to update the vehicle number in which he is transporting that consignment in part B of the e-way bill.

The user can update Part-B (Vehicle details) as many times as he wants for movement of goods to the destination. However, the updating should be done within the validity period.

There can also be a case where one e-way bill can go through multiple modes of transportation before reaching destination. As per the mode of transportation, the EWB can be updated with new mode of transportation by using the option of 'Update Vehicle Number'.

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3 Explanation 2 to rule 138(3)
4 Third proviso to rule 138(3)
5 Proviso to rule 138(5)

EXAMPLE

(2) Babbal Associates is moving the goods from Cochin to Chandigarh through road, ship, air and road again. First, Babbal Associates generates the EWB by entering first stage of movement (by road) from its place to shipyard and enters the vehicle number. Next, it will submit the goods to shipyard and update the mode of transportation as ship and transport document number on the e-way bill system.

After reaching Mumbai, Babbal Associates or concerned transporter updates movement as road from shipyard to airport with vehicle number. Thereafter, Babbal Associates or transporter updates using 'update vehicle number' option on the portal, the Airway Bill number.

Again, after reaching Delhi, Babbal Associates updates movement through road with vehicle number. This way, the e-way bill will be updated with multiple modes of transportation.

Assigning the e-way bill number to another transporter

The consignor/recipient, who has furnished the information in **Part A**, or the transporter, may assign the e-way bill number to another registered/enrolled transporter for updating the information in **Part B** for further movement of the consignment [Rule 138(5A)]. However, once the details of the conveyance have been updated by the transporter in **Part B**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** shall not be allowed to assign the e-way bill number to another transporter [Proviso to rule 138(5A)].

EXAMPLE

(3) A consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B.

In such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from

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City X to City Y.

On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z *[Press Release No. 144/2018 dated 31.03.2018].*

(7) Consolidated E-way bill

After e-way bill has been generated, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in **Form GST EWB-02** may be generated by him on the said common portal prior to the movement of goods [Rule 138(6)].

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle). That is, the transporter carrying multiple consignments of various consignors and consignees in a single vehicle can generate and carry a single document - consolidated e-way bill instead of carrying separate document for each consignment in a conveyance.

Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods.

Hence, Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.

Further, where the consignor/consignee has not generated the e-way bill in Form GST EWB-01 and the aggregate of the consignment value of goods carried in the conveyance is more than ₹ 50,000, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also

generate a consolidated e-way bill in **Form GST EWB-02** on the common portal prior to the movement of goods [Rule 138(7)].

The generation of **Form GST EWB-02** is optional and not mandatory.

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of Form GST EWB-01 may be furnished by such e-commerce operator or courier agency [Proviso to rule 138(7)]. **This proviso is not yet effective.**

(8) Information submitted for e-way bill can be used for filing GST Returns

The information furnished in **Part A** of the e-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in **Form GSTR-1** [Rule 138(8)]**.**

However, when the information has been furnished by an unregistered supplier/unregistered recipient, he shall be informed electronically, if the mobile number or the e-mail is available [Proviso to rule 138(8)].

(9) Cancellation of e-way bill

Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within **24 hours** of generation of the e-way bill [Rule 138(9)].

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [First proviso to rule 138(9)]. Further, unique EWB number generated is valid for a period of 15 days for updating of Part B [Second proviso to rule 138(9)].

(10) Validity period of e-way bill/consolidated e-way bill [Rule 138(10)]

The validity of e-way bill depends on the distance to be travelled by the goods. For a distance of less than 200 km the e-way bill will be valid for a day from the relevant date. For every 200 km thereafter, the validity will be additional one day from the relevant date.

Sl. No.	Distance within country	Validity period from relevant date*
1	Upto 200 km	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2	For every 200 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
3	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4	For every 20 km or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

***Relevant date** means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

This can be explained by following examples –

(i) Suppose an e-way bill is generated at 00:04 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on.

(ii) Suppose an e-way bill is generated at 23:58 hrs. on 14th March. Then first day would end on 12:00 midnight of 15 -16 March. Second day will end on 12:00 midnight of 16 -17 March and so on[6].

The validity of the e-way bill starts when first entry is made in Part-B i.e. vehicle entry is made first time in case of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is the first entry. It may be noted that validity is not re-calculated for subsequent entries in Part-B[7].

EXAMPLE

(4) A consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. The validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday *[CBIC Press Release dated 31.03.2018]*.

(5) A registered person has to transport goods from its warehouse to its depot located at a distance of 500 km in a normal cargo. In the given case, if e-way bill is generated, it will be valid for 3 days.

6 As clarified by FAQs on E-way Bill by CBIC.
7 As clarified by FAQs on E-way Bill web portal.

Extension of validity period

If validity of the e-way bill expires, the goods are not supposed to be moved. In general, the validity of the e-way bill cannot be extended However, the validity of the e-way bill can be extended in following cases:

Extension by Commissioner for certain categories of goods:

Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.

Extension by transporter in exceptional circumstances:

Under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B, if required.

Thus, the transporter, who is carrying the consignment as per the e-way bill system at the time of expiry of validity period, can extend the validity period. Such transporter can extend the validity of the e-way bill, if the consignment is not being reached the destination within the validity period due to exceptional circumstance like natural calamity, law and order issues, trans-shipment delay, accident of conveyance, etc. He needs to explain this reason in details while extending the validity period[8]. The validity of the e-way bill may be extended within 8 hours from the time of its expiry.

(11) Acceptance of e-way bill

The details of the e-way bill generated shall be made available to the –

(a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or

(b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter,

on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill [Rule 138(11)].

8 As clarified by FAQs on E-way Bill web portal.

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details. The time-limit specified for this purpose is:

(i) 72 hours of the details being made available to him on the common portal

or

(ii) the time of delivery of goods,

whichever is earlier [Rule 138(12)].

(12) E-way bill generated in one State is valid in another State

The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory [Rule 138(13)].

Points to remember

1. *E-way bill is not valid for movement of goods without vehicle number on it.*
2. *If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.*
3. *E Way Bill may be updated with vehicle number any number of times.*
4. *The latest vehicle number should be available on e-way bill and should match with the vehicle carrying it in case checked by the department.*
5. *If multiple invoices are issued by the supplier to recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple e-way bills have to be generated. That is, for each invoice, one e-way bill has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one e-way bill. However, after generating all these e-way bills, one Consolidated e-way bill can be prepared for transportation purpose, if goods are going in one vehicle.*

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(13) Situations where e-way bill is not required to be generated

Notwithstanding anything explained above, no e-way bill is required to be generated in the following cases:

(a) where the goods being transported are the ones given below:

S. No.	Description of Goods
1	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2	Kerosene oil sold under PDS
3	Postal baggage transported by Department of Posts
4	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) [excepting imitation Jewellery (7117)]
6	Currency
7	Used personal and household effects
8	Coral, unworked (0508) and worked coral (9601)]

(b) where the goods are being transported by a non-motorised conveyance

(c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs

(d) in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory

(e) where the goods [other than de-oiled cake], being transported, are exempt from tax[9]

9 Notification No. 2/2017 CT(R) dated 28.06.2017

(f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel

(g) where the supply of goods being transported is treated as no supply under Schedule III of the CGST Act10

(h) where the goods are being transported –

(i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or

(ii) under customs supervision or under customs seal

(i) where the goods being transported are transit cargo from or to Nepal or Bhutan

(j) where the goods being transported are exempt from tax under *Notification No. 7/2017 CT (R) 28.06.2017 [Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers] and Notification No. 26/2017 CT (R) 21.09.2017 [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]*

(k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee

(l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail

(m) where empty cargo containers are being transported

(n) where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for

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10Provisions of Schedule III have been discussed in detail in Chapter 2 – Supply under GST in Module 1 of the Study Material

weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule [55].

(o) where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply

(14) Documents and devices to be carried by a person-in-charge of a conveyance [Rule 138A]

The person-in-charge of a conveyance shall carry –

(a) the invoice or bill of supply or delivery challan, as the case may be; and

(b) a copy of the e-way bill in physical form or the e-way bill number in electronic form* or mapped to a RFID** embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner[11].

**Carrying e-way bill number in electronic form implies that person-in-charge of conveyance can merely quote the e-way bill number to the proper tax officer. Tax officer will do all the requisite verifications, based on that number.*

***RFIDs are Radio Frequency Identification Device used for identification*

Invoice Reference Number in lieu of tax invoice

In case, e-invoice is issued[12], the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.

In such a case, the registered person will not have to upload the information in Part A of e-way bill for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in the prescribed form relating to e-invoice.

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11 In case of imported goods, the person in charge of a conveyance shall also carry a copy of the bill of entry filed by the importer of such goods and shall indicate the number and date of the bill of entry in Part A of e-way bill. The concept of bill of entry filed in respect of imported goods under customs law will be discussed at Final Level.

12 in the manner prescribed under sub-rule (4) of rule 48

The Commissioner may, by notification, require a class of transporters to obtain a unique RFID and get the said device embedded on to the conveyance and map the e-way bill to the RFID prior to the movement of goods.

Documents in lieu of e-way bill

Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:

(a) tax invoice or bill of supply or bill of entry[13]; or

(b) a delivery challan, where the goods are transported for reasons other than by way of supply.

(15) Verification of documents and conveyances [Rule 138B]

The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical or electronic form for all inter-State and intra-State movement of goods.

The Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device.

The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf.

However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf.

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13 Bill of entry needs to be carried in lieu of e-way bill in case of import of goods. The concept of bill of entry will be discussed at Final Level.

(16) Inspection and verification of goods [Rule 138C]

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of a prescribed form within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection.

However, where the circumstances so warrant, the Commissioner, or any other officer authorised by him, may, on sufficient cause being shown, extend the time for recording of the final report in Part B of said form, for a further period not exceeding 3 days.

The period of 24 hours or, as the case may be, 3 days shall be counted from the midnight of the date on which the vehicle was intercepted.

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently.

(17) Facility for uploading information regarding detention of vehicle [Rule 138D]

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in **specified form** on the common portal.

(18) Blocking of e-waybill generation facility [Rule 138E]

Blocking of e-waybill generation facility means disabling a taxpayer from generating the e-way bill. Blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN. Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

As per rule 138E, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in Part A of Form GST EWB-01 in respect of any outward movement of goods of a registered person, who –

(i) being a person paying tax under composition scheme[14] has not furnished the statement for payment of self-assessed tax for 2 consecutive quarters, or

(ii) being a person paying tax under regular scheme has not furnished the returns for a consecutive period of 2 tax periods, or

(iii) being a person paying tax under regular scheme has not furnished GSTR-1 (Statement of outward supplies) for any 2 months or quarters, as the case may be. (iv) Being a person, whose registration has been suspended under the provisions of rule 21A of the CGST Rules.

However, Commissioner (jurisdictional commissioner) may, on receipt of an application from a registered person in prescribed form, on sufficient cause being shown and for reasons to be recorded in writing, by order, in prescribed form allow furnishing of the said information in Part A of Form GST EWB-01, subject to prescribed conditions and restrictions. An order rejecting said request shall not be passed without giving the said person a reasonable opportunity of being heard. The permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

EXAMPLE

(6) Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A.

Here, there will be no restriction in generating e-way Bill for Mr. B who is making outward movement of goods, as he is a regular return filer. Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

14 or under Notification No. 2/2019 CT (R) dated 07.03.2019

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

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.

TEST YOUR KNOWLEDGE

1. *What are the documents and devices to be carried by person-in-charge of conveyance under rule 138A of CGST Rules, 2017?*

2. *Explain the meaning of consignment value of goods.*

3. *Mr. X, a registered person has caused movement of goods of consignment value exceeding ₹ 50,000 in relation to a supply and thus, generated e-way bill. However, after generation of e-way bill, he found a mistake in the e-way bill and wants to edit it. You are required to advise Mr. X whether he can do so with the help of relevant provisions?*

4. *Talli Lal, a registered person, has transported alcoholic liquor for human consumption of consignment value of ₹ 1,50,000 from Delhi to Haryana. He has not generated e-way bill for the same. You are required to examine the correctness of action taken by Talli Lal.*

5. *Dhananjay Associates registered in Gujarat deals in industrial grade iron and steel products. The proprietor of Dhananjay Associates sold TMT Iron bars (GST applicable @18%) to a retailer in Maharashtra at a value of ₹ 40,000 (excluding GST). As per the agreement of sale, goods are to be delivered at the premises of retailer. The transportation cost of ₹ 7,000 has been charged separately to deliver the same to the retailer in Maharashtra. In the above scenario, determine whether an e-way bill is required to be issued under GST?*

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ANSWERS

1. **The person-in-charge of a conveyance has to carry –**
   (a) the invoice or bill of supply or delivery challan, as the case may be; and
   (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner

2. **Consignment value of goods shall be the value:**
   - ❖ determined in accordance with the provisions of section 15,
   - ❖ declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
   - ❖ also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
   - ❖ shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

3. If there is a mistake, incorrect or wrong entry in the e-way bill, then it cannot be edited or corrected. Only option is cancellation of e-way bill within 24 hours of generation and generate a new one with correct details.

   Thus, in view of the above-mentioned provisions, Mr. X cannot edit the e-way bill. However, he can cancel the e-way bill within 24 hours of generation and generate a new one with correct details.

4. E-way bill is not required to be generated where the goods being transported are alcoholic liquor for human consumption.

   Thus, the action of Talli Limited of not generating the e-way bill is correct in law.

5. Consignment value of goods is the value determined in accordance with the provisions of section 15, and also includes the central tax, state or union territory tax, integrated tax and cess charged, if any, in the document.

Further, since arranging freight is the liability of supplier, it is a case of composite supply and thus, freight charges are to be added in the value of principal supply.

Accordingly, the value of supply as per section 15 in the given case would include the transportation cost in the invoice value i.e. 47,000 (₹ 40,000 + ₹ 7,000).

Consignment value = ₹ 47,000 x 118% = ₹ 55,460.

Since the movement of goods is in relation to supply of goods and the consignment value exceeds ₹50,000, e-way bill is mandatorily required to be issued under GST in the given case.

CHAPTER 12

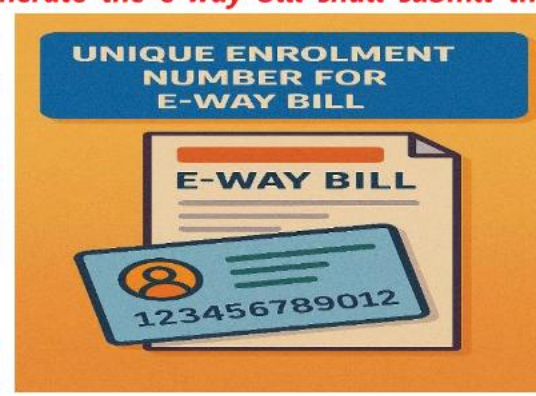
E-WAY BILL

1. Generation of unique enrolment number [Rule 138(3) amended]

Fourth proviso had been inserted in Rule 138(3) vide CGST Amendment Rules, 2024 dated 10th July, 2024 with effect from a date to be notified. The same has become effective vide ***Notification No. 09/2025 CT dated 11.02.2025 with effect from 11.02.2025.***

The newly inserted fourth proviso to rule 138(3) provides as follows:

Following persons required to generate the e-way bill shall submit the details electronically on the common portal in prescribed form and, upon validation of the details so furnished, a unique enrolment number shall be generated and communicated to the said person:-



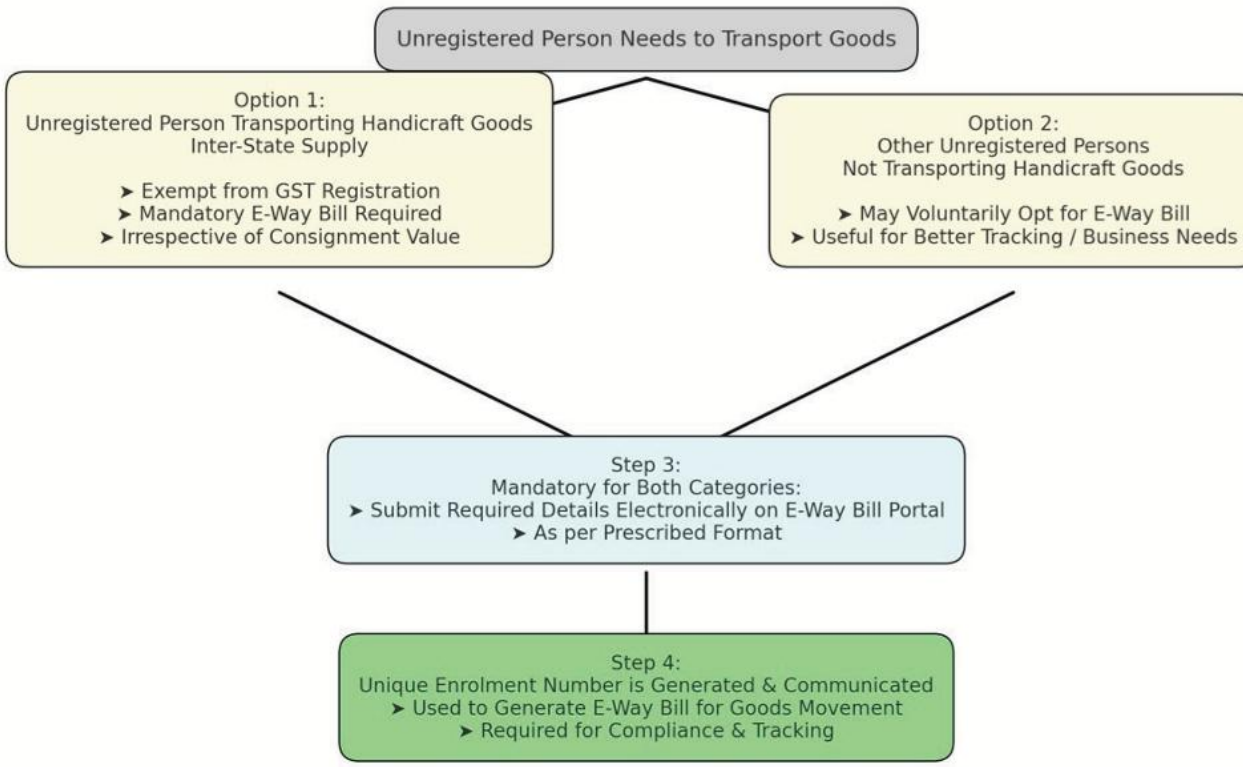
(i) An unregistered person making inter-State transport of handicraft goods exempted from obtaining compulsory registration and required to generate e-way bill irrespective of the value of the consignment.

(ii) An unregistered person opting to generate e-way bill

[Notification No. 09/2025 CT dated 11.02.2025]

[Effective from 11.02.2025]

Enhanced Diagram: E-Way Bill Generation by Unregistered Persons (Amendment)



CHAPTER-13

PAYMENT OF TAX

1. INTRODUCTION

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government and the State GST (SGST)/(UTGST), going into the account of the concerned State Government. For any inter-state supply, tax to be paid is Integrated GST (IGST) having components of both CGST and SGST. In addition, certain categories of registered persons will be required to pay to the Government account - tax deducted at source (TDS) and tax collected at source (TCS)[1]. In addition, wherever applicable, interest, penalty, fees and any other payment will also be required to be made.

The introduction of E-ledgers is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are of two types. One set is prepared and updated by the Taxpayer – Electronic Cash Ledger and Electronic Credit Ledger. Second set is prepared and updated on the basis of returns furnished by the Registered person or Tax authority i.e. Electronic Liability register.

Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dashboard at all times.

Chapter X of the CGST Act, 2017, prescribes the provisions relating to payment of tax containing sections 49 to 53A. Bird's eye view of coverage under these sections is as under-

- Section 49 discusses the three ledgers namely the electronic cash ledger, electronic credit ledger and electronic liability register,
- Section 49A & 49B discusses about the utilisation of input tax credit and its order of utilisation.

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- Section 50 discusses about the interest on delayed payment of tax.
- Section 51 lays down the circumstances in which tax deduction at source (TDS) becomes mandatory.
- Section 52 deals with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator.
- Further, the manner of transfer of ITC is laid down in section 53 and
- Transfer of certain amounts is discussed in section 53A.

3. PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]

	STATUTORY PROVISIONS	
Section 49	**Payment of tax, interest, penalty and other amounts**	
Sub- Section	**Clause**	**Particulars**
(1)	Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.	
(2)	The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.	
(3)	The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.	

[1]*It may be noted that sections 51 & 52 dealing with provisions relating to TDS &*

TCS have been discussed in detail in chapter-14 in this Module of the Study Material.

(4)	The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and restrictions within such time as may be prescribed.	
(5)	The amount of input tax credit available in the electronic credit ledger of the registered person on account of––	
	(a)	integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;
	(b)	the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;
	(c)	the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax; Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;
	(d)	the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax; Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax
	(e)	the central tax shall not be utilised towards payment of State tax or Union territory tax; and
	(f)	the State tax or Union territory tax shall not be utilised towards payment of central tax.

(6)	The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.
(7)	All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.
(8)	Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:–
	(a) self-assessed tax, and other dues related to returns of previous tax periods;
	(b) self-assessed tax, and other dues related to the return of the current tax period;
	(c) any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;
(9)	Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.
(10)	A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for,––
	(a) integrated tax, central tax, State tax, Union territory tax or cess; or
	(b) integrated tax or central tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act:
	Provided that, no such transfer under clause (b) shall be allowed if the said registered person has any unpaid liability

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	in his electronic liability register.		
(11)	Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).		
(12)	Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, subject to such conditions and restrictions, specify such maximum proportion of output tax liability under this Act or under the IGST Act, 2017 which may be discharged through the electronic credit ledger by a registered person or a class of registered persons, as may be prescribed.		
Explanation. –For the purposes of this section, –			
	(a)	the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;	
	(b)	the expression,–	
		(i)	"tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and
		(ii)	"other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made there under.
Section 49AUtilisation of input tax credit subject to certain conditions			
	Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.		
Section 49B	**Order of utilisation of input tax credit**		
	Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of		

	integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.
Section 53	**Transfer of input tax credit**
	On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.
Section 53A	**Transfer of certain amounts**
	Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.

ANALYSIS

A. ELECTRONIC CASH LEDGER [SECTION 49(1),(3),(6),(10)&(11) READ WITH RULE 87 OF CGST RULES]

The Electronic Cash Ledger contains a summary of all the deposits/payments made by a tax payer. Electronic Cash Ledger is maintained on the GST Common Portal.

Any deposit made towards payment of tax, interest, penalty, late fee or any other amount will be credited to the electronic cash ledger. Any debit to the electronic cash ledger represents payment therefrom towards tax, interest, penalty, late fee or any other amount.

The deposit in the electronic cash ledger shall be made through any of the

following modes, namely:-

(i) Internet Banking through authorised banks;

(ii) Unified Payment Interface (UPI) from any bank;

(iii) Immediate Payment Services (IMPS) from any bank;

(iv) Credit card or Debit card through the authorised bank;

(v) National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) from any bank; or

(vi) Over the Counter payment through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

It may be noted that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment will not apply to deposit to be made by –

(a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;

(b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;

(c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit.

Non-applicability of Over-the-Counter payment limit on deposits to be made by

Proper officer or any other officer authorized		**Government Departments**
to recover outstanding dues including attachment proceedings or sale of moveable/ immoveable properties	to collect the amount by way of cash/cheque/demand draft during any investigation/enforcement activity /any ad hoc deposit	Persons notified by Commissioner

Payment by Challan

- **What is CPIN, CIN, BRN and E-FPB?**

CPIN stands for Common portal Identification Number. It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

CIN or Challan Identification Number is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.

CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant Government account held with them. It is an indication that the payment has been realized and credited to the appropriate Government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

BRN or Bank Reference Number is the transaction number given by the bank for a payment against a Challan.

E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for PAN India transaction.

The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS/IMPS Transactions, RBI will act as E-FPB.

- **Are manual Challans applicable as allowed under the erstwhile indirect tax regimes?**

Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Common Portal.

How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?

There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

Other Aspects relating to Challan

- Any person, or a person on his behalf, can generate a challan in prescribed form [Form PMT 06] on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
- E-challan validity is for 15 days. The commission for making payment through e-challan has to be borne by the person making the payment.
- The mandate form obtained after making NEFT/RTGS/IMPS payment has to be submitted in the Bank. The validity of the mandate form is 15 days.

