

GST INTRODUCTION

GST: TAX ON GOODS & SERVICES

GST is levied on all goods and services, **except** alcoholic liquor for human consumption and **un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption** & petroleum crude, diesel, petrol, ATF and natural gas.

- **Alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption:** is outside the realm of GST. The manufacture/production of alcoholic liquor continues to be subjected to **State excise duty** and inter-State/intra-State sale of the same is subject to **CST / VAT** respectively.
- **Petroleum crude, diesel, petrol, ATF and natural gas:** As regards petroleum crude, diesel, petrol, ATF and natural gas are concerned, they are not presently leviable to GST. GST will be levied on these products from a date to be notified on the recommendations of the GST Council.

Till such date, **central excise duty** continues to be levied on manufacture/production of petroleum crude, diesel, petrol, ATF and natural gas and inter-State/intra-State sale of the same is subject to **CST / VAT** respectively.

- **Tobacco:** Tobacco is within the purview of GST, i.e., GST is leviable on tobacco. However, Union Government has also retained the power to levy excise duties on tobacco and tobacco products manufactured in India. Tobacco is subject to **GST as well as central excise duty**.
- **Opium, Indian hemp and other narcotic drugs and narcotics:** Opium, Indian hemp and other narcotic drugs and narcotics are within the purview of GST, i.e., GST is leviable on them. However, State Governments have also retained the power to levy excise duties on such products manufactured in India. Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to **GST as well as State excise duties**.
- **Real estate sector** has been kept out of ambit of GST, i.e., **GST will not be levied** on sale/purchase of immovable property.

Goods	GST	Excise Duty	CST / VAT
Alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption	x	✓	✓
Petroleum crude, diesel, petrol, ATF, natural gas	x	✓	✓
Tobacco	✓	✓	x
Opium, Indian hemp & other narcotic drugs & narcotics	✓	✓	x

SUPPLY UNDER GST

Addition as below in Schedule III:

(Pg 2.14 after Para No. 8)

9.	Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays GST on the entire amount of premium paid by the insured.
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10. **Services by insurer to the reinsurer** for which **ceding commission or the reinsurance commission** is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that GST is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.

➤ **Clarification on Applicability of GST on penal charges being levied by the Regulated Entities (REs) in view of RBI instructions dated 18.08.2023 directing such REs to levy penal charges in place of penal interest**

REs such as banks and NBFCs have been instructed, vide RBI instructions to levy penal charges for non-compliance with loan terms instead of penal interest. The intent of levying penal charges is essentially to inculcate a sense of credit discipline.

Issue: The issue which arose for consideration was whether penal charges so levied are in the nature of payment/consideration for tolerating an act or situation.

Clarification: Penal charges levied by REs, in compliance with RBI directions, are essentially in the nature of charges for breach of terms of contract and hence, fall within the ambit of the Circular No. 178/10/2022-GST, wherein it has already been clarified that certain payments such as liquidated damages for breach of contract are not a consideration for tolerating an act or situation.

It is clarified that no GST is payable on the penal charges levied by REs, in compliance with RBI directions, for non-compliance with material terms and conditions of loan contract by the borrower.

CHARGE OF GST

Addition as below in Section 9(1): (Covered in 6th Edition-Pg 3.15)

(Pg 3.1)

Section 9(1) - Normal Levy

- CGST shall be levied on all **Intra-State supplies** of goods or services or both, except on the supply of alcoholic liquor for human consumption **and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption** on the value determined u/s 15 and at such rate not exceeding 20%.

Amendments in the below notified services

(Pg 3.4)

4. Services provided by way of Sponsorship to any Body corporate or partnership firm.