Validity of challan-15 days

- On successful credit of amount in the concerned (Central/State) Government Account maintained in the authorized bank, a Challan Identification Number (CIN) will be generated by the collecting bank which will be indicated in the challan.
- On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made and the common portal will generate a receipt to this effect.

  If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not been reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form i.e. FORM GST PMT-07 through the common portal or e-gateway through which the payment has been made.
- Where the bank fails to communicate details of Challan Identification Number to the common portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the RBI in cases where the details of the said e-

Scroll are in conformity with the details in challan generated in Form GST PMT-06 on the common portal.

- Date of credit into the treasury of the State Government/Central Government is deemed to be the date of debit in the electronic cash ledger and not the actual date of deposit of amount in the electronic cash ledger of the taxable person.
- Any amount deducted under section 51 [TDS] or collected under section 52 [TCS] and claimed by the registered taxable person from whom the said amount was deducted or collected shall be credited to his electronic cash ledger.
- In case any discrepancy is noticed in electronic cash ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form
- An unregistered person has to make payment through electronic cash ledger on the basis of temporary identification number generated through common portal.

Manner of utilization of amount reflected in Electronic Cash Ledger

Sub-section 3 of section 49 of the CGST Act lays down the following:

The amount reflected in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fee, or any other amount in the prescribed manner.

In the e-ledger, information is kept minor head-wise for each major head. The ledger is displayed major head-wise i.e., IGST, CGST, SGST/UTGST, and CESS. Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others.

A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modes permitted by the GST Portal. The Cash deposits can be used for making payment(s) like tax liability, interest, penalties, fee, and others.

Major Heads	Minor Heads
IGST	Tax
CGST	Interest
SGST/UTGST	Penalty
CESS	Fee
	Others

Transfer of amount reflected in Electronic Cash Ledger

Sub-sections (10) and (11) of section 49 of the CGST Act, 2017 facilitates a registered person to transfer an amount from one (major/minor) head to another (major/minor) head in the electronic cash ledger or to transfer any amount available in the electronic cash ledger, to the electronic cash ledger for IGST/CGST of a distinct person, provided there is no unpaid liability in his electronic liability register.

The amount available in the electronic cash ledger can be utilised for payment of any liability for the major and minor heads. For instance, if the registered person has made a deposit of tax erroneously i.e. by virtue of human error, under a particular head instead of a specific head, the same can be transferred to the respective intended head vide Form GST PMT-09.

Further, a registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger to the electronic cash ledger for central tax or integrated tax of a distinct person as specified in sub-section (4) or, as the case may be, sub-section (5) of section 25, in Form GST PMT-09.

However, no such transfer shall be allowed if the said registered person has any unpaid liability in his electronic liability register.

This Form can be used either for –

(i) transfer of erroneous deposits under any minor head of a major head to any other minor head of same or other major heads or

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(ii) transfer of any of the amounts already lying unutilised under any of the minor heads in Electronic Cash ledger or

(iii) transfer of any amount lying in the electronic cash ledger to the electronic cash ledger for CGST/IGST of a distinct person

For instance, a registered person has deposited a sum of ₹1,000 under the head of "Interest" column of CGST & ₹1,000 under the head of "Interest" column of SGST, instead of the head "Fee". Such amount can be transferred using Form GST PMT- 09 for making a transfer to the head "Fee". The said transfer is required using the above Form PMT 09, because when the registered person has to make the remittance of Tax/Interest/Penalty/Fee/Other amount at a stage "Offset Liabilities" in any of the GST Returns/ Forms for Tax payments through Electronic Cash Ledger, adequate amount should be available under the respective head of account. Section 53A of the CGST Act and section 17A of the IGST Act provides for transfer of amount between Centre and States in accordance with section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.

ILLUSTRATION -1

M/s. Daksha Enterprises has made a cash deposit of ₹10,000 under minor head 'tax' of major head 'SGST'. It has a liability of ₹2,000 for minor head "Interest" under the major head "SGST".

State whether M/s. Daksha Enterprises can utilise the amount available for payment of interest.

ANSWER

The registered person is allowed to transfer the amount available under any minor head of a major head to any of the minor head of the same or other major head as per Section 49(10) of the CGST Act vide Form PMT-09.

Therefore, in the given case, amount of ₹10,000 available under minor head 'tax' of major head 'SGST' can be utilised for payment of liability of ₹2,000 under minor head 'interest' of the same major head, after making a due transfer entry using Form GST PMT-09 from the minor head of 'tax' to 'interest'.

B. ELECTRONIC CREDIT LEDGER [SECTION 49(2),(4)&(5), SECTION 49A, SECTION 49B READ WITH RULE 86, RULE 86A, RULE 86B AND RULE 88A OF CGST RULES]

Sub-section (2) of section 49 of the CGST Act provides that the self-assessed **input tax credit (ITC)** by a registered person shall be credited to his Electronic Credit Ledger.

Non-utilisation of ITC for tax liability under reverse charge mechanism

The amount available in the electronic credit ledger may be used for making any payment towards output tax under CGST or IGST. It is pertinent to note that "output tax" [as defined in Section 2(18)] in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods and/or services made by him or by his agent but excludes tax payable by him on reverse charge basis. Thus, ITC cannot be utilised for tax payable under reverse charge mechanism.

> Input Tax Credit as self-assessed in monthly returns will be reflected in the Electronic Credit Ledger. The credit in this ledger can be used to make payment of ONLY TAX and not for other amounts such as interest, penalty, fees

Manner of utilisation of ITC [Combined reading of section 49(5), 49A, 49B, rule 88A and Circular No. 98/17/2019 GST dated 23.04.2019][2]

INPUT/OUTPUT	IGST	CGST	SGST/UTGST
IGST	(1)	(2) [refer1(i)]	(2) [refer1(i)]
CGST	(2) [refer 2 & 3(i)]	(1) [refer 2 & 3]	Not allowed
SGST/ UTGST	(2) [refer 2 & 4(i)]	Not allowed	(1) [refer 2 & 4]

1. Available IGST credit in the credit ledger should first be utilized towards payment of IGST.

Remaining amount, if any, can be utilized towards the payment of CGST and SGST/UTGST in any order and in any proportion, i.e. ITC of IGST can be utilized either against CGST or SGST.

2. Entire ITC of IGST is to be fully utilised first before the ITC of CGST or SGST/UTGST can be utilized.

3. Available CGST Credit in the credit ledger shall first be utilized for payment of CGST.

   Remaining amount if any, will be utilized for payment of IGST

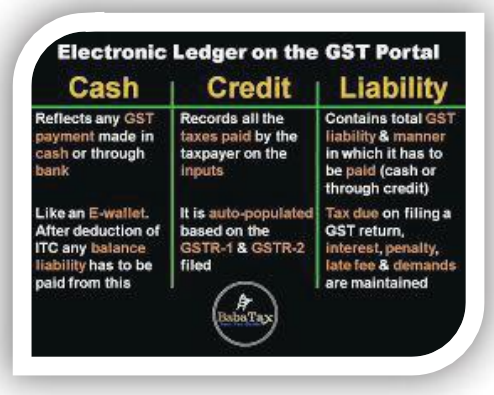
4. Available SGST /UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST.

   Remaining amount if any, will be utilized for payment of IGST,

CGST credit cannot be utilized for payment of SGST/UTGST. Similarly, SGST/UTGST credit cannot be utilized for payment of CGST.

Conditions of use of amount available in electronic credit ledger [Rule 86A]

In case the Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, has **reasons to believe** that ITC available in the electronic credit ledger has been fraudulently availed or is ineligible, he may, after recording reasons in writing, prohibit use of ITC for discharge of any liability under section 49 or for claim of any refund of any unutilised amount. *[Such provisions have already been discussed in detail in Chapter 8: Input Tax Credit.]*



[2]*The detailed provisions have already been discussed in Chapter-8: "Input tax credit".*

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

Rule 86B restricts the amount available in electronic credit ledger which a registered person can use to discharge his output tax liability to 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 ₹50 lakh. *[Such provisions have already been discussed in detail in Chapter 8: Input Tax Credit.]*

OTHER ASPECTS OF ELECTRONIC CREDIT LEDGER

- In case any discrepancy is noticed in the electronic credit ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.
- No entry shall be made directly in the electronic credit ledger under any circumstance except as provided in the provisions.

COMMON POINTS FOR ELECTRONIC CASH & CREDIT LEDGER

- Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger.
- If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form.
- A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger.
- Similarly, the unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.

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Clarifications[3] regarding utilization of the amounts available in the electronic credit ledger and the electronic cash ledger for payment of tax and other liabilities:-

Issue 1:

Whether the amount available in the electronic credit ledger can be used for making payment of any tax under the GST Laws?

Clarification:

In terms of section 49(4), the amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act or the IGST Act, subject to the provisions relating to the order of utilisation of ITC as laid down in section 49B read with rule 88A.

Rule 86(2) provides for debiting of the electronic credit ledger to the extent of discharge of any liability in accordance with the provisions of section 49/49A/49B.

Further, output tax in relation to a taxable person (i.e. a person who is registered or liable to be registered under section 22 or section 24) is defined in section 2(82) as the tax chargeable on taxable supply of goods or services or both but excludes tax payable on reverse charge mechanism.

Accordingly, it is clarified that any payment towards output tax, whether self-assessed in the return or payable as a consequence of any proceeding instituted under the provisions of GST laws, can be made by utilization of the amount available in the electronic credit ledger of a registered person.

It is further reiterated that as output tax does not include tax payable under reverse charge mechanism, implying thereby that the electronic credit ledger cannot be used for making payment of any tax which is payable under reverse charge mechanism.

[3] vide Circular No. 172/04/2022 GST dated 06.07.2022

Issue 2:

Whether the amount available in the electronic credit ledger can be used for making payment of any liability other than tax under the GST laws?

Clarification:

As per section 49(4), the electronic credit ledger can be used for making payment of output tax only under the CGST Act or the IGST Act. It cannot be used for making payment of any interest, penalty, fees or any other amount payable under the said Acts. Similarly, electronic credit ledger cannot be used for payment of erroneous refund sanctioned to the taxpayer, where such refund was sanctioned in cash.

Issue 3:

Whether the amount available in the electronic cash ledger can be used for making payment of any liability under the GST laws?

Clarification:

As per section 49(3), the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the GST laws.

C. ELECTRONIC LIABILITY REGISTER [SECTION 49(7), (8) & (9) READ WITH RULE 85 OF CGST RULES]

Sub-section (7) of section 49 enumerates about the third kind of ledger [Auto updated on common portal] viz. **Electronic Liability Register**. While the terms "Electronic Cash Ledger" and "Electronic Credit Ledger" are defined in the Act, the term "Electronic Liability Register" is not defined. The Section lays down that all liabilities of a taxable person will be recorded & maintained in a separate register named 'Electronic Liability Register'.

Electronic Liability Register will reflect the total tax liability of a taxpayer for a particular tax period.

❑ Order of discharge of tax and other dues

Sub-section (8) prescribes the chronological order in which the liability of a taxable person has to be discharged:

- self -assessed tax and other dues for the **previous tax periods** have to be discharged first.
- self-assessed tax and other dues for the **current tax period** have to be discharged next.
- Once these two steps are exhausted, thereafter any other amount payable including **demand determined under section 73 or section 74**[4] to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last. This sequence has to be mandatorily followed.

The expression "other dues" referred above mean interest, penalty, fee or any other amount payable under the Act or the rules made there under.

- **Presumption that incidence of tax is passed on** Sub-section (9) of Section 49 contains a deeming clause. This part of the section provides that when a taxable person has paid the GST under the corresponding Act, the taxable person is deemed to have passed on the incidence of such payment of tax to the recipient of such goods and /or services. Thus, if tax has been paid under the CGST Act, 2017, then the taxable person is deemed to have passed on the incidence of such payment of CGST to the recipient.

Chapter IX of CGST Rules provide the following:

(I) Debit to electronic liability register:

- all amounts payable towards tax, interest, late fee and any other amount as per return filed;
- all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by a proper officer or as ascertained by the said person;
- any interest amount that may accrue from time to time.

[4] *The provisions relating to section 73 and section 74 will be discussed in detail at Final level.*

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(II) Debit to Electronic Credit/Cash ledger:

Debit to Electronic Credit Ledger and Credit to Electronic Liability Register	Debit to Electronic Cash Ledger and Credit to Electronic Liability Register
Payment of all the liabilities of a registered person as per his return subject to section 49 or section 49A or section 49B.	Payment of all the liabilities of a registered person as per his return subject to section 49 or section 49A or section 49B.
	Payment of TDS deducted under section 51, TCS deducted by e-commerce operator under section 52, amount payable under reverse charge basis, amount payable under section 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act.

- **How do the payment systems benefit the taxpayer and the Commercial Tax Department?**
  - No more queues and waiting for making payments as payments can be made online 24 X 7.
  - Instant online receipts for payments made online.
  - Tax Consultants can make payments on behalf of the clients.
  - Single Challan form to be created online, replacing the three or four copy Challan.
  - Revenue will come earlier into the Government Treasury as compared to the old system.
  - Greater transparency.
  - Online payments made after 8 pm will be credited to the taxpayer's account on the same day.

4. INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]

	STATUTORY PROVISIONS
Section 50	**Interest on delayed payment of tax**
Sub-section	**Particulars**
(1)	Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council. Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger
(2)	The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.
(3)	Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding 24% as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.

ANALYSIS

To promote greater discipline amongst taxpayer and timeliness in payment of tax, the tax dues which are not paid within the stipulated time are made liable to interest payment. This mechanism is automatic in nature by virtue of the provisions laid under any tax laws. Interest liability is imposed on taxpayer who has withheld the payment of any tax as and when it is due and payable. Basically,

it is compensatory in character and totally different from penalty which is penal in character.

On similar lines, section 50 of the CGST Act, 2017 provides for applicability of interest for default in payment of taxes within the stipulated time. Under GST law, a registered person, can make the payment of tax through electronic credit ledger or electronic cash ledger in terms of section 49 of CGST Act, 2017. Usually, the balance in electronic credit ledger is exhausted first (subject to provisions of rule 86B) before utilizing the balance available in the electronic cash ledger. This practice is adopted for a better working capital management.

In case a registered person does not have sufficient amount available in electronic credit ledger to pay the tax dues for a particular tax period and also if the registered person does not have sufficient money for making deposit of balance tax amount in electronic cash ledger then in such a situation, GST common portal doesn't have a mechanism to allow a registered person to make part payment of taxes.

If the law maker demands tax dues along with interest on the gross payments i.e. tax paid through electronic cash ledger and credit ledger both, it may be an unhealthy practice from business perspective. To counter such recovery mechanism, the proviso under Section 50 provides that when a registered person has paid his taxes through a return specified under Section 39 of CGST Act, 2017 belatedly, interest shall be applicable only on the net taxes paid through electronic cash ledger and not on the gross taxes paid for such tax period.

As per the said proviso, the interest, in cases where the tax return has been furnished after the due date (but furnished before commencement of proceedings under Section 73 or Section 74), shall be levied on that portion of the output tax which is being paid by debiting the electronic cash ledger. This means that the interest liability shall not arise on that portion of the output tax liability which is paid using the ITC available in the electronic credit ledger.

Accordingly, interest if any payable by the registered person for delay in remittance of taxes beyond the stipulated due date on account of delay in filing

of return under section 39, shall be demanded only on the net cash liability of taxes and not on the gross tax liability.

- **When interest is payable?**

  Interest is payable in case of delay in payment of tax, in full or in part within the prescribed period.

- **Rate of interest**

  The rate of interest shall be notified by the Government on the basis of recommendation of the Council. However, such rate to be notified **shall not exceed** 18% in case of belated payment of tax i.e. on failure to pay tax (or part of tax) to the Government's account and in case of wrongful a ailment and utilization of input tax credit[5].

- **Computation of period for calculation of interest**

  Generally, the period of interest will be from the date following the due date of payment to the actual date of payment of tax.

- **Manner of calculating interest on delayed payment of tax [Rule 88B]**

  In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond the due date, at such rate as may be notified under section 50(1).

However, where any amount has been credited in the Electronic Cash Ledger as per provisions of section 49(1) on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date,

[5] *Notification No. 13/2017 CT dated 28.06.2017 has notified the rate of interest as 18% per annum.*

the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

In all other cases, where interest is payable under section 50(1), the interest shall be calculated on the amount of tax which remains unpaid, for the period starting from the date on which such tax was due to be paid till the date such tax is paid at the rate specified under section 50(1).

Where interest is payable on the amount of ITC wrongly availed and utilised in accordance with section 50(3), the interest shall be calculated on the amount of input tax credit wrongly availed and utilised, for the period starting from the date of utilisation of such wrongly availed input tax credit till the date of reversal of such credit or payment of tax in respect of such amount at the rate specified under section 50(3).

The explanation to the rule lays down that-

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

(ii) the date of utilisation of such input tax credit shall be taken to be-

  (a) the date, on which the return is due to be furnished under section 39 or the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or

  (b) the date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.

❖ **Other relevant points relating to interest**

- ✓ The term "tax" here means the tax payable under the Act or Rules made thereunder.
- ✓ The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.
- ✓ The interest payable under this section shall be debited to the Electronic Liability Register.
- ✓ The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger **but not with balance in electronic credit ledger.**

Clarification on charging of interest under section 50(3) in cases of wrong availment of IGST credit and reversal thereof[6]

The issues which arose for consideration are as to:

(i) whether in the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B, whether the balance of ITC available in electronic credit ledger (ECL) under the head of IGST only needs to be considered or total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Since the amount of ITC available in ECL, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total ITC available in ECL, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B and for determining as to whether the balance in the ECL has fallen below the amount of wrongly availed ITC of IGST, and to what extent the balance in ECL has fallen below the said amount of wrongly availed credit.

Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50(3) if, during the time period starting from such a ailment and up to such reversal, the balance of ITC in the ECL, under the heads of IGST, CGST and SGST

[6] Circular No. 192/04/2023 GST dated 17.07.2023

taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in ECL individually falls below the amount of such wrongly availed IGST credit.

However, when the balance of ITC, under the heads of IGST, CGST and SGST of ECL taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in ECL under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per section 50(3) read with section 20 of the IGST Act, 2017 and of rule 88B(3).

(ii) whether the credit of compensation cess available in ECL shall be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Since ITC in respect of compensation cess can be utilised only towards payment of compensation cess. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads. Accordingly, credit of compensation cess available in ECL cannot be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.

ILLUSTRATION 2

Mr. Alok, a registered supplier of taxable goods, filed GSTR 3B for the month of January, 2024 on 15thApril, 2024. The prescribed due date to file the said GSTR 3B was 20thFebruary, 2024. The amount of net GST payable, in Cash i.e. Electronic Cash Ledger on supplies made by him for the said month worked out to be ₹36,500 which was paid on 15thApril, 2024. Briefly explain the related provisions and compute the amount of interest payable under the CGST Act, 2017 by Mr. Alok. Ignore the effect of leap year, if applicable in this case.

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ANSWER

Interest is payable in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

Thus, the amount of interest payable by Mr. Alok is as under:-

Period of delay = 21st February, 2024 to 15th April, 2024 = 54 days

Hence, amount of interest = ₹36,500 x 18% x 54/365 = ₹972

ILLUSTRATION 3

ABC Ltd., have filed their GSTR-3B for the month of July, 2024 within the due date prescribed under Section 39 i.e. 20.08.2024. Post filing of the return, the registered person has noticed during September 2024 that tax dues of ₹40,000 for the month of July, 2024 have not been paid. ABC Ltd., has paid the above amount of ₹40,000, through GSTR-3B of September 2024, filed on 20.10.2024 [payment through Cash ledger - ₹30,000 and Credit ledger ₹10,000]. Examine the Interest payable under the CGST Act, 2017.

What would be your answer if, GSTR-3B for the month of July 2024 has been filed belatedly on 20.10.2024 and the self-assessed tax of ₹40,000/- has been paid on 20.10.2024 [payment through electronic cash ledger - ₹30,000 and electronic credit ledger ₹10,000]

Notes:

- No other supply has been made nor tax payable for the month of July, 2024 other than ₹40,000/- missed out to be paid on forward charge basis
- Ignore the effect of leap year, if applicable in this case.

ANSWER

Interest is payable under Section 50 of the CGST Act, 2017 in case of delayed payment of tax @ 18% per annum from the date following the due date of payment to the actual date of payment of tax.

As per proviso to sub-section (1) of Section 50, interest is payable on the net tax liability paid in cash, only if the return to be filed for a tax period under Section 39, has been filed after the due date to furnish such return.

In the above scenario, ABC Ltd., has defaulted in making the payment for ₹40,000 on self-assessment basis in the return for the month of July, 2024. Accordingly, interest is payable on the gross liability and proviso of sub-section 50(1) shall not be applicable.

Thus, the amount of interest payable by ABC Ltd., is as under:-

Period of delay = 21st August, 2024 to 20th October, 2024 = 61 days

Hence, amount of interest = ₹40,000 x 18% x 61/365 = ₹1,203

Alternatively, if ABC Ltd., have filed the return for the month of July, 2024 on 20.10.2024, beyond the stipulated due date of 20.08.2024 and if the self-assessed tax for July, 2024 has been paid on 20.10.2024, Interest under proviso to Section 50(1) shall be payable on the tax paid through Electronic Cash Ledger only.

Hence Interest is payable from 21st August 2024 till 20th October 2024 = 61 days

Amount of Interest = ₹30,000 x 18% x 61/365 = ₹902

5. TRANSFER OF INPUT TAX CREDIT [SECTION 53 OF CGST ACT & SECTION 18 OF IGST ACT]

If the amount of CGST is utilised towards dues of IGST then, in terms of section 53 of the CGST Act, there shall be reduction in the amount of CGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in CGST account to the IGST account.

Similarly, if the amount of IGST is utilised towards dues of CGST/UTGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and the Central Government shall transfer such amount equivalent to the amount so reduced in IGST account to the CGST/UTGST account.

However, if the amount of IGST is utilised towards dues of SGST then, in terms of section 18 of the IGST Act, there shall be reduction in the amount of IGST, equal to the credit so utilized, and will be apportioned to the 'appropriate State' Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government. Here, "appropriate State" in relation to a taxable person, means the State or Union territory where taxable person is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.

TEST YOUR KNOWLEDGE

1. How many types of electronic ledger/register are being maintained on GST common portal?

2. What are the main features of GST payment process?

3. Are principles of unjust enrichment applicable for payment of tax made under GST?

4. State the name of output tax under GST, where any of the input tax credit under GST can be utilized?

5. Mr. A has deposited a sum of ₹30,000 under minor head of "Interest" column for the major head "IGST". At the time of filing GSTR-3B for a particular tax period, he noticed that there is no sufficient amount under the minor head 'Tax' towards payment of ₹30,000. When approached with the consultant, Mr. A was guided to deposit the tax amount under proper head of account and claim a refund for the remittance of amount deposited under head "interest". Examine the relevant provisions of CGST Act, 2017 towards payment of tax and compliance with the law.

6. M/s ABC & Co. have defaulted in filing the return under Section 39 of CGST Act, 2017 i.e. GSTR-3B for the month of March within the specified due date. Reason for such delay is attributable to delay in closure of books for March, which have been finalised during May. The GST Common portal prompted for payment of late fees payable under Section 47 of CGST Act, 2017 for a sum of ₹2,000 under CGST and SGST each. Accountant, of M/s ABC & Co., sought your confirmation for payment of such late fees through the balance available in Electronic Credit Ledger Give your guidance in this regard

7. Sahil is a supplier of taxable goods in Karnataka. He got registered under GST in the month of September and wishes to pay his IGST liability for the month. Since he is making the GST payment for the first time, he is of the view that he needs to mandatorily have the online banking facility to make payment of GST; offline payment is not permitted under GST. You are

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required to apprise Sahil regarding the various modes of deposit in the electronic cash ledger. Further, advise him with regard to following issues:

(a) Are manual challans allowed under GST?

(b) What is the validity period of the challan?

(c) Is cross utilization among Major and Minor heads of the electronic cash ledger permitted?

8. *Suhasini is a registered software consultant. On account of her ill health, she could not provide any services during the month of October. However, she had to incur all the expenses relating to her office. She paid ₹75,000 to various vendors. The total input tax involved on the goods and services procured by her is ₹13,500. Out of the total bills paid by her, one bill for ₹15,000 relates to security services availed for security of her office, tax on which is payable under reverse charge. Input tax involved in such bill is ₹2,700.*

Suhasini is of the opinion that for the month of October, no GST is payable from electronic cash ledger as she has sufficient balance of ITC for payment of GST under reverse charge on security services.

Do you think Suhasini is right? Explain with reasons assuming provisions of rule 86B are not applicable.

ANSWERS

1. (a) Electronic cash ledger

(b) Electronic credit ledger

(c) Electronic liability register

2. The main features of GST payment process are as follows:-

(a) Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;

(b) Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;

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(c) Convenience of making payment online;

(d) Realtime data for tax collection in electronic format;

(e) Faster remittance of tax revenue to the Government Account;

(f) Paperless transactions;

(g) Speedy Accounting and reporting;

(h) Electronic reconciliation of all receipts;

(i) Simplified procedure for banks;

(j) Warehousing of Digital Challan.

3. Yes, as per Section 49(9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

4. IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be utilized against output tax liability known as IGST. However, it has to be utilized in prescribed manner.

5. Provisions of Section 49(10) of CGST Act, 2017 permit a registered person for transferring the amount deposited under any of the minor head i.e. tax, interest, penalty, fees or others to any of the heads under IGST/CGST/SGST/UTGS and make the payment of taxes there upon. Accordingly, Mr. A need not deposit the tax amount under head "tax" and claim a refund for the remittance of amount deposited under head "interest". Rather, using the Form GST PMT 09, such amount can be transferred suo-moto on the common portal from "interest" to "tax" head and tax liability be paid accordingly.

6, Section 49(3) of the CGST Act, 2017 provides that the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in prescribed manner.

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Further, section 49(4) provides that the amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in prescribed manner.

Accordingly, as per the combined reading of the above provisions, late fees shall be paid only through electronic cash ledger and not possible through electronic credit ledger. Thus, contention of the accountant of M/s ABC & Co., is not correct and the above amount shown on the common portal has to be deposited in Electronic Cash Ledger under appropriate minor head, through any of the specified modes.

7. As per the provisions of CGST Act, 2017 read with relevant rules, the deposit in electronic cash ledger can be made through any of the following modes, namely:-

(i) Internet Banking through authorised banks;

(ii) Unified Payment Interface (UPI) from any bank;

(iii) Immediate Payment Services (IMPS) from any bank;

(iv) Credit card or Debit card through the authorised bank;

(v) National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or

(vi) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft.

(a) Manual or physical challans are not allowed under the GST regime. It is mandatory to generate challans online on the GST Portal.

(b) Challan is valid for a period of 15 days from the date of generation of challan.

(c) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic

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cash ledger under the CGST Act, 2017 to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess.

8. The amount available in the electronic credit ledger, i.e. ITC may be used for making any payment towards output tax. Output tax in relation to a taxable person, means the tax chargeable on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis.

Therefore, ITC cannot be used to pay the tax liability under reverse charge. The same is always required to be paid through electronic cash ledger and not electronic credit ledger. Thus, Suhasini is wrong and she will need to pay the GST of ₹2,700 on security service through electronic cash ledger.

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CHAPTER 13

PAYMENT OF TAX

1. Reference of section 74A added in rule 88B prescribing manner of calculating interest on delayed payment of tax

Not Relevant

Since new section 74A[13] has been incorporated by the Finance (No.2) Act, 2024 in the CGST Act, 2017 with effect from 01.11.2024, so as to provide for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason **pertaining to the Financial Year 2024-25 onwards**. Newly introduced section 74A provides for the same limitation period for issuing demand notices and orders in respect of demands from the Financial Year 2024-25 onwards, irrespective of whether the charges of fraud, wilful misstatement, or suppression of facts are invoked or not, while keeping a higher penalty, for cases involving fraud, wilful misstatement, or suppression of facts. Consequently, reference of section 74A has also been added in rule 88B(1). Rule 88B provides the manner of calculating interest on delayed payment of tax.

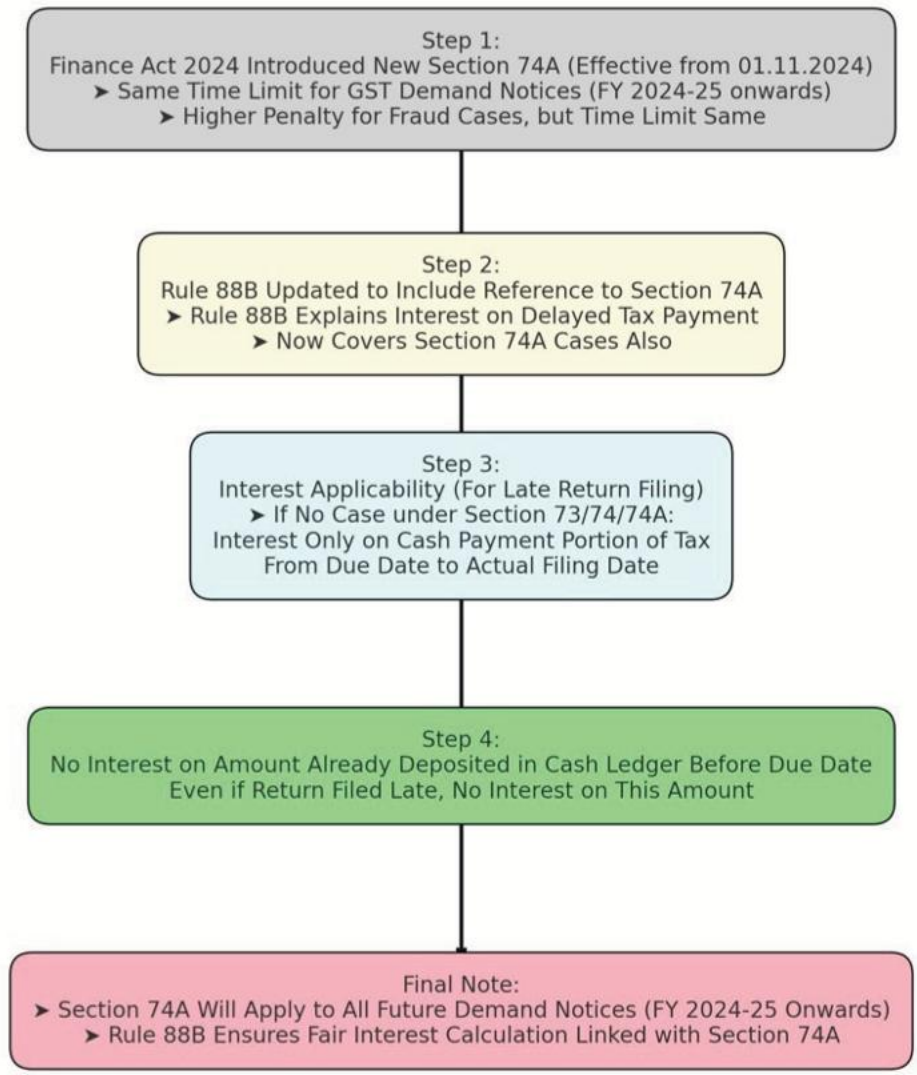
Amended rule 88B(1) provides as follows:

In case, where the supplies made during a tax period are declared by the registered person in the return for the said period and the said return is furnished after the due date in accordance with provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 ***or section 74A*** *in respect of the said period, the interest on tax payable in respect of such supplies shall be calculated on the portion of tax which is paid by debiting the electronic cash ledger, for the period of delay in filing the said return beyond*

[13] *It may be noted that section 74A shall be discussed in detail at the Final level.*

the due date, at such rate as may be notified under sub-section (1) of section 50. Provided that where any amount has been credited in the Electronic Cash Ledger as per provisions of sub-section (1) of section 49 on or before the due date of filing the said return, but is debited from the said ledger for payment of tax while filing the said return after the due date, the said amount shall not be taken into consideration while calculating such interest if the said amount is lying in the said ledger from the due date till the date of its debit at the time of filing return.

Diagram: Amendment in Section 74A & Rule 88B (GST Interest Calculation)



CHAPTER-14

TAX EDUCATION AT SOURCE AND COLLECTION OF TAX AT SOURCE

1. INTRODUCTION

TDS stands for Tax Deduction at Source (TDS). Tax Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier. It facilitates sharing of responsibility of tax collection between the deductor and the tax administrator. This concept of TDS ensures regular inflow of tax collection to the Government. This mechanism acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail. Also, with the integration of data furnished by the Supplier and Buyer on the GST common portal, there exists an audit trail to ensure for harmony of taxes paid by the supplier.

Section 51[1] of CGST Act, 2017 provides for deduction of tax at source in certain circumstances. This Section specifically lists out the deductor's who are mandated by the Central Government to deduct tax at source, the rate of tax deduction and the procedure for remittance of the tax deducted.

On the other hand, Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services make payment to or credits a supplier's account under a contract etc., while TCS refers to the tax which is collected by the electronic commerce operator,

1 Students may refer "Standard Operating Procedure on TDS" issued by CBIC from CBIC website.

when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator.

Section 52[2] of CGST Act, 2017 provides for collection of tax at source in certain circumstances. The Section specifically lists out the tax collecting persons who are mandated by the Central Government to collect tax at source, the rate of tax collection and the procedure for remittance of the tax collected.

The amount of tax deducted/collected is reflected in the Electronic Cash Ledger of the deductee/supplier respectively.

Provisions of TDS and TCS under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

3. TAX DEDUCTION AT SOURCE [SECTION 51 OF CGST ACT]

STATUTORY PROVISIONS		
Section 51	**Tax deduction at source**	
Sub-Section	**Clause**	**Particulars**
1	Notwithstanding anything to the contrary contained in this Act, the Government may mandate, –	
	(a)	a department or establishment of the Central Government or State Government; or
	(b)	local authority; or
	(c)	Governmental agencies; or
	(d)	such persons or category of persons as may be notified by the Government on the recommendations of the Council,
	(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees :	

	Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as th
	e case may be, Union territory of registration of the recipient.
Explanation	*For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.*
2	*The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed*
3	*A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.*
5	*The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.*
6	*If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.*
7	*The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74[3].*
8	*The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54[4] :*

2Students may refer "Frequently Asked Questions on TCS" issued by CBIC from CBIC website

3 The provisions relating to section 73 and section 74 will be discussed in detail at Final level.

4 The provisions relating to section 54 will be discussed in detail at Final level

	Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

ANALYSIS

➢ DEDUCTORS OF TAX AT SOURCE

Under the GST regime, section 51 of the CGST Act, 2017 prescribes the authority and procedure for 'tax deduction at source'. The TDS provisions empower the Central Government to make it mandatory for the following persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services.

- Central/State Government department or establishment [Section 51(1)(a)]
- Local Authority [Section 51(1)(b)]
- Governmental Agencies [Section 51(1)(c)]
- Notified Persons/category of persons [Section 51(1)(d)]

With respect to deductors under section 51(1)(a), provisions of TDS are applicable to certain prescribed authorities of Ministry of Defence, remaining authorities under the Ministry of Defence are exempt. Detailed list has been specified under Notification 57/2018 CT dated 23.10.2018.

The following persons have been notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government[5]:

(a) an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government, with 51% or more participation by way of equity or control, to carry out any function; with 51% or more participation by way of equity or control, to carry out any function;

5 Notification No. 50/2018 CT dated 13.09.2018

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It has been clarified vide *Circular No. 76/50/2018 GST dated 31.12.2018* that the rider of 51% or more participation by way of equity or control is applicable to both the items (i) and (ii). Thus, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which 51% or more participation by way of equity or control is with the Government.

(b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;

(c) public sector undertakings

(d) any registered person receiving supplies of metal scrap falling under Chapters 72 to 81 in the First Schedule to the Customs Tariff Act, 1975, from other registered person

- **Categories of persons not liable to deduct TDS**

Tax is not liable to be deducted at source in the following cases:-

(i) When goods and/or services are supplied from a public sector undertaking (PSU) to another PSU, whether or not a distinct person

(ii) ***When supply of goods and/or services takes place between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the said Act, except the person referred to in clause (d).***

- **Deductees**

The deductees are the suppliers whose total value of supply of taxable goods and/or services under a contract exceeds ` 2,50,000 exclusive of tax & cess as per the invoice.

- **Standard Rate of deduction**

The tax would be deducted @ 1% under CGST Act, 2017 of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value

TDS-1% +1% [CGST + SGST] on net value of taxable supplies

of such supply, under a contract, exceeds ` 2,50,000 (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than ` 2,50,000/-, but if total value of supplies under a contract is more than ` 2,50,000/-, TDS has to be deducted.

The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services under CGST Act, 2017.

It may be noted that Section 20 of IGST Act provides that in the case of tax deducted at source, the deductor shall deduct tax at the rate of 2% from the payment made or credited to the supplier.

- **NO TDS**

The Proviso to Section 51(1) lays down that when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

The above statement can be explained in the following situations:

(a) Supplier, place of supply and recipient are in the same state.
It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(b) **Supplier as well as the place of supply are in different states.**
In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

(c) Supplier as well as the place of supply are in State A and the recipient is located in State B.
The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

Location of Supplier	Place of Supply	Registration of Recipient	TDS u/s 51
State A	State A	State A	Yes
State A	State A	State B	No
State A	State B	State B	Yes
UT1	UT1	UT1	Yes
UT1	UT2	UT2	Yes
UT1	UT1	UT2	No

- **Value of Supply**

  The amount indicated in the invoice excluding the Central tax, State tax, Union territory tax, Integrated tax and cess element, is the value of supply for the purpose of TDS under Section 51 of CGST Act, 2017.

Value of supply shall exclude tax & cess

- **Deposit of TDS with the Government** The amount of tax deducted at source should be deposited to the Government account by deductor by 10th of the succeeding month.

- **TDS Certificate** A TDS certificate is required to be issued by deductor (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).

- The content of Form GSTR 7A (TDS Certificate) are given below:

  1. TDS Certificate No.
  2. GSTIN of deductor
  3. Name of deductor

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4. GSTIN of deductee
5. (a) Legal name of the deductee
   (b) Trade name, if any
6. Tax period in which tax deducted and accounted for in GSTR-7
7. Details of supplies
8. Amount of tax deducted

- **Non-remittance by the deductor**

If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay penal interest under Section 50 in addition to the amount of tax deducted.

- **Reflection of amount of TDS**

The amount of tax deducted is reflected in

- Electronic Cash Ledger of deductee.
- Return filed by deductor under section 39(3). [GSTR-7] [Refer Chapter:15 Returns for detailed discussion on GSTR-7].

The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.

This is similar to existing practice in income tax relating to E-TDS returns filed by deductor and 26AS statement available for viewing the TDS remitted in respect of transactions by deductee.

- **Determination of amount in Default**

Any default in determination of the amount under Section 51 shall be made in the manner specified in Section 73 or section 74,[6] as the case may be.

6 *The provisions relating to section 73 and section 74 will be discussed in detail at Final level.*

- **Refund on excess/erroneous deduction**

  The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54[7] relating to refunds would apply in such cases.

- **Registration[8] [Rule 12 of CGST Rules, 2017]**

  Any person required to deduct tax in accordance with the provisions of section 51 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application. Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

EXAMPLE

(1) Supplier makes a supply worth ` 20 lakh to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ` 20 lakh to the supplier, shall deduct 2% [CGST 1% + SGST 1%] viz ` 40,000 as TDS. The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10th of the succeeding month. The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount.

7 The provisions relating to section 54 will be discussed in detail at Final level. 8 The provisions relating to registration have already been discussed in Chapter-9 of this Module

4. COLLECTION OF TAX AT SOURCE [SECTION 52 OF CGST ACT]

STATUTORY PROVISIONS		
Section 52	**Collection of tax at source**	
Sub-Section	**Clause**	**Particulars**
1		*Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.*
Explanation		*For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.*
2		*The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.*
3		*The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.*

4	*Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month*
	Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:
	Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner
5	*Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year*
	Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:
	Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner o

	f Union territory tax shall be deemed to be notified by the Commissioner
6	*If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:*
	Provided that no such rectification of any omission or incorrect particulars shall be allowed after the thirtieth day of November following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.
7	*The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.*
12	*Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to –*
	a — *supplies of goods or services or both effected through such operator during any period; or*
	b — *stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,*

	as may be specified in the notice.
13	*Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.*
14	*Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122[9], be liable to a penalty which may extend to twenty-five thousand rupees.*
Explanation	*For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator.*

ANALYSIS

Overview of TCS

TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies taxable goods or services through portal of e-commerce operator and the payment for that supply is collected by said electronic commerce operator. The nature of working of electronic commerce operator can be better understood with the following example.

EXAMPLE

(2) There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Urban clap etc. operating in India. These operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service through the Operator to the consumer.

9 *The provisions relating to section 122 will be discussed in detail at Final level.*

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission and incidental expenses mutually agreed upon by the Operator.

Let us now have a look at the statutory provisions relating to TCS.

WHO IS LIABLE TO COLLECT TCS ?

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) on the net value of taxable supplies [supplies net of returns if any] made through it by suppliers, where the ECO collects the consideration on behalf of the supplier for such supplies.

Rate of TCS

0.25% of the net value of intra-State taxable supplies. ***0.5%*** of the net value of inter-State taxable supplies.

EXAMPLE

(3) Suppose a certain product is sold at ` 1,120 [including GST @12%] through an Operator by a supplier. The operator would collect tax @ ***0.5%*** of the net value of ` 1,000 *i.e.* ` 5 in case of inter-State supplies.

NET VALUE OF TAXABLE SUPPLIES

+	=
Aggregate value of taxable supplies of goods and / or services	taxable supplies **returned** to suppliers

other than notified services under section 9(5) by all registered persons supplied through operator

Currently, services notified under section 9(5) of CGST Act, 2017 vide Notification No. 17/2017 CT (R) dated 28.06.2017**/ Notification No. 14/2017 IT (R) dated 28.06.2017** as amended are given as below[10]:

(a) Services by way of transportation of passengers by a radio-taxi, motor cab, maxicab, motor cycle, **or any other motor vehicle except omnibus**;

(b) Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.

(c) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.

(d) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.

(e) supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

It may be noted that Section 20 of IGST Act provides that in case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies. The rate has been notified as 0.5% for tax collection at source under IGST.

Further, the power conferred on the e-commerce operator to collect tax at source, is without prejudice to other modes of recovery from operator. The powers of e-commerce operator are restricted only to the extent of tax collection at source under circumstances specified therein and nothing more.

10 *The provisions relating to section 54 will be discussed in detail at Final level.*

➢ **Deposit of TCS by ECO to Government**

The TCS amount collected by the ECO has to be remitted to the Government Treasury within 10 days after the end of the month in which the collection was made.

(4) If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10th August.

ILLUSTRATION 1

Mr. X is a supplier selling his own products through a web site hosted by him. Does he fall under the definition of an "electronic commerce operator"? Whether he is required to collect TCS on such supplies?

ANSWER

As per the definitions in Section 2(44) and 2(45) of the CGST Act, 2017, Mr. X will come under the definition of an "electronic commerce operator". However, according to Section 52 of the Act ibid, TCS is required to be collected on the net value of taxable supplies made through it by other suppliers where the consideration is to be collected by the ECO. In cases, where someone is selling their own products through a website, there is no requirement to collect tax at source as per the provisions of this Section. These transactions will be liable to GST at the prevailing rates.

ILLUSTRATION 2

If Mr. Purchase goods from different vendors and in turn Mr. A, is selling them on his own website under his own billing, Is TCS required to be collected on such supplies?

ANSWER

No. According to Section 52 of the CGST Act, 2017, TCS is required to be collected on the net value of taxable supplies made through E-commerce operator by other suppliers where the consideration is to be collected by the ECO. In this

case, there are two transactions - Mr. A purchase the goods from the vendors, and those goods are sold through his own website. For the first transaction, GST is leviable, and will need to be paid to vendor, on which credit is available to Mr. A. The second transaction is a supply on own account of Mr. A, and not by other suppliers and there is no requirement to collect tax at source. The transaction will attract GST at the prevailing rates.

- **Registration[11] [Rule 12 of CGST Rules, 2017]**

  Any person required to collect tax in accordance with the provisions of section 52 shall electronically submit a registration application in prescribed form through the common portal. The proper officer shall, after due verification, grant registration within 3 working days from the date of the application.

  Also, on a request or upon an enquiry or pursuant to any other proceeding under the Act, if the proper officer is satisfied that a person is no longer liable to deduct tax at source under section 52 then the said officer may cancel the said registration, following procedures as provided in Rule 22 of the CGST Rules for the cancellation of registration.

- **Filing of Monthly & Annual Statements by ECO[12]**

  ✓ An **electronic statement [Form GSTR 8]** has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made.

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11 The provisions relating to registration have already been discussed in Chapter-9 of this Module.

12 The detailed provisions of monthly and annual statements have been discussed in Chapter 15: Returns.

- ✓ ***The details of tax collected at source furnished by the ECO shall be made available electronically to each of the registered suppliers on the common portal after filing of FORM GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.***

- ✓ Additionally, the ECO is also mandated to file an **Annual Statement** [Form GSTR 9B] on or before 31st day of December following the end of the financial year.

- ✓ The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

- **Notice to the Operator seeking details**

- ✓ An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc.
- ✓ The operator is required to furnish such details within 15 working days.
- ✓ In case an operator fails to furnish the information, besides being liable for penal action under section 122[13], it shall also be liable for penalty up to ` 25,000.

13 *The provisions relating to section 122 will be discussed in detail at Final level.*

TEST YOUR KNOWLEDGE

1. *Whether the rate of tax of 0.5% notified under section 52 is CGST or SGST or a combination of both CGST and SGST?*
2. *Is every e-commerce operator required to collect tax on behalf of actual supplier?*
3. *State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if Fitan Ltd. sells watch on its own through its own website?*
4. *There is no onus of filing any monthly & annual statements by ECO. Examine the technical veracity of the statement by explaining relevant provisions.*
5. *State whether the provisions pertaining to tax collected at source under section 52 of CGST Act, will be applicable, if ABC limited who is dealer of Royul brand sells watches through Slipkart, an electronic commerce operator?*

ANSWERS

1. The rate of TCS as notified under CGST Act is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 0.5%.

2. Yes, every e-commerce operator is required to collect tax where consideration with respect to the supply is being collected by the e-commerce operator.

However, no TCS is required to be collected in the following cases:-

(i) on supply of services notified under section 9(5) of the CGST Act,2017.

(ii) on exempt supplies

(iii) on supplies on which the recipient is required to pay tax on reverse charge basis.

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3. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, provisions pertaining to tax collected at source (TCS) won't be applicable.

4. The given statement is invalid. An electronic statement has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of each month in which supplies are made.

Additionally, the ECO is also mandated to file an Annual Statement on or before 31st day of December following the end of the financial year.

The Commissioner has been empowered to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.

5. As per Section 52, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it *by other suppliers* where the consideration with respect to such supplies is to be collected by the operator. If ABC limited who is dealer of Royul brand sells watches through Slipkart, then the provision of TCS will be applicable to Slipkart.

CHAPTER-15 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 taxpayers.

The returns serve the following purposes:

a) Mode for transfer of information to tax administration;

b) Compliance verification program of tax administration;

c) Finalization of the tax liabilities of the taxpayer within stipulated period of limitation;

d) Providing necessary inputs for taking policy decision;

e) Management of audit and anti-evasion programs of tax administration.

The taxpayer is generally required to furnish the return in a specific statutory format. These formats are, therefore, designed to take care of all the provisions of the law that have a bearing on computation of tax liability of a taxpayer. Hence, a study of various fields contained in the form of return *vis-à-vis* the

relevant corresponding provisions of the tax law, can facilitate overall understanding of the tax law in a better manner.

Under the GST laws, the correct and timely filing of returns is of utmost importance because of two reasons. Firstly, under GST laws, a taxpayer is required to estimate his tax liability on "self-assessment" basis and deposit the tax amount along with the filing of such return.

Filing of GST returns helps in determination of tax liability of the return filer and at the same time it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into taxable activities.

The return, therefore, constitutes a kind of working sheet/supporting document for the tax authorities that can be relied upon as the basis on which the tax has been computed by the taxpayer. Secondly, under the GST regime, filing of returns not only determines the tax liability of the person filing the same, but it also has a huge bearing on determination of tax liability of other persons with whom the former has entered into transactions in course or furtherance of business.

Chapter IX of the CGST Act [Sections 37 to 48[1]] prescribe the provisions relating to filing of returns as under:

Section 37	Furnishing details of outward supplies
Section 38	Furnishing details of inward supplies
Section 39	Furnishing of returns
Section 40	First return
Section 44	Annual Return
Section 45	Final Return
Section 46	Notice to return defaulters
Section 47	Levy of late fee
Section 48	Goods and services tax practitioners

Apart from this, section 52, *inter alia,* prescribes a statement for tax collection at source to be furnished by Electronic Commerce Operator.

1 Sections 42, 43 and 43A have been omitted.

Provisions of section 41 relating to availment of input tax credit have already been discussed in Chapter 8 – Input Tax Credit in this Module of the Study Material; thus, said provisions are not discussed here. The provisions relating to forms and manner, in which information is to be furnished through returns, are given under Chapter VIII of the CGST Rules [Rules 59-84[2]]. State GST laws also prescribe identical provisions in relation to filing of returns.

Provisions of returns, other than late fee, under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

All the returns under GST laws are to be filed electronically. Taxpayers can file the statements and returns by various modes. Firstly, they can file their statement and returns directly on the GST common portal online. However, this may be tedious and time consuming for taxpayers with large number of invoices. For such taxpayers, offline utilities have been provided by GSTN that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the common portal. GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the common portal.

The details furnished by the taxpayer in the form of returns shall be consolidated and stored at the common portal which will be common for both, i.e. Central Government and State Governments.

2 Rules 69, 70, 71, 72, 73, 74, 75, 76, 77 and 79 have been omitted.

3. FURNISHING DETAILS OF OUTWARD SUPPLIES [SECTION 37 READ WITH RULE 59]

(i) Who is required to furnish the details of outward supplies? [Section 37(1) read with rule 59(1)]

The details of outward supplies (see definition) of both goods and services are required to be furnished by every registered person including casual registered person except the following:

- input service distributor (ISD)
- non-resident taxable person (NRTP)
- person paying tax under composition scheme
- person deducting tax at source
- person collecting tax at source i.e., e-commerce operator (ECO), not being an agent
- supplier of online information and database access or retrieval services (OIDAR) located in non-taxable territory and providing such services to a non-taxable online recipient[3].

Persons required to file GSTR-1 = All registered persons including casual registered person −
- ISD
- Non-resident taxable person
- Composition taxpayer
- Person deducting tax at source
- Person collecting tax at source
- Supplier of OIDAR services located in non-taxable territory providing services to non-taxable online recipient

3 *Provisions for filing of returns by an input service distributor and a supplier of online information and database access or retrieval services (OIDAR) will be discussed at the Final level.*
4 vide Notification No. 83/2020 CT dated 10.11.2020

(ii) What is the form for submission of details of outward supplies? [Section 37(1) read with rule 59(1)]

The details of outward supplies are required to be furnished, electronically, in **Form GSTR-1 for the month or quarter.** Such details can be furnished through the common portal, either directly or from a Facilitation Centre notified by the Commissioner.

Further, a Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer.

(iii) What is the due date of submission of GSTR-1? [Section 37(1)]

GSTR-1 for a particular tax period is filed **on or before the 10th day of the immediately succeeding tax period.** In other words, GSTR-1 of a month/quarter can be filed any time between 1st and 10th day of the succeeding month/quarter. The due date of filing GSTR-1 may be extended by the Commissioner/ Commissioner of State GST/ Commissioner of UTGST for a class of taxable persons by way of a notification.

The time limit for furnishing the details of outward supplies in Form GSTR-1 is extended[4] as follows:

Class of registered person	**Time limit for furnishing the details of outward supplies in Form GSTR-1 for each quarter/month**
Registered persons opting for QRMP scheme[5]	**13th day** of the month succeeding such quarter
Others	**11th day** of the month succeeding such month

4 vide Notification No. 83/2020 CT dated 10.11.2020

(iv) Invoice Furnishing Facility [IFF] for taxpayers opting for QRMP Scheme [Sub-rules (2) and (3) of rule 59]

Invoice Furnishing Facility (IFF) is a facility provided to quarterly taxpayers who are in QRMP scheme, to file their details of outward supplies in first two months of the quarter, to pass on the credit to their recipients.

Invoice furnishing facility (IFF) is not mandatory, but an optional facility made available to the registered persons under the QRMP scheme. At his option, a registered person may choose to furnish the details of outward supplies made during a quarter in Form GSTR-1 only, without using the IFF.

The facility of furnishing details of invoices in IFF has been provided so as to allow details of such supplies to be duly reflected in the Form GSTR-2A and Form GSTR-2B of the concerned recipient.

Otherwise, in case where a buyer has made purchases from a person opting for QRMP scheme, he could not have claimed full ITC but due to introduction of IFF, such delay will not occur as the details submitted using IFF will be reflected in the GSTR-2A, GSTR-2B, GSTR-4A or GSTR-6A[6] of the recipients, as the case may be.

Taxpayers opting for QRMP Scheme may furnish the details of such outward supplies to a registered person, as he may consider necessary, for the 1st and 2nd months of a quarter, upto a cumulative value of ₹ 50 lakh in each of the first 2 months of the quarter using IFF electronically on the common portal. However, invoices pertaining to last month of a quarter are to be uploaded in GSTR-1 only.

The invoices are to be furnished in IFF between the 1st day of the succeeding month till the 13th day of the succeeding month. After 13th of the month, this facility for furnishing IFF for previous month would not be available.

5 QRMP scheme - a Quarterly Return scheme where payment has to be made on monthly basis - has been discussed in detail subsequently in this chapter.

6 Form GSTR-6A is the system generated statement of inward supplies for an ISD. Provisions relating to ISD are discussed in detail at the Final level.

As a facilitation measure, continuous upload of invoices would also be provided for the registered persons wherein they can save the invoices in IFF from the 1st day of the month till 13th day of the succeeding month.

The said facility would however be available, say for the month of July, from 1st August till 13th August. Similarly, for the month of August, the said facility will be available from 1st September till 13th September.

The details of invoices furnished using IFF in the first 2 months of the quarter are not required to be furnished again in GSTR-1 for the said quarter.

EXAMPLE **(1)** A registered person who has availed the QRMP scheme wants to declare 2 invoices out of the total 10 invoices issued in the 1st month of quarter since the recipient of supplies covered by those 2 invoices desires to avail ITC in that month itself. Details of these 2 invoices may be furnished using IFF.

The details of the remaining 8 invoices shall be furnished in Form GSTR-1 of the said quarter.

The two invoices furnished in IFF shall be reflected in Form GSTR-2B of the concerned recipient of the 1st month of the quarter and remaining 8 invoices furnished in Form GSTR-1 shall be reflected in Form GSTR-2B of the concerned recipient of the last month of the quarter.

However, if a registered person does not opt to upload invoices using IFF, then he has to upload invoice details for all the 3 months of the quarter in Form GSTR-1.

(v) What are the cases where a registered person is debarred from furnishing details of outward supplies in GSTR-1/IFF? [Section 37(4) read with rule 59(6)]

A registered person shall not be allowed to furnish the details of outward supplies for a tax period, if the details of outward supplies for any of the previous tax periods has not been furnished by him.

However, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be

specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies, even if he has not furnished the details of outward supplies for one or more previous tax periods [Section 37(4)].

Further, rule 59(6) stipulates that:

(i) a registered person shall not be allowed to furnish the details of outward supplies in Form GSTR-1, if he has **not furnished** the return in **Form GSTR-3B for the preceding month**.

(ii) a registered person, opting for QRMP scheme shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF, if he has **not furnished the return in Form GSTR-3B for preceding tax period**.

(iii) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88C(1) in respect of a tax period, shall not be allowed to furnish the details of outward supplies in Form GSTR-1 or using IFF for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C(2). Rule 88C has been discussed subsequently in this chapter.

(iv) a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under the provisions of rule 88D(2). Rule 88D has been discussed subsequently in this chapter.

(v) a registered person shall not be allowed to furnish GSTR-1/IFF, if he has not furnished the details of the bank account as per the provisions of rule 10A[7].

A taxpayer cannot file GSTR-1 before the end of the current tax period. However, the following are the exceptions to this rule:
a. Casual taxpayers, after the closure of their business
b. Cancellation of GSTIN of a normal taxpayer
A taxpayer who has applied for cancellation of registration will be allowed to file GSTR-1 after confirming receipt of the application.

(vi) What are the contents of GSTR-1?

CONTENTS OF GSTR- 1

Basic & Other Details	Details of Outward Supplies
• GSTIN • Legal name • Trade name, if any • Aggregate turnover in previous year • Year and Month • HSN-wise summary of outward supplies • Details of documents issued during the tax period	• B2B including UIN holders • B2C inter-State supplies where invoice value > ₹ 2.5 lakh • Consolidated details of other B2C supplies • Zero rated and Deemed exports • Debit/ Credit notes issued • Nil rated/ Exempted/ Non- GST • Amendments for prior period • Advances received/advances adjusted

GST is a destination-based consumption tax. Hence, the tax revenue is transferred to the State which is the place of supply[8] of the particular transaction.

7 Provisions of rule 10A have been discussed in Chapter 9 – Registration in this Module of the Study Material.
8 Principles determining the place of supply as contained in sections 10 and 12 of the IGS

Since, the place of supply is crucial for determining the share of every State in the tax revenue, GSTR-1 also captures information relating to place of supply.

(vii) What kind of details of outward supplies are required to be furnished in GSTR-1 and IFF? [Explanation to section 37 read with sub-rules (4), (4A) and (5) of rule 59]

Uploading of invoices in IFF and GSTR-1 depends on whether the supply is B2B or B2C. Further, uploading of invoices in GSTR-1 also depends on whether the supply is intra-State or inter-State. Let us first understand what is B2B supply and what is B2C supply?

B2B means business to business transaction. In such type of transactions, the recipient is also a registered supplier and hence, takes ITC.

B2C means business to consumer transaction. In such type of transactions, the recipient is consumer or unregistered and hence, will not take or cannot

(A) Details of outward supplies required to be furnished in IFF

In the IFF, the registered person has to submit the B2B (business to business) invoice details of both inter-State and intra-State supply transactions along with debit and credit notes of the B2B invoices issued during the month.

The details of outward supplies furnished using IFF shall include the–

(a) invoice wise details of inter-State and intra-State supplies made to the registered persons;

(b) debit and credit notes, if any, issued during the month for such invoices issued previously.

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From the above discussion, it can be inferred that IFF shall include invoices pertaining to B2B supplies irrespective of whether they are intra-State or inter- State supplies. This is so because the recipients will take ITC basis such invoices.

(B) Details of outward supplies required to be furnished in GSTR- 1/GSTR-1A The registered person is required to furnish:

(i) details of invoices and revised invoices issued in relation to supplies made by him to registered and unregistered persons (i.e. B2B as well as B2C supplies) and debit notes and credit notes in GSTR-1, and

(ii) additional details or the amendments of the details of outward supplies of goods or services or both furnished in Form GSTR-1A, as per the requirement of the registered person in the following manner:

Sl. No.	Invoice-wise details of ALL	Consolidated details of ALL	Debit and credit notes
(I)	Inter-State and Intra-State supplies made to registered persons, i.e. B2B supplies.	Intra-State supplies made to unregistered persons for each rate of tax	Issued during the month for invoices issued previously
(II)	Inter-State supplies made to unregistered persons with invoice value exceeding ₹ ***1,00,000***, i.e. B2C supplies	Inter-State supplies made to unregistered persons with invoice value upto ₹ ***1,00,000*** for each rate of tax separately for each State	

From the above discussion, it can be inferred that for B2B supplies, details of all invoices need to be uploaded in GSTR-1/ ***Form GSTR-1A*** irrespective of whether they are intra-State or inter-State supplies. This is so because the recipient will take ITC basis such invoices.

For B2C supplies, uploading of details in general is not required as the buyer will not be taking ITC. However, still in order to implement the destination-based principle, details of invoices of value more than ₹ ***1 lakh*** in inter-State B2C supplies need to be uploaded.

For inter-State invoices upto ₹ ***1 lakh***, State wise summary is sufficient and for all intra-State invoices, only consolidated details need to be given.

EXAMPLE **(2)** Mr. XY makes intra-State taxable supplies for ₹ 10,000 and ₹ 50,000 to Mr. AB, a registered person and ₹ 1,00,000 to Mr. DE, an unregistered person. He also makes inter-State taxable supplies for ₹ 1,00,000 and ₹ 45,000 to Mr. RS, a registered person and ₹ 90,000 to Mr. OP, an unregistered person. Mr. XY will report invoice-wise details of intra-State supplies made to Mr. AB and inter-State supplies made to Mr. RS, in GSTR-1 to be filed by him.

Invoices related details can be uploaded any time during the tax period and not just at the time of filing of IFF/ GSTR-1.

Details related to invoices can be modified/deleted any number of times till the submission of IFF/ GSTR-1 of a tax period. The uploaded invoice details are in a draft version till the time IFF/GSTR-1 is submitted and can be changed irrespective of due date.

***Scanned copies of invoices are not required to be uploaded. Only certain prescribed fields of information from invoices need to be furnished e.g., invoice no., date, value, taxable value, rate of tax, amount of tax etc.**

***In case there is no consideration, but the activity is a supply by virtue of Schedule I of CGST Act, the taxable value will have to be worked out as prescribed and furnished.**

***Description of each item in the invoice need not be furnished. Only HSN (Harmonized System of Nomenclature) code in respect of supply of goods and accounting code in respect of supply of services need to be fed.**

Indication of HSN details

The minimum number of digits of HSN code that a filer has to upload depend on his turnover in the last year.

HSN would be disclosed as under[9]

Aggregate Annual turnover in the preceding financial year	Number of Digits of HSN Code
Upto ₹ 5 crore	For B2B supply - 4 For B2C supply – 4 (optional)
More than ₹ 5 crore	6

HSN or HS (Harmonized Commodity Description and Coding System) is a standardized system of nomenclature of different goods developed by World Customs Organization, which is accepted globally.

HSN uses 6-digits uniform codes to classify different goods. India uses eight-digits codes for more specific and precise classification.

EXAMPLE **(3)** The turnovers of Yellow Lemon Pvt. Ltd., Red Pepper Pvt. Ltd. and Blue Berry Pvt. Ltd. in the previous financial year are ₹ 1.5 crore, ₹ 4.8 crore and ₹ 6 crore respectively.

While Yellow Lemon Pvt. Ltd. and Red Pepper Pvt. Ltd. will be required to upload 4 digits of HSN code of the goods sold to registered persons, uploading of 4 digits HSN code will be optional for the two companies when the goods are sold to unregistered persons.

Blue Berry Pvt. Ltd. will have to upload 6 digits of HSN code of goods sold by it.

(viii) How are the details of outward supply furnished in the current period amended? [Proviso to rule 59(1)]

In cases where a taxpayer, after having filed Form GSTR-1, realizes that some amendment (downward

or upward) is required to be made in his tax liability in Form GSTR-1, an optional Form GSTR-1A is provided to him.

9 Notification No. 78/2020 CT dated 15.10.2020

This allows him to add any particulars of the current tax period missed out in reporting in Form GSTR-1 of current tax period or amend any particulars already declared in Form GSTR-1 of current tax period (including those declared in IFF, for the first and second months of a quarter, if any, for quarterly taxpayers).

A registered person may, after furnishing the details of outward supplies of goods or service or both in Form GSTR-1 for a tax period but before filing of return in Form GSTR-3B for the said tax period, at his own option, amend or furnish additional details of outward supplies of goods or services or both in Form GSTR-1A for the said tax period [Proviso to rule 59(1)].

EXAMPLE ***(4) A supplier issued two invoices INV1 and INV2 in the month of January. Then, he furnished the details of the invoice INV1 on 8th Feb in Form GSTR-1. However, he misses one invoice INV2 and furnishes the details of the same in Form GSTR-1A on 15th Feb.***

In this case, INV1 will go to Form GSTR-2B of the recipient for the month of January made available on 14th Feb. Further, INV2 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.

EXAMPLE ***(5) A supplier issued two invoices INV 3 and INV 4 in the month of January. Then, he furnished the details of the invoice INV 3 on 15th Feb in Form GSTR-1.***

However, he declared INV 4 in Form GSTR-1A on 16th Feb. In this case, both INV3 and INV4 will be made available in Form GSTR-2B of the recipient for the month of February made available on 14th March.

Key features of Form GSTR-1A are as follows:

- ***Form GSTR-1A is an optional facility.***
- ***It can be filed only once for a return period.***
- ***It allows to amend the records filed in the Form GSTR-1 of current tax period only.***

- *The corresponding effect of the changes made through Form GSTR-1A on the liability of the taxpayer shall be reflected in Form GSTR- 3B for the same tax period.*
- *At the recipient's end, the ITC for the supplies declared or amended by the suppliers through Form GSTR-1A will be available to the recipient in Form GSTR-2B generated for the next tax period.*
- *It can be amended only electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.*
- *There is no due date for filing of GSTR-1A. For the taxpayers filing Form GSTR-1 on monthly basis:*
  - *Form GSTR-1A will be available on the portal every month from the due date of filing of Form GSTR-1 or the actual date of filing of Form GSTR-1, whichever is later, and will be available till the actual filing of corresponding Form GSTR-3B of the same tax period.*
  - *From the liability perspective, the net impact of particulars declared or amended through Form GSTR-1A, along with the particulars declared in Form GSTR-1, shall be auto-populated in Form GSTR-3B for the same tax period as that of Form GSTR-1.*
- *For the QRMP taxpayers, who files FORM GSTR-1 on Quarterly basis:*
  - *Form GSTR-1A shall be available quarterly after actual filing of Form GSTR-1 (Quarterly) or the due date of filing of Form GSTR -1 (Quarterly), whichever is later, and will be available till the actual filing of Form GSTR-3B of the same tax period.*
  - *The supplies reported in Form GSTR-1 of the current tax period (including those declared in IFF, for the first month, M1 and second month, M2 of a quarter, if any) can be amended through corresponding quarterly GSTR-1A.*

- ***From the liability perspective, the net impact of the particulars declared in GSTR 1A (Quarterly), along with particulars furnished in Form GSTR-1 (Quarterly) (or through IFF of Month M1 and M2, if filed), shall be auto-populated in Form GSTR-3B (Quarterly) of the same tax period.***
- ***There will be no separate amendment facility available for records furnished through IFF for the months M1 and M2, during the month M1 and M2.***

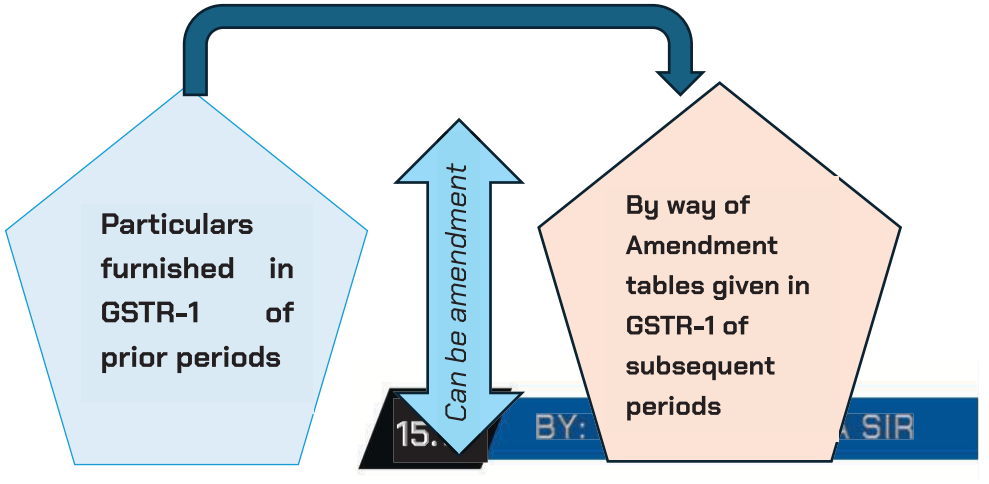
- ***In case where change is required to be made in GSTIN of a recipient for a supply reported in Form GSTR-1 of a tax period, the same can be rectified through Form GSTR-1 for the subsequent tax period only.***

(ix) How are the details of outward supply furnished in prior periods amended? [Section 37(3)]

(a) Scope of amendment/ correction entries

Tables 9, 10 and 11(II) of GSTR-1 provide for amendments in details of taxable outward supplies furnished in earlier periods (hereinafter referred to as "Amendment Table"). The details of original debit notes/ credit notes / refund vouchers issued by the taxpayer in the current tax period as also the revision in the debit notes/ credit notes / refund vouchers issued in the earlier tax periods are required to be shown in Table 9 of the GSTR-1.

Ordinarily, in Amendment Table, the supplier is required to give details of the original invoice (No and Date), the particulars of which have been wrongly entered in GSTR-1 of the earlier months and are now sought to be amended.



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(b) Rectification of errors

If the supplier discovers any error or omission, he shall rectify the same in the tax period during which such error or omission is noticed, and pay the tax and interest, if any, in case there is short payment, in the return to be furnished for such tax period.

EXAMPLE **(6)** A supplier discovers a mistake in details of the invoice furnished in GSTR-1 for the month of August, in October. He can rectify the said mistake in the GSTR-1 for the month of October.

(c) Time limit for rectification

In above example, suppose for some reason, supplier could not make correction at the time of filing of GSTR-1 for the month of October then he can make such amendments in the subsequent periods. However, the maximum time limit within which such amendments are permissible is earlier of the following dates:

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

EXAMPLE **(7)** An entity has furnished the annual return for the previous financial year on 15th August in the current financial year. An error is discovered in respect of a transaction pertaining to the month of November of the previous financial year. In this case, any error pertaining to the transaction in the month of November of the previous financial year cannot be rectified beyond 15th August in the current financial year.

It may be noted that, the expression 'due date' is missing in time limit prescribed for making amendments u/s 37(3) [GSTR-1]. Therefore, such date apparently means actual date of filing and not the due date.

(x) Nil GSTR-1 [Rule 67A]

Filing of GSTR-1 is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-1 is required to be filed as prescribed under rule 67A.

A Nil GSTR-1 does not have any entry. For example, a Nil GSTR-1 for a tax period cannot be filed, if the taxpayer has made any outward supply (including exempt, nil rated or non-GST supplies), or it has received supplies on which tax is payable under reverse charge or an amendment needs to be made to any of the supplies declared in an earlier return or any credit or debit notes is to be declared / amended etc. A Nil GSTR-1 can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-1 submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer can file Nil GSTR-1, anytime from 1st day of the month subsequent of the tax period. For example, GSTR-1 for the calendar month of April, can be filed from 1st May onwards. GSTR-1 for the quarter of April to June can be filed from 1st July onwards.

Taxpayer opting for voluntary cancellation of GSTIN has to file GSTR-1 for active period.

✪ ***In cases where a taxpayer has been converted from a normal taxpayer to composition taxpayer at the beginning of any financial year, GSTR-1 will be available for filing only for the period during which the taxpayer was registered as normal taxpayer. The GSTR-1 for the said period, even if filed with delay would accept invoices for the period prior to conversion.***

What are the precautions that a taxpayer is required to take for a hassle-free compliance under GST?

One of the most important things under GST is the timely uploading of the details of outward supplies in GSTR-1. How best this can be ensured will depend on the number of B2B invoices that the taxpayer issues.

If the number is small, the taxpayer can upload all the information in one go. However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis.

Regular uploading of invoices

GST common portal allows regular uploading of details of invoices. Till the return is actually submitted, the system also allows the taxpayer to modify the uploaded invoices' details.

Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices. Last minute rush makes uploading difficult and comes with higher risk of possible failure and default.

Follow up with suppliers to upload the invoices of inward supplies

The second thing would be to ensure that taxpayers follow up on uploading the invoices of their inward supplies by their suppliers. This would be helpful in ensuring that ITC is available without any hassle and delay.

Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date. The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them.

(xi) Maximum time-limit for furnishing Form GSTR-1 [Section 37(5)]

Maximum time-limit upto which a registered person can furnish the details of outward supplies in Form GSTR-1 for a tax period is **3 years** from the due date of furnishing such details.

This time limit can be extended by the Government for a registered person or a class of registered persons subject to such conditions and restrictions as may be specified therein.

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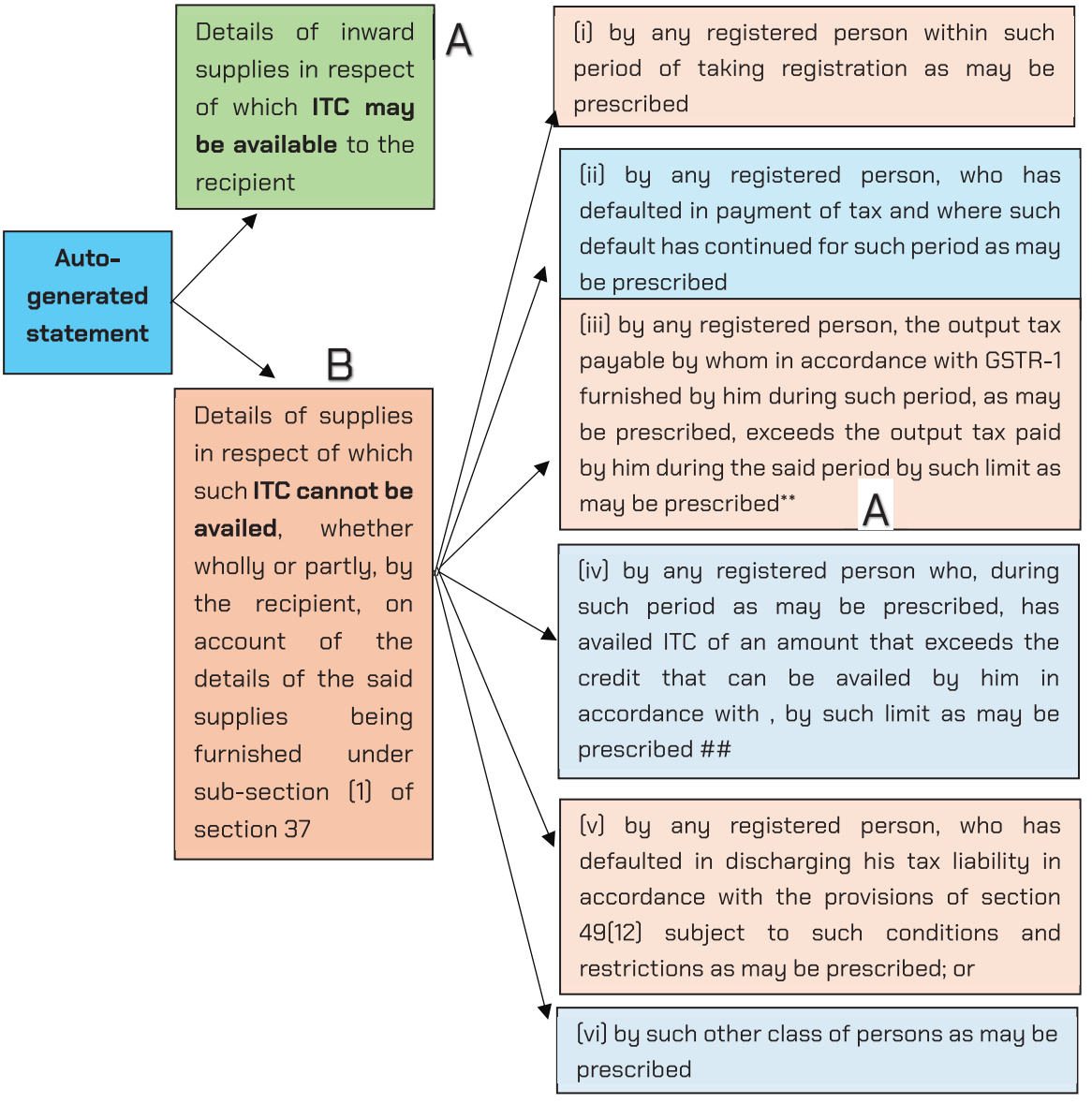
4. COMMUNICATION OF DETAILS OF INWARD SUPPLIES AND INPUT TAX CREDIT [SECTION 38 READ WITH RULE 60]

The details of outward supplies furnished by the registered persons under section 37(1) and of such other supplies as may be prescribed, and an Auto-Generated Statement containing the details of ITC shall be made available electronically to the recipients of such supplies in such form and manner, within such time, and subject to such conditions and restrictions as may be prescribed.



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**** Manner of dealing with difference in liability reported in Form GSTR-1 and Form GSTR-3B that reported in return [Rule 88C]**

Rule 88C provides the mechanism for dealing with difference in liability reported in statement of outward supplies between Form GSTR-1 (as amended in Form GSTR-1A, if any) and Form GSTR-3B. Accordingly, where the tax liability as per Form GSTR-1 for a tax period exceeds the tax liability as per Form GSTR-3B for that period by more than a specified extent, the registered person would be intimated on the portal of such difference and be directed to either (i) pay the differential tax liability along with interest, or (ii) explain the difference, within 7 days' period.

Unless the taxpayer either deposits the amount specified in the said intimation or furnishes a reply explaining the reasons for any amount remaining unpaid, such a person should not be allowed to file Form GSTR-1/ IFF for the subsequent tax period.

Rule 88C reads as follows:

Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in Form GSTR-1 (as amended in Form GSTR-1A, if any) or using the IFF in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in Form GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference.

Such registered person shall be intimated in prescribed form, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address*.

In said intimation, the said difference between GSTR-1 and GSTR-3B will be highlighted and he will be directed to:

(a) pay the differential tax liability, along with interest under section 50, through prescribed form; or

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(b) explain the aforesaid difference in tax payable on the common portal, within a period of 7 days.

**email address which registered person has provided at the time of registration or as amended from time to time*

Such registered person shall, upon receipt of the aforesaid intimation, either:

(a) pay the amount of the differential tax liability, as specified in intimation, fully or partially, along with interest under section 50, and furnish the details thereof electronically on the common portal; or

(b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any,

within the period of 7 days.

Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79[10].

Manner of dealing with difference in ITC available in Form GSTR-2B and Form GSTR-3B [Rule 88D]

Rule 88D provides the mechanism which allows system-based intimation to the taxpayer about the excess availment of ITC in Form GSTR-3B vis-a-vis that reported in Form GSTR-2B, above a particular threshold and with provision for self-compliance on the portal by the said taxpayer. Consequently, new rule 88D has been introduced to give a system-based intimation to the registered person in those cases where difference between the ITC availed as per GSTR-3B and that available as per GSTR-2B exceeds such amount and such percentage as may be recommended by the Council.

10 Provisions of section 79 – Recovery of tax - has been discussed at the Final level.

In such cases, the registered person shall be directed to pay an amount equal to the said excess amount of ITC availed along with interest or to give a reasonable explanation and if neither of these is done, then the amount can be demanded under section 73 or section 74[11].

This provision would help in safeguarding the revenue by controlling the difference in ITC availed in Form GSTR-3B and that available as per Form GSTR-2B of the taxpayers and will reduce the ITC mismatches.

New rule 88D provides as follows:

Where the amount of ITC availed by a registered person in the return for a tax period(s) furnished by him in Form GSTR-3B exceeds the ITC available to such person in accordance with the auto-generated statement containing the details of ITC in Form GSTR-2B in respect of the said tax period(s), by specified amount and percentage, the said registered person shall be given an intimation in prescribed form electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time. Said intimation shall highlight the said difference and will direct him to —

(a) pay an amount equal to the excess ITC availed in the said Form GSTR-3B, along with interest payable under section 50, through prescribed form, or

(b) explain the reasons for the aforesaid difference in ITC on the common portal,

within a period of 7 days.

Such registered person shall, upon receipt of said intimation, either,

(a) pay an amount equal to the excess ITC, as specified in intimation, fully or partially, along with interest payable, through prescribed form and furnish the details thereof, electronically on the common portal, or

11 Provisions of sections 73 and 74 have been discussed at the Final level.

(b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess ITC that has still remained to be paid,

within 7 days' period.

Where any amount specified in the intimation remains to be paid within 7 days' period and where no explanation/reason is furnished by the registered person in default or where the explanation/reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73/ section 74.

FORM AND MANNER OF ASCERTAINING DETAILS OF INWARD SUPPLIES – GSTR-2A AND GSTR-2B

Form GSTR-2A

Form GSTR-2A - is a **system generated read only statement of inward supplies** for a recipient. This statement is **updated on a real time basis**.

Details of outward supplies furnished by the supplier in Form GSTR-1 ***or Form GSTR-1A*** or using the IFF is made available electronically to the concerned registered persons (recipients) in Form GSTR-2A. Further, Form GSTR-4A is the system generated statement of inward supplies for composition taxpayer [12].

Details of invoices furnished by a non-resident taxable person (NRTP) in Form GSTR-5[13], details of TDS by deductor furnished in Form GSTR-7 and details of TCS by an e-commerce operator furnished in Form GSTR-8, are made available to the recipient, deductee or concerned person, in Form GSTR-2A.

12 System generated statement of inward supplies for an ISD is GSTR-6A. Provisions relating to ISD are discussed in detail at the Final level.

13 Details of invoices furnished by an ISD in Form GSTR-6 are also made available to a recipient in GSTR-2A.

Further, details of the IGST paid on the import of goods or goods brought in DTA from SEZ unit/developer on a bill of entry are also made available in Form GSTR-2A.

The details become available to the recipient for view/download and are updated incrementally as and when supplier(s) upload or change details in their respective form of return/statement, for the given tax period.

Form GSTR-2B

Form GSTR-2B – an **auto-generated statement** containing the details of **eligible ITC** - is made available to the registered person (recipient) for every month.

It is a **static statement** and is **available only once a month**. **It consists of –**

(i) the details of outward supplies furnished by the suppliers in Form GSTR-1, other than a supplier who has opted for QRMP scheme, between the day immediately after the due date of furnishing of Form GSTR-1 for the previous month to the due date of furnishing of Form GSTR-1 for the month.

(ii) the details of invoices furnished by a non-resident taxable person in GSTR- 5[14] and the details of outward supplies furnished by his supplier who has opted for QRMP scheme, in Form GSTR-1 or using the IFF, as the case may be,-

(a) **for the 1st month of the quarter**, between the day immediately after the due date of furnishing of Form GSTR-1 for the preceding quarter to the due date of furnishing details using the IFF for the 1st month of the quarter;

(b) **for the 2nd month of the quarter**, between the day immediately after the due date of furnishing details using the IFF for the 1st month of the quarter to the due date of furnishing details using the IFF for the 2nd month of the quarter;

14 Details of invoices furnished by an ISD in his return in GSTR-6 are also reflected in GSTR- 2B. ISD provisions will be discussed at the Final level.

(c) **for the 3rd month of the quarter**, between the day immediately after the due date of furnishing of details using the IFF for the 2nd month of the quarter to the due date of furnishing of Form GSTR-1 for the quarter.

(iii) ***additional details or amendments in details of outward supplies furnished by his supplier in Form GSTR-1A filed between the day immediately after the due date of furnishing of Form GSTR-1 for the previous tax period to the due date of furnishing of Form GSTR-1 for the current tax period***

(iv) the details of IGST paid on the import of goods or goods brought in the DTA from SEZ unit/developer on a bill of entry in the month.

Form GSTR-2B consists of all documents filed by suppliers/ISD in their Form GSTR- 1, 5 & 6, between the cut-off dates. It also consists of import data for the period which are received within 13th of the succeeding month. In case of monthly Form GSTR-1, the cut-off date is 00:00 hours on 12th of the relevant month to 23:59 hours, on 11th of the succeeding month. Whereas for quarterly Form GSTR-1/IFF, Form GSTR-5 and Form GSTR-6, the cut-off date is 00:00 hours on 14th day of relevant month to 23:59 hours, on 13th day of succeeding month.

The details filed in Form GSTR-1 & 5 (by supplier) & Form GSTR-6 (by ISD) would reflect in the next open Form GSTR-2B of the recipient irrespective of supplier's/ISD's date of filing.

EXAMPLE **(8)** If a supplier opting for QRMP files an invoice dated 15th July on 13th August, it will get reflected in GSTR-2B of July (generated on 14th August).

The statement in Form GSTR-2B for every month shall be made available to the registered person,-

(a) for the 1st and 2nd month of a quarter, a day after the due date of furnishing of details of outward supplies for the said month,
- in the IFF by a registered person opting for QRMP, or

- in Form GSTR-1 by a registered person other than opting for QRMP, whichever is later.

(b) in the 3rd month of the quarter, a day after the due date of furnishing of details of outward supplies for the said month, in Form GSTR-1 by a registered person opting for QRMP.

EXAMPLE **(9)** For the quarter July-September, Form GSTR-2B for a registered person (recipient) who has received supplies from QRMP suppliers as well as from other suppliers will be generated as follows:

Month	Date of generation of GSTR 2B
July	14th August
August	14th September
September	14th October

5. FURNISHING OF RETURNS UNDER SECTION 39

1. GSTR-3B [Section 39(1) read with rule 61 & 61A]

(a) Person eligible to file return [Section 39(1)]

Section 39(1) prescribes a monthly return for every registered person, other than an input service distributor or a non-resident taxable person or a composition taxpayer, a person deducting tax at source, a person collecting tax at source, i.e. an electronic commerce operator and supplier of OIDAR services located in non-taxable territory providing such services to non-taxable online recipient in such form and manner, and within such time, as may be prescribed.

However, the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to the specified conditions and restrictions. Under this

proviso, QRMP scheme has been notified which has been discussed in subsequent paras.

(b) Return to be filed in Form GSTR-3B GSTR-3B

is the form prescribed for filing return under section 39. It contains summary of outward supplies, inward supplies liable to reverse charge, eligible ITC, payment of tax etc. Thus, GSTR-3B does not require invoice-wise data of outward supplies.

GSTR-3B can be submitted electronically through the common portal, either directly or through a Facilitation Centre notified by the Commissioner. Further, a Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B can be filed monthly or quarterly.

c) Due date for filing return

(1) **Monthly GSTR-3B** -on or before **20th of the month** succeeding the month for which return is furnished.

(2) **Quarterly GSTR-3B-** on or before **22nd or 24th of the month** succeeding the quarter for which return is furnished in case of a taxpayer opting for QRMP scheme - *(discussed below).*

(d) Quarterly Return Monthly Payment (QRMP) Scheme

Quarterly Return Monthly Payment (QRMP) Scheme is a trade facilitation measure which further eases the process of doing business.

QRMP Scheme is an **optional return filing scheme**, introduced for small taxpayers having aggregate annual turnover (PAN based) of upto ₹ 5 crore in the preceding financial year to **furnish their Form GSTR-1 and Form GSTR- 3B on a quarterly basis while paying their tax on a monthly basis** through a simple challan.

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QRMP SCHEME IS GSTNWISE

This will significantly reduce the compliance burden on such taxpayers as now the taxpayers need to file only 4 GSTR-3B returns instead of 12 GSTR-3B returns in a year. Similarly, they would be required to file only 4 GSTR-1 returns since Invoice Filing Facility (IFF) is provided under this scheme.

Opting of QRMP scheme is GSTIN wise. Distinct persons can avail QRMP scheme option for one or more GSTINs. It implies that some GSTINs for a PAN can opt for the QRMP scheme and remaining GSTINs may not opt for the said scheme.

(A) Eligibility for QRMP scheme

Registered persons[15], having an **aggregate turnover up to ₹ 5 crore** in the preceding financial year, and who have opted to furnish quarterly return under QRMP scheme[16] as the class of persons who shall **furnish a return for every quarter and pay the tax due every month[17].**

Thus, the taxpayers whose aggregate turnover is up to ₹ 5 crore in the preceding financial year are eligible for QRMP scheme. For computing aggregate turnover, details furnished in returns for tax periods in the preceding financial year shall be taken into account.

Condition to be fulfilled for becoming eligible to opt for QRMP scheme

Registered persons under QRMP scheme must have furnished the return for the preceding month, as due on the date of exercising such option.

A registered person shall not be eligible to opt for QRMP scheme if he has not **furnished the last return due on the date of exercising such option**.

15 other than supplier of online information and database access or retrieval services (OIDAR) located in non-taxable territory and providing such services to a non-taxable online recipient
16 opted under rule 61A of the CGST Rules, 2017
17 in accordance with the proviso to section 39(7)

EXAMPLE **(10)** If a registered person intending to avail of QRMP scheme for the quarter 'July to September' is exercising his option on 27th July for the said quarter, he must have furnished the return for the month of June which was due on 20th July.

(B) Manner of exercising option of QRMP scheme

A registered person intending to opt for QRMP scheme for any quarter shall indicate his preference for furnishing of return on a quarterly basis from 1st day of the 2nd month of the preceding quarter till the last day of the 1st month of the quarter for which the option is being exercised.

EXAMPLE **(11)** A registered person intending to avail of QRMP scheme for the quarter 'July to September' can exercise his option from 1st May to 31st July.

No need to exercise this option every quarter

Registered persons under QRMP scheme are not required to exercise the option every quarter. Where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the said option.

Further, where such option has been exercised once, the said registered person shall continue to furnish the return on a quarterly basis for future tax periods, unless he–

(a) becomes ineligible for this scheme as per the conditions and restrictions notified in this regard; or

(b) opts for furnishing of return on a monthly basis, electronically, on the common portal.

(C) Option of QRMP scheme to lapse

In case where a registered person's aggregate turnover crosses ₹ 5 crore during a quarter in a financial year, he shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.

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He shall opt for furnishing of return on a monthly basis, electronically, on the common portal, from the first month of the quarter, succeeding the quarter during which his aggregate turnover exceeds ₹ 5 crore.

The facility for opting out of the scheme for a quarter will be available from 1st day of 2nd month of preceding quarter to the last day of the 1st month of the quarter.

(D) Form and manner of filing return – GSTR-3B under QRMP scheme

Due date for filing return in case of a taxpayer opting for QRMP scheme - Quarterly GSTR-3B **on or before 22nd or 24th of the month** succeeding the quarter for which return is furnished (Refer the Table given below for details**).

****Due dates for taxpayers opting for QRMP scheme**

Class of registered persons	Due date
Registered persons whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Union territories of Daman & Diu & Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep.	**22nd day** of the month succeeding such quarter.
Registered persons whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi.	24th day of the month succeeding such quarter.

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(e) Nil GSTR-3B

Filing of GSTR-3B is mandatory for all normal and casual taxpayers, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GSTR-3B is required to be filed.

A Nil GSTR-3B does not have any entry in any of its tables. For example, a Nil GSTR-3B for a tax period cannot be filed, if the taxpayer has made any outward supply (including nil-rated, exempt or non-GST supplies) or has received any supplies which are taxable under reverse charge or it intends to take ITC etc.

A Nil GSTR-3B can be filed through an SMS using the registered mobile number of the taxpayer. GSTR-3B submitted through SMS is verified by registered mobile number-based OTP facility.

A taxpayer may file Nil GSTR-3B, anytime on or after the 1st day of the subsequent month/quarter for which the return is being filed for.

(f) Maximum time-limit for furnishing Form GSTR-3B [Section 39(11)]

Maximum time-limit upto which a registered person can furnish the return in Form GSTR-3B for a tax period is 3 years from the due date of furnishing such return.

This time limit can be extended by the Government for a registered person or a class of registered persons subject to such conditions and restrictions as may be specified therein.

CONTENTS OF GSTR- 3B

BASIC DETAILS
• GSTIN • Legal name of the registered person • Year and Month/Quarter

Other details relating to supplies
Summarised details of outward supplies and inward supplies liable to reverse charge • Summarised details of inter-State supplies made to unregistered persons, composition taxable persons and UIN holders • Eligible and ineligible ITC • Values of exempt, nil-rated and non- GST inward supplies • Payment of tax • TDS/TCS credit

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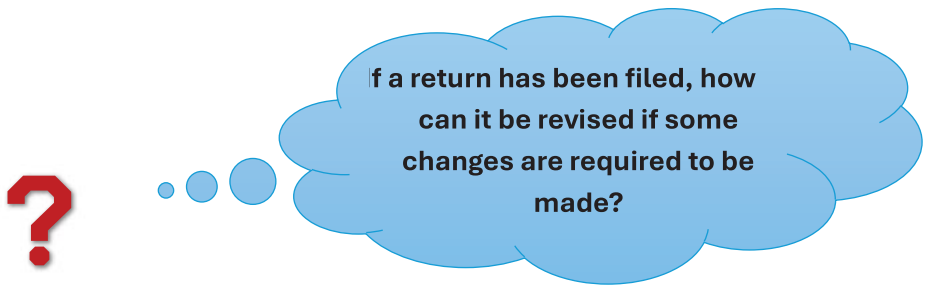
(g) Broad contents of GSTR-3B

The broad contents of GSTR-3B are given below

(h) Rectification of errors/omissions [Section 39(9)]



In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system allows changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1 in the tables specifically provided therein for the purposes of amending previously declared details.

Omission or incorrect particulars discovered in the returns filed u/s 39 can be rectified in the return to be filed for the tax period during which such omission or incorrect particulars are noticed.

Any tax payable as a result of such error or omission will be required to be paid along with interest.

Exception

It is important to note that section 39(9) does not permit rectification of error or omission discovered on account of scrutiny, audit, inspection or enforcement activities by tax authorities.

Hence, taxpayer may not be able to pass on the ITC to the receiver in respect of tax payments made by him in pursuance of any of the aforementioned situations.

Time limit for making rectification

The maximum time limit within which the rectification of errors/omissions is permissible is earlier of the following dates:

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

The last date of filing of annual return for a financial year is 31st December of next financial year.

Hence, if annual return for a financial year is filed before 30th November (of next financial year), then no rectification of errors/omissions in returns pertaining to the said financial year would be permitted thereafter.

✪ ***A return furnished under section 39(1) on which self-assessed tax has been paid in full is considered as a valid return.***

✪ ***Filing of returns for current month is possible only when returns for any of the previous tax periods and GSTR-1 for the said tax period has been furnished by him18.***

✪ ***A taxpayer needs to electronically sign the submitted returns otherwise it will be considered not-filed.***

✪ ***Taxpayers can electronically sign their returns using a DSC (mandatory for all types of companies and LLPs), E-sign (Aadhaar-based OTP verification), or EVC (Electronic Verification Code sent to the registered mobile number of the authorized signatory)***

2. GSTR-4 – Return for composition supplier [Section 39(2) and second proviso to section 39(7) read with rule 62]

(a) Person eligible to file return, periodicity and form of return

A registered person paying tax under composition levy (provisions of section 10), shall, for each financial year or part thereof, furnish a return,

electronically, of turnover in the State or Union territory, inward supplies of goods and/or services, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.

Every registered person paying tax under section 10, i.e. a composition supplier is required to file a return on yearly basis in **Form GSTR-4.**

GSTR-4 for a financial year or part of a financial year should be filed electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

Quarterly statement for payment of self-assessed tax

Every composition supplier shall pay to the Government, the tax due taking into account turnover in the State or Union territory, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.

The composition supplier are required to furnish a statement in the **Form GST CMP-08** containing details of payment of **self-assessed tax**, for every quarter (or part of the quarter), by 18th day of the month succeeding such quarter.

While a composition supplier is required to file the return GSTR-4 annually, he is required to pay the tax quarterly.

(b) Due date for filing Form GSTR-4 and Form GST CMP-08

GSTR-4 for a financial year[19] should be furnished by ***30th June*** of the succeeding financial year.

DUE DATE OF FILING GSTR-4 FOR A FINANCIAL YEAR	**BY *30TH DAY OF JUNE* FOLLOWING THE END OF SUCH FINANCIAL YEAR**

GST CMP-08 (quarterly statement for payment of self-assessed tax) should be furnished by 18th day of the month succeeding such quarter.

Due date of filing GST CMP-08 for a quarter	**By 18th day of the month succeeding such quarter**

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(c) What kind of details of supplies are required to be furnished in GSTR-4?

GSTR-4 shall include the—

(a) invoice-wise inter-State and intra-State inward supplies received from registered and unregistered persons; and

(b) consolidated details of outward supplies made.

(d) Auto-population of inward supplies in GSTR-4A

The inward supplies of a composition supplier received from registered persons filing GSTR-1 will be auto populated in Form GSTR-4A for viewing.

◪ Consolidated details of outward supplies

Composition taxpayers are neither entitled for any ITC nor entitled to pass on any ITC to its customers. Therefore, composition taxpayers are required to provide consolidated details of outward supplies in GSTR-4 (Table 6) and not invoice-wise details. However, details of inter-State and intra-State inward supplies received from registered and un-registered persons are to be provided invoice-wise (Table 4).

◪ Tax liability

Since composition suppliers are not eligible to take ITC, they discharge their tax liability only by debiting electronic cash ledger

(e) Nil GST CMP-08 [Rule 67A]

Filing of GST CMP-08 is mandatory for all taxpayers who have opted to pay tax under composition scheme, even if there is no business activity in any particular tax period. For such tax period(s), a Nil GST CMP-08 is required to be filed.

18 The Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return, even if he has not furnished the returns for one or more previous tax periods or has not furnished the details of outward supplies under sub-section (1) of section 37 for the said tax period [Proviso to section 39(10)].

A Nil GST CMP-08 does not have any entry in any of its tables. For example, a Nil GST CMP-08 for a tax period cannot be filed, if the taxpayer has made any outward supplies or has received any supplies which are taxable under reverse charge.

A Nil GST CMP-08 can be filed through an SMS using the registered mobile number of the taxpayer. A Nil GST CMP-08 submitted through SMS is verified by registered mobile number-based OTP facility.

(f) Broad contents of GSTR-4

The broad contents of GSTR-4 are given below.

CONTENTS OF GSTR- 4

Basic & Other Details	Details regarding Inward and Outward Supplies
• GSTIN • Legal name and Trade name • TDS/TCS credit received [Table 7] • Tax, interest, late fee payable and paid [Table 8] • Refund claimed from Electronic cash ledger [Table 9]	• Invoice-wise details of all inward supplies (i.e., intra and inter-State supplies and from registered and unregistered persons) including reverse charge supplies and import of services [Table 4] • Summary of self-assessed liability as per GST CMP-08 (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) [Table 5] • Tax rate wise details of outward supplies/inward supplies attracting reverse charge (Net of advances, credit & debit notes and any other adjustments due to amendments etc.) - Consolidated details of outward supplies [Table 6]

(g) Statements/ return for the period prior to opting for composition scheme

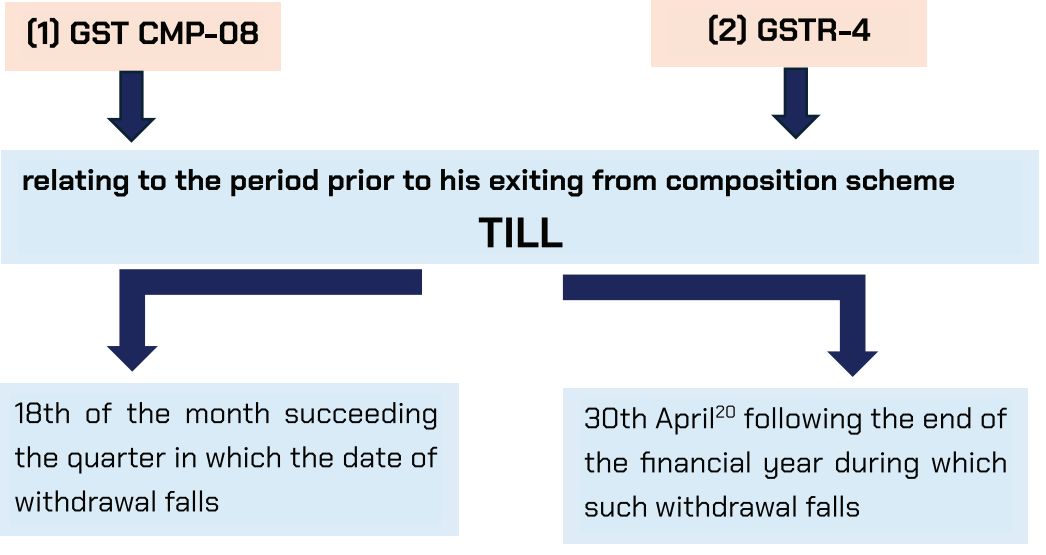
If a registered person opts to pay tax under composition scheme from the beginning of a financial year, he will, where required, furnish statements/return relating to the period prior to paying tax under composition scheme till the

- due date of furnishing the return for the month of September of the succeeding financial year, or
- furnishing of annual return of the preceding financial year, whichever is earlier.

The composition supplier will not be eligible to avail ITC on receipt of invoices or debit notes from the supplier for the period prior to their opting to pay tax under composition scheme.

(h) GSTR-4 for the period prior to exiting from composition scheme

A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer will, where required, furnish-



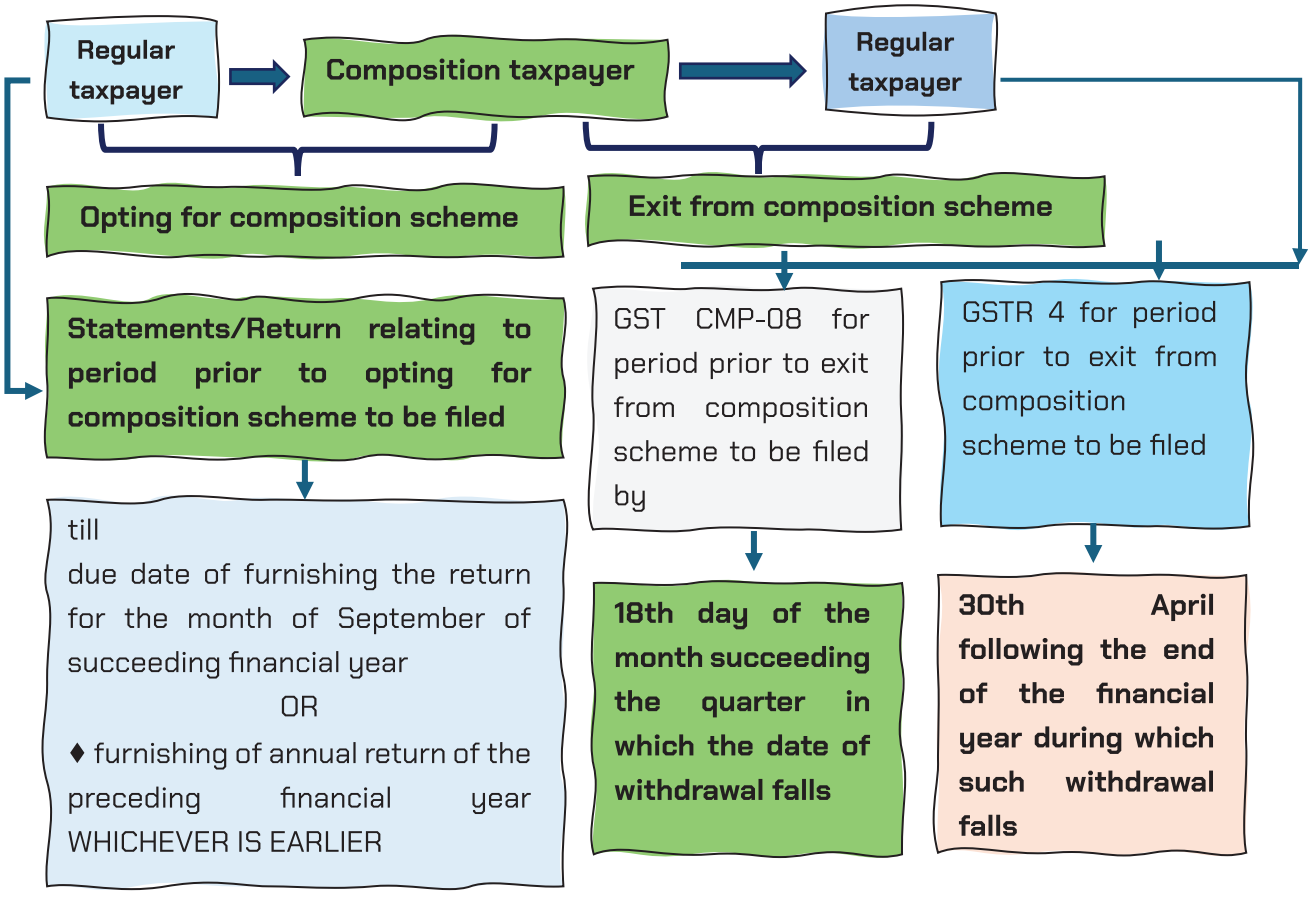
20 As stated earlier, due date for filing Form GSTR-4 shall be 30th June following the end of such financial year, from FY 2024-25 onwards.

The provisions explained in points (f) and (g) above have been explained by way of a diagram given at next page:

As per section 29(2), a proper officer is empowered to cancel the registration of a taxable person if, *inter alia*,:

(a) a person paying tax under composition scheme has not furnished his GSTR-4 for a financial year beyond 3 months from the due date of furnishing the said return.

(b) any other taxable person has not furnished returns for such continuous tax period as may be prescribed.



3. GSTR-5 – Return for Non-Resident Taxable Persons [Section 39(5) read with rule 63]

Non-Resident Taxable Persons (NRTPs) are those suppliers who do not have a business establishment in India and have come for a short period to make supplies in India. They would normally import their products into India and make local supplies. *The concept of Non-Resident Taxable Person has been discussed in detail in Chapter 9 – Registration in this Module of the Study Material.*

(a) Monthly return

A registered NRTP is not required to file the Statement of Outward Supplies and return which are otherwise applicable for a normal taxpayer.

In place of the same, a simplified monthly tax return has been prescribed in **Form GSTR-5** for a NRTP for every calendar month or part thereof. The details of outward supplies and inward supplies of an NRTP are incorporated in GSTR-5.

(b) Last date of filing return

GSTR-5 should be furnished within **13 days** after the end of the calendar month **or within 7 days** after the last day of validity period of the registration, whichever is earlier[21].

(c) Payment of interest, penalty, fees or any other amount payable

An NRTP should pay the tax, interest, penalty, fees or any other amount payable under the CGST Act or the provisions of the Returns Chapter under CGST Rules till the last date of filing GSTR-5.

An NRTP is not required to file an annual return.

*21 As per rule 63, GSTR-5 needs to be furnished within **20 days** after the end of the tax period or within 7 days after the last day of the validity period of registration, whichever is earlier.*

4. GSTR-7 – Return for tax deducted at source [Section 39(3) read with rule 66]

Normally, whenever taxable goods or services or both are supplied to a Central/ State Government's Department/ establishment or, local authority, or Governmental agencies, recipient is required to deduct tax at source under section 51 where the total value of such supply exceeds ₹ 2,50,000.

(a) Monthly return

Deductor shall furnish a monthly return in **Form GSTR-7**.

(b) Last date of filing return

The details in GSTR-7 should be furnished **on/before 10th of the month succeeding the calendar month** in which tax has been deducted at source.

(c) TDS details available to deductee on common portal

The details of TDS furnished by the deductor in GSTR-7 shall be made available electronically to each of the deductees on the common portal after filing of Form GSTR-7. The supplier can take this amount as credit in his electronic cash ledger after validation and use the same for payment of tax or any other liability.

(d) Tax Deduction at Source (TDS) Certificate

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in Form GSTR-7A to the deductee (the supplier from whose payment, TDS is deducted), within 5 days of crediting the amount to the Government. It contains the details pertaining to value on which tax has been deducted, rate of deduction, amount of tax deducted at source and amount paid to the Government.

6. DUE DATE FOR PAYMENT OF TAX [SECTION 39(7)]

Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as

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per such return not later than the last date on which he is required to furnish such return.

However, every registered person furnishing return under QRMP scheme shall pay to the Government, in such form and manner, and within such time, as may be prescribed –

(a) an amount equal to the tax due taking into account inward and outward supplies of goods or services or both, ITC availed, tax payable and such other particulars during a month; or

(b) in lieu of the amount referred to in clause (a), an amount determined in such manner and subject to such conditions and restrictions as may be prescribed.

Due dates for payment of tax in respect of the persons required to file monthly GSTR-3B, GSTR-5 and GSTR-7 are linked with the due dates for filing of such returns, i.e. the last dates (due dates) of filing such returns are also the due dates for payment of tax in respect of persons required to file such returns.

However, due dates for payment of tax in respect of the persons required to file quarterly GSTR-3B under QRMP Scheme for 1st two months of the quarter is delinked. Every registered person under QRMP scheme shall pay the tax due for each of the first 2 months of the quarter, by depositing the said amount in, by the 25th day of the month succeeding such month.

Similarly, in case of registered persons paying tax under composition scheme, the due date for payment of tax and filing of GSTR-4 is delinked. While GSTR- 4 for a financial year is required to be filed by ***30th June*** of the following year, tax for a quarter is to be paid by 18th of the month succeeding such quarter.

Further, NRTPs or casual taxable persons are required to make advance deposit of an amount equivalent to their estimated tax liability for the period for which registration is sought or extension of registration is sought in terms of section 27(2).

Every registered person required to furnish return22 shall, discharge their liability towards tax, interest, penalty, fees or any other amount payable under GST law by debiting the electronic cash ledger or electronic credit ledger and include the details in the return.

Monthly payment of tax under QRMP Scheme

MONTHLY PAYMENT OF TAX

The registered person under the QRMP Scheme would be required to pay the **tax due in 1st month or 2nd month or both** the months o f the quarter by depositing the tax due23. The payment is to be made **by 25th day of the month succeeding such month**.

However, the Commissioner may, on the recommendations of the Council, by notification, extend the due date for depositing the said amount in Form GST PMT-06, for specified class of taxable persons. Further, any extension of time limit notified by the Commissioner of State tax/UT shall be deemed to be notified by the Commissioner:

While making a deposit of tax, such a registered person may –

(a) for the 1st month of the quarter, take into account the balance in the electronic cash ledger.

(b) for the 2nd month of the quarter, take into account the balance in the electronic cash ledger excluding the tax due for the 1st month.

At the time of filing the return for the said quarter in Form GSTR-3B, the amount deposited by the registered person in the first 2 months of the quarter shall be debited. This amount is debited solely for the purposes of offsetting the liability furnished in that quarter's Form GSTR-3B. However, any amount left after filing of that quarter's Form GSTR-3B may either be claimed as refund or may be used for any other purpose in subsequent quarters.

While generating the challan, taxpayers should select **"Monthly payment for quarterly taxpayer"** as reason for generating the challan.

22 subject to the provisions of section 49
23 under first proviso to sub-section (7) of section 39

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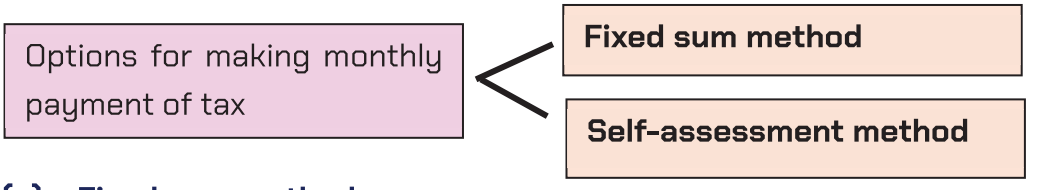
The said person can use any of the following two options provided below for monthly payment of tax during the first 2 months –



(a) Fixed sum method:

If a taxpayer chooses this option, a facility is available on the GST portal for generating an auto-generated/pre-filled challan in Form GST PMT-06. The challan amount is calculated by the system which cannot be edited. The amount is equal to:

(i) **35% of the tax paid in cash** in the return for the preceding quarter where the return was **furnished quarterly**; or

(ii) **tax liability paid in cash in the return** for the last month of the immediately preceding **quarter where the return was furnished monthly.**

For easy understanding, the same is explained by way of examples given below:

(i) In case the last return filed was on quarterly basis for quarter ending March:

Tax paid in cash in quarter (January - March)		Tax required to be paid in each of the months – April and May	
CGST	100	CGST	35
SGST	100	SGST	35
IGST	500	IGST	175
Cess	50	Cess	17.5

(ii) In case the last return filed was monthly for tax period March:

Tax paid in cash in March		Tax required to be paid in each of the months – April and May	
CGST	50	CGST	50
SGST	50	SGST	50
IGST	80	IGST	80
Cess	-	Cess	-

However, no such amount may be required to be deposited-

(a) **for the 1st month of the quarter**, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability;

(b) **for the 2nd month of the quarter**, where the balance in the electronic cash ledger/electronic credit ledger is adequate for the cumulative tax liability for the 1st and the 2nd month of the quarter or where there is nil tax liability

Monthly tax payment through this method would not be available to those registered persons who have not furnished the return for a complete tax period preceding such month.

A complete tax period means a tax period in which the person is registered from the first day of the tax period till the last day of the tax period.

(b) **Self-Assessment Method:** The said persons, in any case, can pay the tax due by considering the tax liability on inward and outward supplies and the ITC available, in Form GST PMT-06. In order to facilitate ascertainment of the ITC available for the month, an auto-drafted input tax credit statement has been made available in Form GSTR-2B, for every month.

The registered person under QRMP is free to avail either of the two tax payment methods above in any of the two months of the quarter.

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As already discussed earlier, at the time of filing the return for a quarter in Form GSTR-3B, the amount deposited by the registered person in the first 2 months of the quarter shall be debited. Further, any amount left after filing of that quarter's Form GSTR-3B may either be claimed as refund or may be used for any other purpose in subsequent quarters.

However, such refund claim shall be permitted only after the return in Form GSTR-3B for the said quarter has been furnished. Further, this deposit cannot be used by the taxpayer for any other purpose till the filing of return for the quarter.

Applicability of interest

A. For registered person making payment of tax by opting Fixed Sum Method

No interest would be payable in case the tax due is paid in the first 2 months of the quarter by way of depositing auto-calculated fixed sum amount (as discussed above) by the due date.

In other words, if while furnishing return in Form GSTR-3B, it is found that in any or both of the first 2 months of the quarter, the tax liability net of available credit on the supplies made /received was higher than the amount paid in challan, then, no interest would be charged provided they deposit system calculated amount for each of the first 2 months and discharge their entire liability for the quarter in Form GSTR- 3B of the quarter by the due date.

In case such payment of tax by depositing the system calculated amount in Form GST PMT-06 is not done by due date, interest would be payable at the applicable rate, from the due date of furnishing Form GST PMT-06 till the date of making such payment.

Further, in case Form GSTR-3B for the quarter is furnished beyond the due date, interest would be payable as per the provisions of section 50 for the tax liability net of ITC.

EXAMPLE **(12)** A registered person, who has opted for the QRMP Scheme, had paid a total amount of ₹ 100/- in cash as tax liability in the previous quarter of October to December.

He opts to pay tax under fixed sum method. He therefore pays ₹ 35/- each on 25th February and 25th March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that liability, based on the outward and inward supplies, for January was ₹ 40/- and for February it was ₹ 42/-. However, no interest would be payable for the lesser amount of tax (i.e. ₹ 5 and ₹ 7 respectively) discharged in these 2 months provided that he discharges his entire liability for the quarter in the Form GSTR-3B of the quarter by the due date.

EXAMPLE **(13)** A registered person, who has opted for the QRMP Scheme, had paid a total amount of ₹ 100/- in cash as tax liability in the previous quarter of October to December.

He opts to pay tax under fixed sum method. He therefore pays ₹ 35/- each on 25th February and 25th March for discharging tax liability for the first 2 months of quarter viz. January and February.

In his return for the quarter, it is found that total liability for the quarter net of available credit was ₹ 125, but he files the return on 30th April. Interest would be payable at applicable rate on ₹ 55 [₹ 125 – ₹ 70 (deposit made in cash ledger in first and second month)] for the period between due date of quarterly GSTR 3B and 30th April.

B. For registered person making payment of tax by opting Self-assessment method

Interest amount would be payable as per the provision of section 50 for tax or any part thereof (net of ITC) which remains unpaid / paid beyond the due date for the first 2 months of the quarter.

Interest payable, if any, shall be paid through Form GSTR-3B.

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Note: It is clarified that no late fee is applicable for delay in payment of tax in first 2 months of the quarter.

7. OTHER RETURNS/ STATEMENTS

(i) First return [Section 40]

When a person becomes liable to registration after his turnover crosses the threshold limit, he may apply for registration within 30 days of so becoming liable. Thus, there might be a time lag between a person becoming liable to registration and grant of registration certificate. During the intervening period, such person might have made the outward supplies, i.e. after becoming liable to registration but before grant of the certificate of registration.

Now, in order to enable such registered person to declare the taxable supplies made by him for the period between the date on which he became liable to registration till the date on which registration has been granted so that ITC can be availed by the recipient on such supplies, firstly, the registered person may issue revised tax invoices against the invoices already issued during said period within 1 month from the date of issuance of certificate of registration [Section 31(3)(a) read with rule 53– *Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes*]. Further, section 40 provides that registered person shall declare his outward supplies made during said period in the first return furnished by him after grant of registration. The format for this return is the same as that for regular return.

(ii) GSTR – 8 - Statement for tax collection at source [Sub-sections (3), (4), (6) and (7) of section 52 read with rule 67]

(a) Monthly statement

An ECO liable to collect tax at source shall furnish a monthly statement in Form GSTR-8 electronically through the

common portal. Form GSTR-8 contains the details of supplies of goods or services or both effected through ECO, including the supplies of goods or services or both returned through it and the amount of tax collected at source.

(b) Last date of filing statement and for deposit of tax collected at source

The details in GSTR-8 should be furnished on/before 10th of the month succeeding the calendar month in which tax has been collected at source.

The due date of filing GSTR-8 may be extended by the Commissioner/Commissioner of State GST/Commissioner of UTGST for a class of taxable persons by way of a notification.

Further, the amount of tax collected by ECO (TCS amount) is also required to be deposited by the 10th of the month succeeding the calendar month in which tax has been collected at source.

(c) TCS details available to suppliers on common portal and claiming of TCS by suppliers

The details of TCS furnished by the ECO in GSTR-8 shall be made available electronically to each of the suppliers who supplied goods and/or services through ECO on the common portal after filing of GSTR- 8. The supplier can take this amount reflected in GSTR-8 as credit in his electronic cash ledger after validation and use the same for payment of tax or any other liability.

(d) Rectification of errors/omissions in GSTR-8

If after submission of GSTR-8, the ECO discovers any discrepancy therein on his own - not being the result of any scrutiny, audit, inspection or enforcement proceedings - he should rectify such discrepancy in GSTR-8 to be filed for the month during which such discrepancy is noticed, subject to payment of interest under section 50.

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

(g) Maximum time-limit for furnishing Form GSTR-8

Maximum time-limit upto which ECO can furnish Form GSTR-8 is **3 years** from the relevant due date of filing such statement. This time limit can be extended by the Government for an ECO or a class of ECOs subject to such conditions and restrictions as may be specified therein.

(iii) GSTR – 9/9A and GSTR-9B - Annual Return [Sections 44, 52(5) read with rule 80]

(a) Who is required to furnish the annual return and what is the due date for the same?

All registered persons are required to file an annual return. However, following persons are not required to file annual return:

(i) Casual taxable persons
(ii) Non-resident taxable person
(iii) Input service distributors[24]
(iv) Persons authorized to deduct/collect tax at source under section 51/52, and

The Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section.

The annual return for a financial year needs to be filed by 31st December of the next financial year.

(b) **What is the prescribed form for annual return/statement?**

The annual return is to be filed electronically in Form GSTR-9 through the common portal.

24 Provisions relating to ISD have been discussed at the Final level

Person registered under composition levy: A person paying tax under composition scheme is required to file the annual return in **Form GSTR- 9A.**

It may be noted that an ECO required to collect tax at source is required to file an annual statement referred to in section 52(5) in Form GSTR-9B (yet to be notified). The statement for a financial year needs to be filed by 31st December of the next financial year.

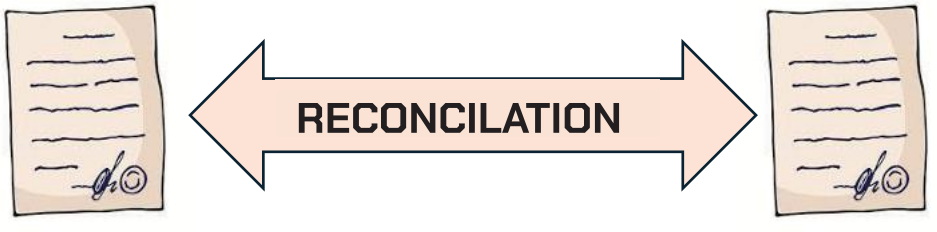
(c) Who is required to furnish a self-certified reconciliation statement?

(i) All registered persons are required to file furnish a self-certified reconciliation statement alongwith annual return if their aggregate turnover during a financial year exceeds ₹ 5 crores. However, following persons are not required to file self-certified reconciliation statement:

(a) Casual taxable persons
(b) Non-resident taxable person
(c) Input service distributors
(d) Persons authorized to deduct/collect tax at source under section 51/52, and

(ii) Such registered person should furnish, electronically, the annual return along with a copy of self-certified reconciliation statement, duly certified, in Form GSTR-9C.

Self-certified reconciliation statement will reconcile the value of supplies declared in the return furnished for the financial year with the audited annual financial statement.



Value of supplies declared in Annual

Value of supplies declared in audited Annual Financial

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(d) Exemption from the requirement of furnishing annual return including self-certified reconciliation statement

The department of the Central/State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force, are exempt from the requirement of furnishing an annual return including self-certified reconciliation statement.

(e) Maximum time-limit for furnishing annual return

Maximum time-limit upto which a registered person can furnish an annual return for a financial year is **3 years** from the due date of furnishing said annual return. This time limit can be extended by the Government for a registered person or a class of registered persons subject to such conditions and restrictions as may be specified therein.

(iv) GSTR - 10 - Final Return [Section 45 read with rule 81]

(a) Who is required to furnish final return?

Every registered person who is required to furnish return u/s 39(1) and whose registration has been cancelled is required to file a **final return** electronically in **Form GSTR-10** through the common portal.

(b) What is the time-limit for furnishing final return?

The final return has to be filed within 3 months of the:

(i) date of cancellation

or

(ii) date of order of cancellation whichever is **later**.

(v) GSTR – 11 - Details of inward supplies of persons having UIN [Rule 82]

(a) When UIN is issued for claiming refund of taxes paid on inward supplies

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Such person shall furnish the details of those inward supplies of taxable goods and/or services on which refund of taxes has been claimed in **Form GSTR-11**, **along with application for such refund claim.**

(b) When UIN is issued for purposes other than refund of taxes paid

Such person shall furnish the details of inward supplies of taxable goods and/or services as may be required by the proper officer in **Form GSTR-11.**

8. DEFAULT/DELAY IN FURNISHING RETURN [SECTIONS 46 & 47]

(i) Notice to return defaulters [Section 46 read with rule 68]

A notice in prescribed form is issued, electronically, to a registered person who fails to furnish return under section 39 [Normal Return] or section 44 [Annual Return] or section 45 [Final Return] or section 52 [TCS Statement].

The notice requires the registered person to furnish the return within 15 days, failing which the tax liability will be assessed under section 62, based on the relevant material available with the proper officer. In addition to tax so assessed, applicable interest and penalty will also be payable.

(ii) Late fees for delay in filing return [Section 47]

Late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of section 47. Delay in filing the Statement of Outward Supplies [Section 37], Returns (including returns under QRMP Scheme) [Section 39], Final Return [Section 45] and TCS Statement [Section 52] by their respective due dates, attracts prescribed late fee.

The late fee payable by a registered person for delayed filing of a return and/or annual return under section 47 is with reference to

only the CGST Act. An equal amount of late fee is payable by such person under the respective SGST/UTGST Act as well.

The late fee can be waived off partially or fully by the Central Government [Section 128[25]]. In view of this, late fees for delayed filing of Forms GSTR-1,

GSTR-3B, GSTR-4, GSTR-7 and GSTR-9 have been rationalized[26].

The amount of late fee prescribed by section 47 and the amount of late fee after waiver have been given as Annexure to this chapter for information of the students and is not relevant for the examination purposes.

9. GOODS AND SERVICES TAX PRACTITIONERS [SECTION 48]

Section 48 provides for the authorisation of an eligible person to act as approved Goods and Services Tax Practitioner (GSTP). A registered person may authorise an approved GSTP to furnish information, on his behalf, to the Government.

The manner of approval of GSTPs, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning have been prescribed in the rules 83, 83A and 84.

GSTN provides separate user ID and Password to GSTP to enable him to work on behalf of his clients without asking for their user ID and passwords. They can do all the work on behalf of taxpayers as allowed under GST Law. A taxpayer may choose a different GSTP by simply unselecting the previous one and then choosing a new GSTP on the GST portal.

25 *Section 128 has been discussed at the Final level.*

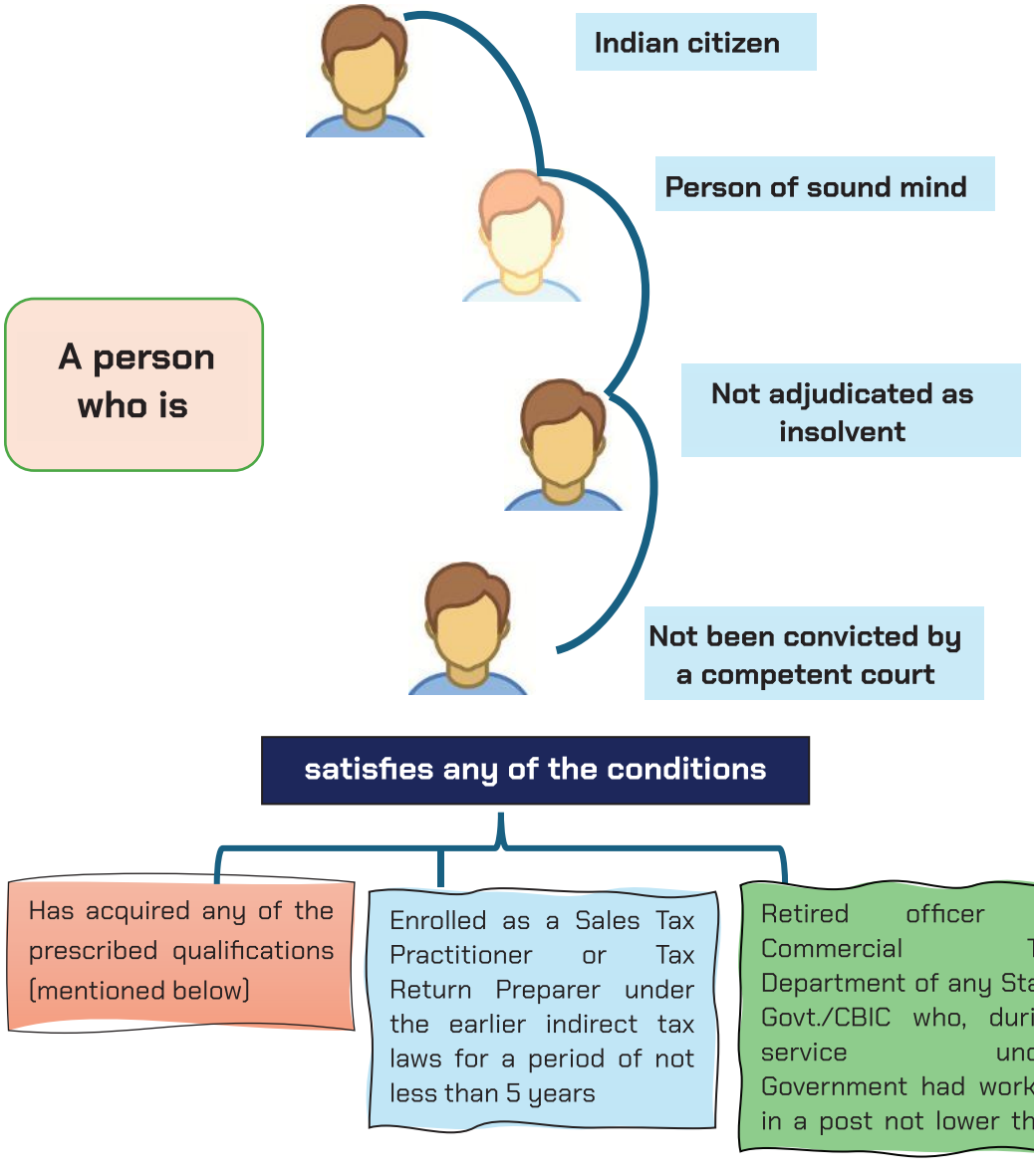
26 vide *Notification No. 4/2018 CT dated 23.01.2018, Notification No. 73/2017 CT dated 29.12.2017, Notification No. 76/2018 CT dated 31.12.2018, Notification Nos 19-22/2021 CT all dated 01.06.2021 and Notification No. 07/2023 CT dated 31.03.2023*

Standardized formats have been prescribed for making application for enrolment as GSTP, certificate of enrolment, show cause notice for disqualification, order of rejection of application of enrolment, list of approved GSTPs, authorisation letter and withdrawal of authorisation.

A GSTP enrolled in any State or Union Territory shall be treated as enrolled in the other States/Union territories.

(i) What is the eligibility criteria for GSTP?

The eligibility criteria for GSTP has been explained on next page:



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Prescribed Qualifications

- (i) Graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian Universitu established bu anu law for the time beina in force
- (ii) Degree examination of any Foreign University recognised by any Indian University as equivalent to the degree examination mentioned in
- (iii) Any other examination notified by the Government, on the recommendation of the Council, for this purpose
- (iii) Any other examination notified by the Government, on the recommendation of the Council, for this purpose
- (iv) Any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination
- (v) Has passed final examination of ICAI/ ICSI/ Institute of Cost Accountants of India.

(ii) What are the activities which can be undertaken by a GSTP?

A GSTP can undertake any/all of the following activities on behalf of a registered person, if so authorised by him:

- Furnish details of outward supplies
- Furnish monthly, annual or final return
- Make deposit for credit into electronic cash ledger
- Furnish information for generation of e-way bill
- Furnish details of challan in the prescribed form
- File an application for amendment or cancellation of enrolment under rule 58
- File an intimation to pay tax under the composition scheme or withdraw from the said scheme
- File a claim for refund
- File an application for amendment/ cancellation of registration

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Also allowed to appear as authorised representative before any officer of Department, Appellate Authority or Appellate Tribunal, on behalf of such a registered person provided he is enrolled as GSTP under rule 83.

Confirmation from the registered person shall be sought

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, ensures 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 GSTP continues to rest with the registered person on whose behalf such return and details are furnished. The registered person before confirming, should ensure that the facts mentioned in the return are true and correct before signature. However, failure to respond to request for confirmation is treated as deemed confirmation.

(iii) Other points

- A registered person gives his consent and authorises a GSTP in the prescribed form by listing the authorised activities in which he intends to authorise the GSTP. The GSTP accepts the authorisation in Part B of the same form.
- The GSTP can undertake only such tasks as indicated in the prescribed form. The registered person may, at any time, withdraw such authorization.

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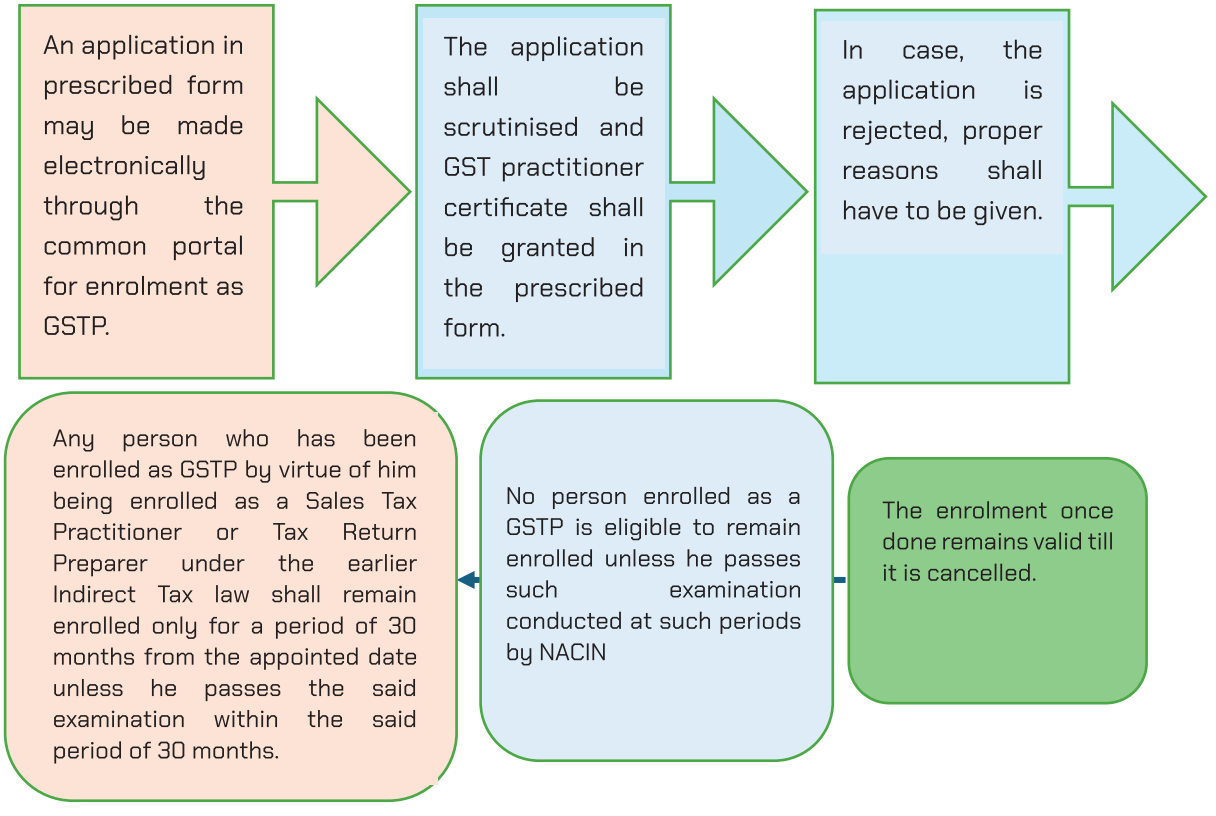
- Any statement furnished by the GSTP is made available to the registered person on the common portal. For every statement furnished by the GSTP, a confirmation is sought from the registered person over email or SMS.
- The GSTP should prepare all statements with due diligence and affix his digital signature on the statements prepared by him or electronically verify using his credentials.
- If the GSTP is found guilty of misconduct, his enrolment will be liable to be cancelled and a show cause notice would be issued to him.

(iv) What is the procedure for enrolment as GSTP?

The procedure for enrolment of GSTP has been depicted by way of a diagram is given below:

ENROLMENT OF GSTP



TEST YOUR KNOWLE

1. Mr. X, a registered taxpayer under regular scheme, did not make any taxable supply during the month of July. Is he required to file a GSTR-3B if he is monthly filer?

2. "All taxpayers are required to file GSTR-1 only after the end of the tax period." Examine the validity of the *statement.*

3. *Mr. Kohli is a registered supplier in the State of Gujarat. He is filing GSTR-1 every month. During the month of February, he went out of India and thus, could not do any business transaction during that month. He believes that as there is no transaction, there is no need to file GSTR-1 for the month of February. Is he correct if he is a monthly filer? Explain.*

4. *Mr. Kalpesh is a registered dealer in Kerala paying tax under composition levy from 1st April. However, he opts to pay tax under regular scheme from 1st December. Is he liable to file GSTR-4 for the said F.Y. during which he opted out of composition scheme? Discuss.*

5. *Mrs. Zarina, a registered dealer in Rajasthan, did not file GSTR-3B for the month of June but she wants to file GSTR-3B for the month of July. Is it possible? Answer with reference to section 39.*

6. *List the details of outward supplies which can be furnished using Invoice Furnishing Facility (IFF).*

7. *A is a chartered accountant in practice and is registered under GST. On a query regarding return filing process by a potential client, A has represented him as a GST practitioner. A is of the view that since he is a qualified chartered accountant with a GST registration in the name of his proprietorship firm, he also qualifies as GST practitioner.*

   Is the understanding of A correct? Discuss.

8. *Quicktax, a GST return filing service provider, has asked its clients to provide the scanned copies of the tax invoices issued to B2B customers for*

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uploading on the GST portal and filing the return. Whether the process followed by Quicktax is correct?

9. *X Ltd., a normal taxpayer, is winding up its business in Rajasthan. The Tax Consultant of X Ltd. has suggested that X Ltd. will have to file either the annual return or the final return at the time of voluntary cancellation of registration in the state of Rajasthan.*

   Do you agree with the stand taken by Tax Consultant of X Ltd.? Offer your comments.

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ANSWERS

1. A registered taxpayer is required to furnish a return u/s 39 for every month (every quarter in case of quarterly filers) even if no supplies have been effected during such period. In other words, filing of Nil GSTR-3B is also mandatory.

Therefore, being a monthly filer, Mr. X is required to file GSTR-3B even if he did not make any taxable supply during the month of July.

2. The statement is partially valid.

A taxpayer cannot file Form GSTR-1 before the end of the current tax period. However, following are the exceptions to this rule:

a. Casual taxpayers, after the closure of their business

b. Cancellation of GSTIN of a normal taxpayer.

A taxpayer who has applied for cancellation of registration will be allowed to file Form GSTR-1 after confirming receipt of the application.

3. No, Mr. Kohli is not correct. GSTR-1 needs to be filed even if there is no business activity in the tax period. Therefore, in the given case, even though Mr. Kohli was out of India and thus, could not do any business transaction during the month of February, he is still required to file GSTR-1 for that month.

4. Where a taxpayer opts to withdraw from the composition scheme, he has to file GSTR-4 for the period for which he has paid tax under the composition scheme. Such return is required to be furnished till 30th day of April following the end of the financial year during which such withdrawal falls. Therefore, in the given case, Mr. Kalpesh is liable to file GSTR-4 for the said F.Y. during which he opted out of composition scheme by 30th June of next F.Y.

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5. As per section 39(10), a registered person is not allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

Therefore, in the given case, Mrs. Zarina cannot file GSTR-3B for July if she has not filed GSTR-3B for the preceding month, i.e., June.

6. Details of outward supplies which can be furnished using IFF are as follows:

(a) invoice wise details of inter-State and intra-State supplies made to the registered persons;

(b) debit and credit notes, if any, issued during the month for such invoices issued previously.

7. The understanding of A is not correct.

A chartered accountant can become a GST practitioner (GSTP). However, holding a certificate of practice as a chartered accountant and having GST registration does not imply that such chartered accountant is a GST practitioner as well. For becoming a GSTP, even a chartered accountant in practice has to follow the enrolment process of GSTP as provided under the GST law and only upon approval of such enrolment can a chartered accountant represent himself as a GSTP.

8. No, the process followed by Quicktax is not correct.

The registered persons supplying goods or services to B2B customers are required to upload the invoice wise details of supplies made during the tax period. However, there is no requirement to upload the scanned copies of the invoices issued to the customers on the GST portal at the time of filing returns. Only information required as per the format of GST returns is to be captured in the return filing utility and the same is to be uploaded on the GST portal and not the scanned copies of the actual invoices.

9. No, the stand taken by Tax Consultant of X Ltd. is not correct.

Annual return is required to be filed by every registered person paying tax as a normal taxpayer. Final return is filed by the registered persons who have

applied for cancellation of registration within three months of the date of cancellation or the date of cancellation order.

In the given case, X Ltd., a registered person, is winding up its business and has thus, applied for cancellation of registration. Therefore, it is required to file both annual return and final return.

The quantum of late fees leviable in case of delay in filing return has been given hereunder only for information of the students and is not relevant for the examination purposes.

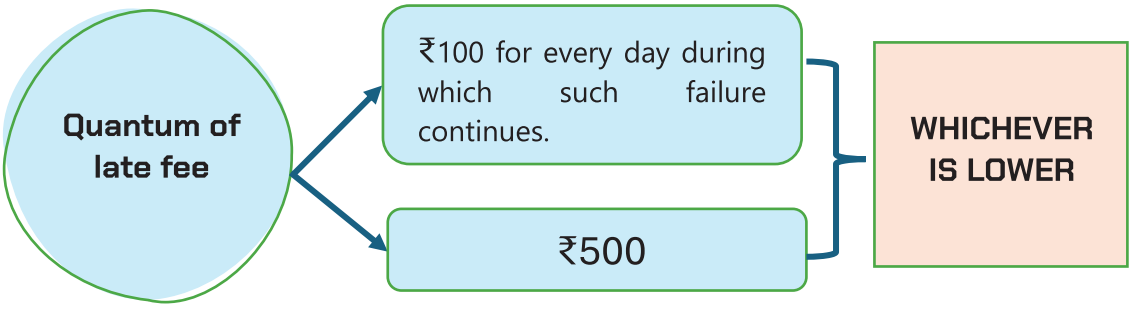
As seen in the discussion this chapter, late fee is applicable for delay in furnishing of return / details of outward supply as per the provision of section 47. Delay in filing any of the following by their respective due dates, attracts late fee:

(A) Statement of Outward Supplies [Section 37]

(B) Returns [including returns under QRMP Scheme] [Section 39]

(C) Final Return [Section 45] **(D)** TCS Statement [Section 52]

Quantum of late fee prescribed by section 47 is as under:



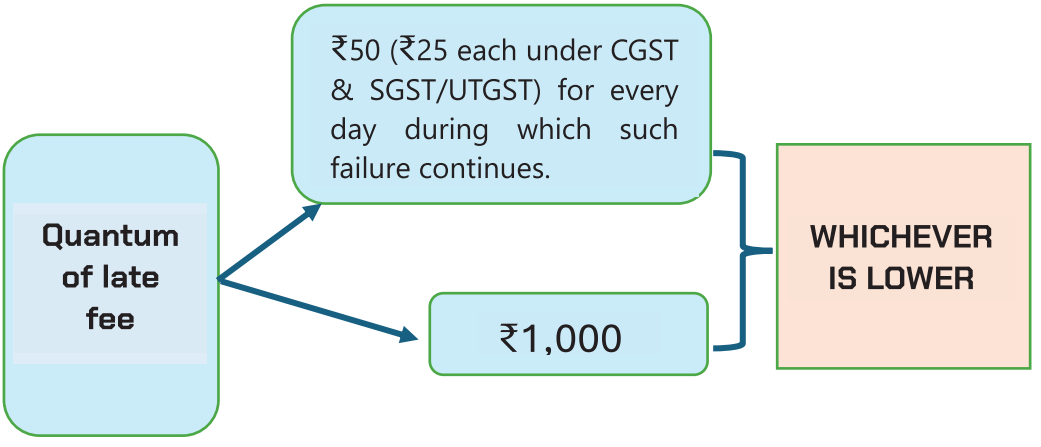
It may be noted that the late fee payable by a registered person for delayed filing of a return and/or annual return under section 47 is with reference to only the CGST Act. An equal amount of late fee is payable by such person under the respective SGST/UTGST Act as well. Hence, the late fee amount mentioned herein pertains to both CGST as well as SGST/UTGST.

Rationalisation of late fees for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4, GSTR-7 and GSTR-9

The late fee can be waived off partially or fully by the Central Government [Section 12827]. In view of this, late fees for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4, GSTR-7 and GSTR-9 have been rationalized[28] as follows:

(i) For delayed filing of GSTR-7:-

Total amount of late fee payable under section 47 by any registered person, required to deduct tax at source under the provisions of section 51 for delayed filing of GSTR-7, shall be as follows:



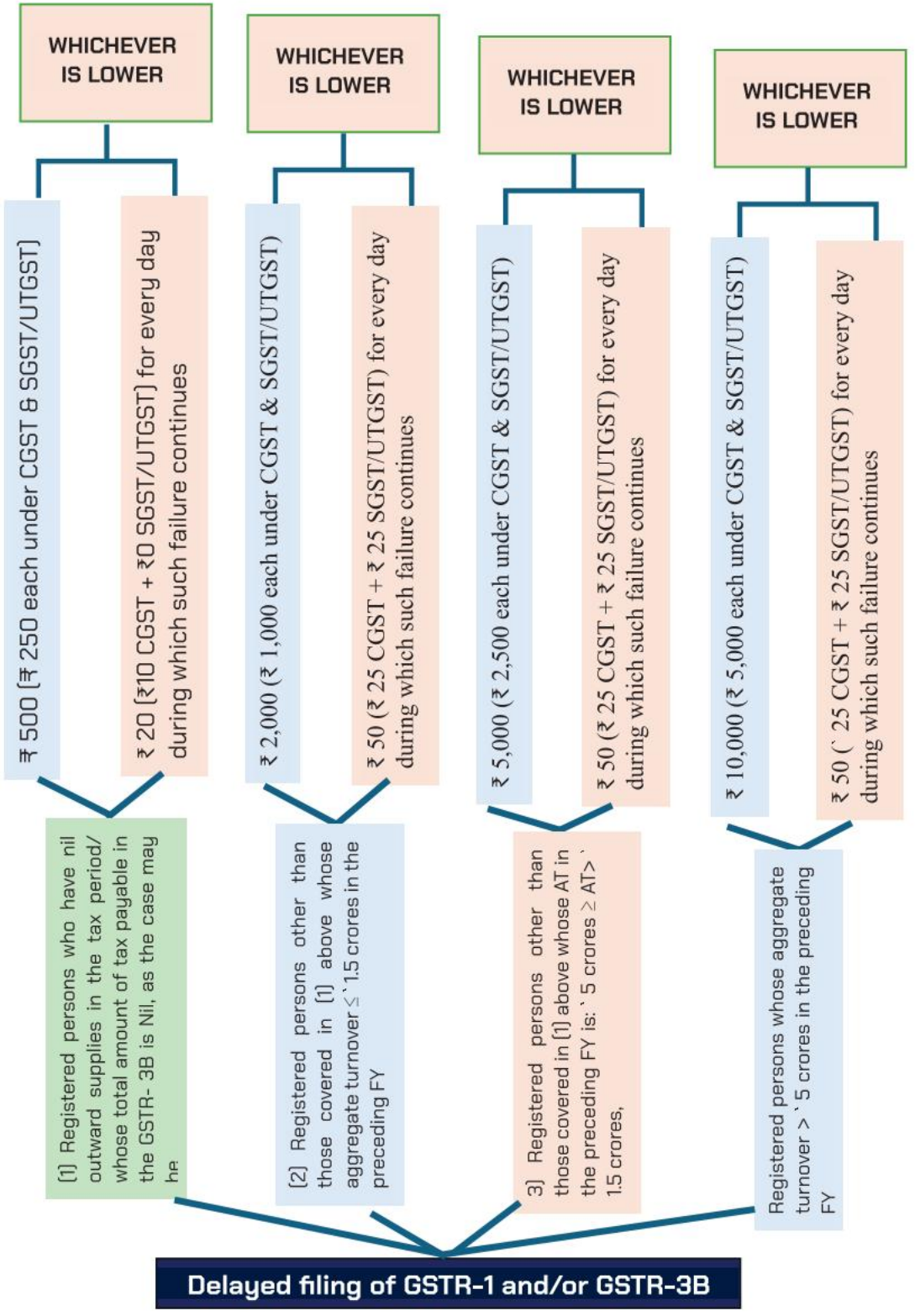
Where the total amount of central and State tax deducted at source in a month is Nil, the total amount of late fee stands waived.

(ii) For delayed filing of GSTR-1 and/or GSTR-3B:-

Amount of late fee payable under section 47 by the registered person who fail to furnish Form GSTR-1 and/or Form GSTR-3B by the due date, shall be as follows:

27 Section 128 has been discussed at the Final level.

28 vide *Notification No. 4/2018 CT dated 23.01.2018, Notification No. 73/2017 CT dated 29.12.2017, Notification No. 76/2018 CT dated 31.12.2018, Notification Nos 19-22/2021 CT all dated 01.06.2021 and Notification No. 07/2023 CT dated 31.03.2023*



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(iii) For delayed filing of GSTR-4:- Amount of late fee payable under section 47 by a composition supplier who fails to furnish Form GSTR- 4 by the due date, shall be as follows:

Class of registered persons	Quantum of late fee
WHERE (1) Total tax payable in GSTR-4 is Nil	₹500 (₹250 each under CGST & SGST/UTGST)
	₹500 (₹250 each under CGST & SGST/UTGST) — Whichever is lower
WHERE (2) Registered persons other than those covered in (1) above	₹ 2,000 (₹ 1,000 each under CGST & SGST/UTGST)
	₹ 50 (₹ 25 CGST + ₹ 25 SGST/UTGST) for every day during which such failure continues — Whichever is lower

(iv) For delayed filing of GSTR-9:-

Class of registered persons	Quantum of late fee
Delayed filing of Annual return: Registered persons having aggregate turnover ≤ ` 5 crores in the relevant FY	₹ 50 per day (₹ 25 CGST + ₹ 25 SGST/UTGST)
	0.04 % of of turnover in the State or Union territory (0.02% CGST + 0.02% SGST/UTGST) — Whichever is lower
Registered persons having following aggregate turnover: ` 5 crores < aggregate turnover ≤ ` 20 crores in the relevant FY	₹ 100 per day (` 50 CGST + ₹ 50 SGST/UTGST)
	0.04 % of turnover in the State or Union territory (0.02% CGST + 0.02% SGST/UTGST) — Whichever is lower
Registered persons having aggregate turnover > ` 20 crores in the relevant	₹200 for every day during which such failure continues (₹100 CGST +₹100 SGST/UTGST)
	0.50% of the turnover of the registered person in the State/Union Territory (0.25% CGST + 0.25% SGST/UTGST) — Whichever is lower

CHAPTER 15

RETURNS

1. Due date of filing Form GSTR-7 specified in rule 66 [Rule 66(1) amended]

Erstwhile section 39(3) provides that every registered person required to deduct tax at source under the provisions of section 51 shall furnish a return in prescribed form (Form GSTR-7) and manner, electronically, for the month in which such deductions have been made within 10 days after the end of such month.

However, section 39(3) was substituted vide the Finance (No. 2) Act, 2024 with effect from 01.11.2024 so as to mandate the electronic furnishing of return for each month by the registered person required to deduct tax at source, irrespective of whether any deduction has been made in the said month or not. It also empowers the Government to prescribe by rules, the form, manner and the time within which such return shall be filed[14].

Therefore, earlier, filing of monthly return in **Form GSTR-7** was linked to **the calendar month** in which tax has been deducted at source by TDS deductor. However, amended section 39(3) mandates furnishing of GSTR-7 for each month by the TDS deductor, irrespective of whether any deduction has been

[14] *It is important to note that above amendment in section 39(3) was not applicable for May, 2025 examinations, but is effective for September, 2025 and January, 2026 examinations.*

made in the said month or not. Further, new section provides that the time within which Form GSTR-7 is to be filed shall also be prescribed by rules.

Consequently, simultaneously with effect from 01.11.2024, rule 66(1) has been amended to prescribe the time within which Form GSTR-7 can be filed.

Amended section 39(3) provides as follows:

Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed.

Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.

Amended rule 66(1) provides as follows:

Every registered person required to deduct tax at source under section 51 shall furnish a return in Form GSTR-7 ***on or before the tenth day of the month succeeding the calendar month,*** electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.
[Effective from 01.11.2024]

[Notification No. 20/2024 CT dated 08.10.2024]

2. Reference of section 74A added in rule 88D prescribing manner of dealing with difference in ITC available in Form GSTR-2B and Form GSTR-3B

NOT Relevant

Since new section 74A[15] has been incorporated by the Finance (No.2) Act, 2024 in the CGST Act, 2017 with effect from 01.11.2024, so as to provide for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason **pertaining to the Financial Year 2024-25 onwards**. Newly introduced section 74A provides for the same limitation period for issuing demand notices and orders in respect of demands from the Financial Year 2024-25 onwards, irrespective of whether the charges of fraud, wilful misstatement, or suppression of facts are invoked or not, while keeping a higher penalty, for cases involving fraud, wilful misstatement, or suppression of facts.

Consequently, reference of section 74A has also been added in rule 88D(3).

[15] *It may be noted that section 74A shall be discussed in detail at the Final level.*

Rule 88D provides the mechanism which allows system-based intimation to the taxpayer about the excess availment of ITC in Form GSTR-3B vis-a-vis that reported in Form GSTR-2B, above a particular threshold and with provision for self-compliance on the portal by the said taxpayer.

Amended rule 88D(3) provides as follows:

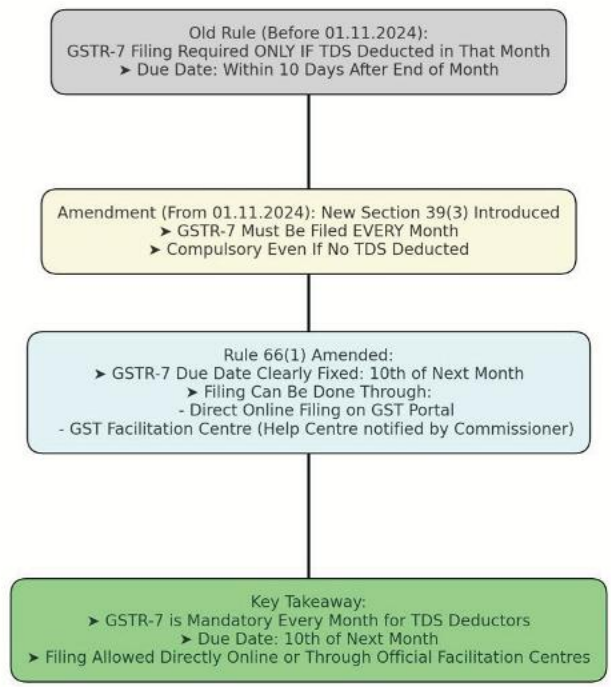
Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74 ***or section 74A***, as the case may be.

[Effective from 01.11.2024]

[Notification No. 20/2024 CT dated 08.10.2024]

Amendment 1:

Enhanced Diagram: Amendment in GSTR-7 Filing (TDS Return under GST)



Amendment 2:

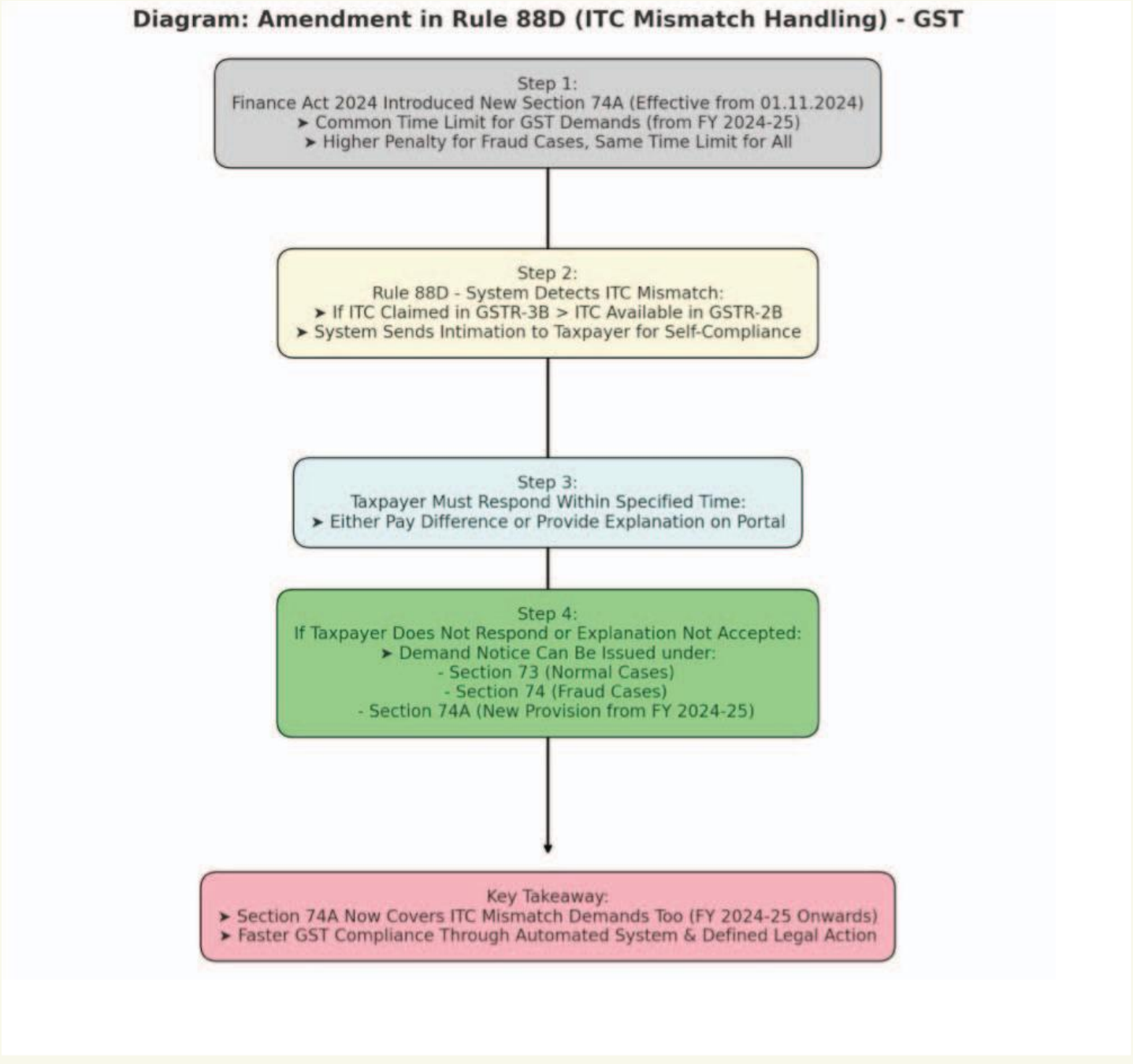


Diagram: Amendment in Rule 88D (ITC Mismatch Handling) - GST
Step 1:
Finance Act 2024 Introduced New Section 74A (Effective from 01.11.2024)
➤ Common Time Limit for GST Demands (from FY 2024-25)
➤ Higher Penalty for Fraud Cases, Same Time Limit for All
Step 2:
Rule 88D - System Detects ITC Mismatch:
➤ If ITC Claimed in GSTR-3B > ITC Available in GSTR-2B
➤ System Sends Intimation to Taxpayer for Self-Compliance
Step 3:
Taxpayer Must Respond Within Specified Time:
➤ Either Pay Difference or Provide Explanation on Portal
Step 4:
If Taxpayer Does Not Respond or Explanation Not Accepted:
➤ Demand Notice Can Be Issued under:
- Section 73 (Normal Cases)
- Section 74 (Fraud Cases)
- Section 74A (New Provision from FY 2024-25)
Key Takeaway:
➤ Section 74A Now Covers ITC Mismatch Demands Too (FY 2024-25 Onwards)
➤ Faster GST Compliance Through Automated System & Defined Legal Action

Other Misc. Amedments

Amendment of section 13 of TOS/POT

(3) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, **namely**:—

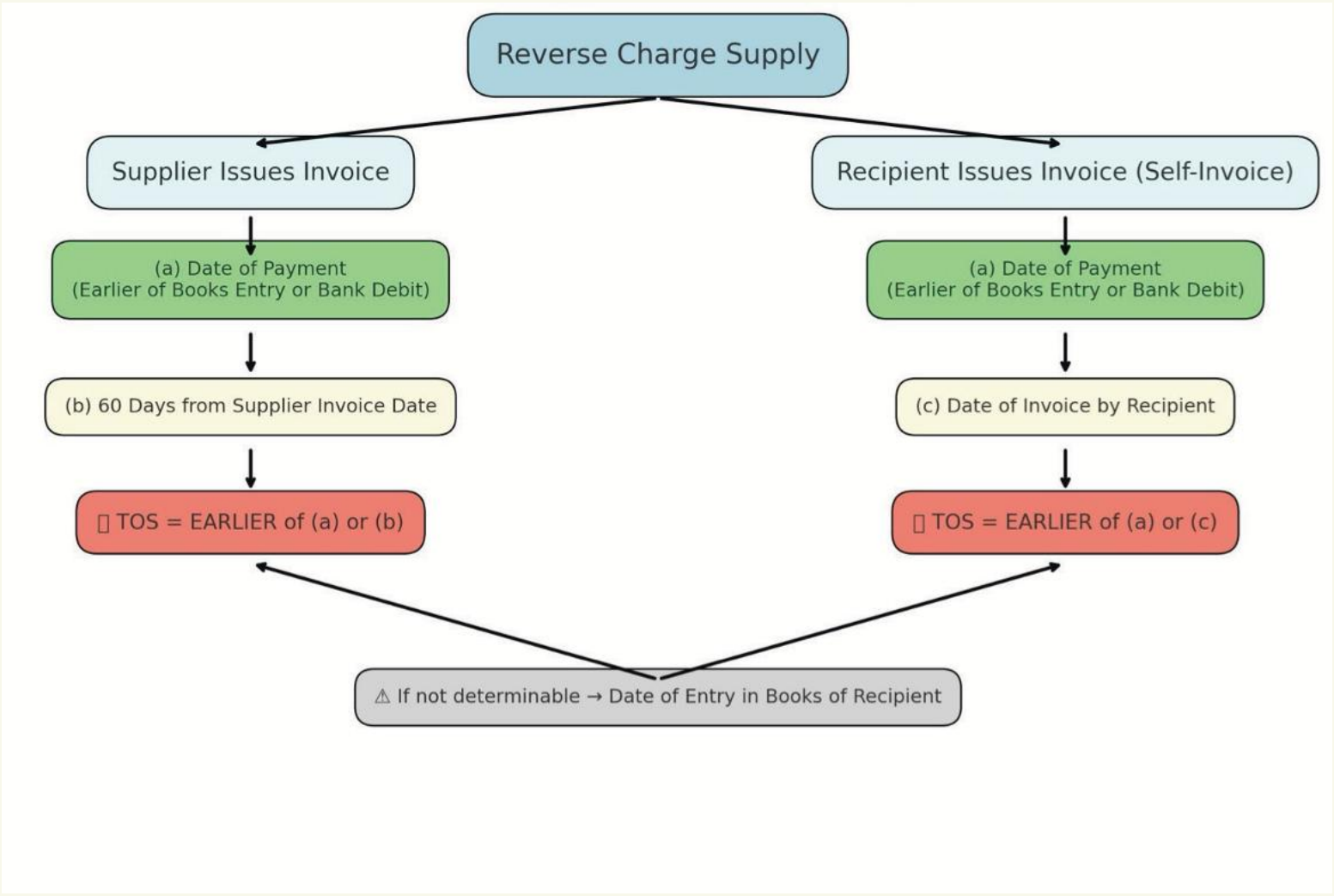
(a) The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(b) The date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier, **in cases where invoice is required to be issued by the supplier; or**

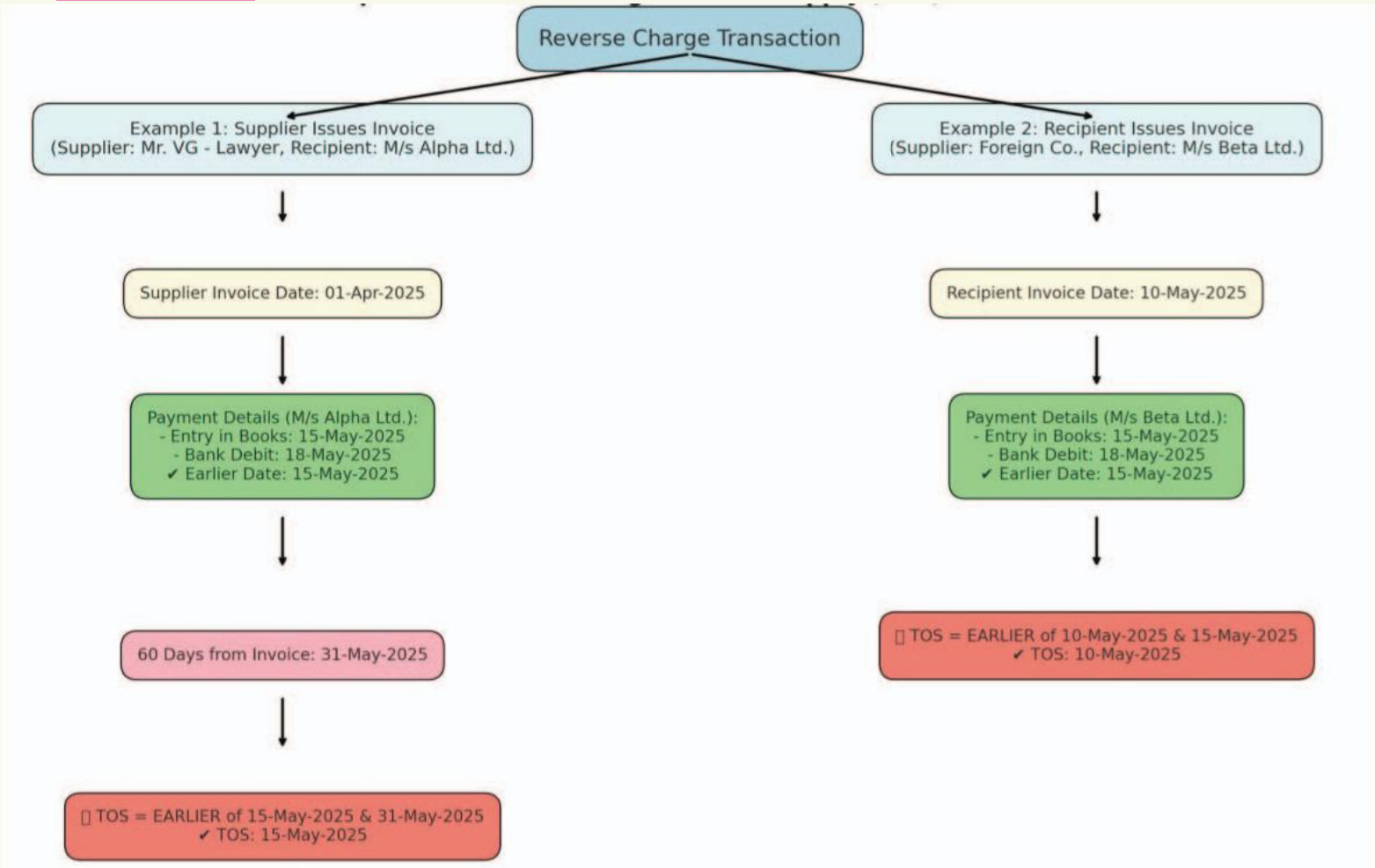
(c) The date of issue of invoice by the recipient, **in cases where invoice is to be issued by the recipient:**

Provided that where it is not possible to determine the time of supply under clause (a) or
clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply:

CRUX



Example



Registration Chapter

Every Registration application by a person, **who has not opted for authentication of Aadhaar number**,

- shall be followed by taking photograph of the applicant [where the applicant is an individual or of such individuals in relation to the applicant as notified where the applicant is not an individual]
- along with the verification of the original copy of the documents uploaded with the application and
- the application shall be deemed to be complete only after successful verification.

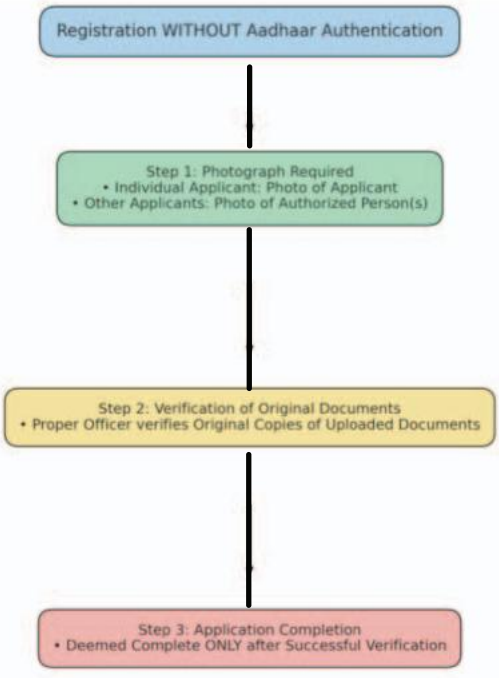
Document Type	Examples / Remarks
Proof of Identity	PAN Card (Mandatory)
Photograph	Passport Size Photo (Applicant/Partners/Directors)
Proof of Business Address	Rent Agreement, Electricity Bill, Property Tax Receipt
Proof of Constitution of Business	Partnership Deed, Company Incorporation Certificate, Trust Deed
Bank Account Proof	Bank Statement, Cancelled Cheque, Passbook Copy
Authorization Document	Authorisation Letter or Board Resolution (for Companies/Partners

Rule 16A Grant of temporary identification number: [Newly Inserted]:

Where

- a **person is not liable to registration** under the Act
- but is required to make any payment under the provisions of the Act,
- the proper officer may grant the said person a *temporary identification number and*
- *issue an order in Part B of FORM GST REG-12*.

Amendment : 1



Amendment : 2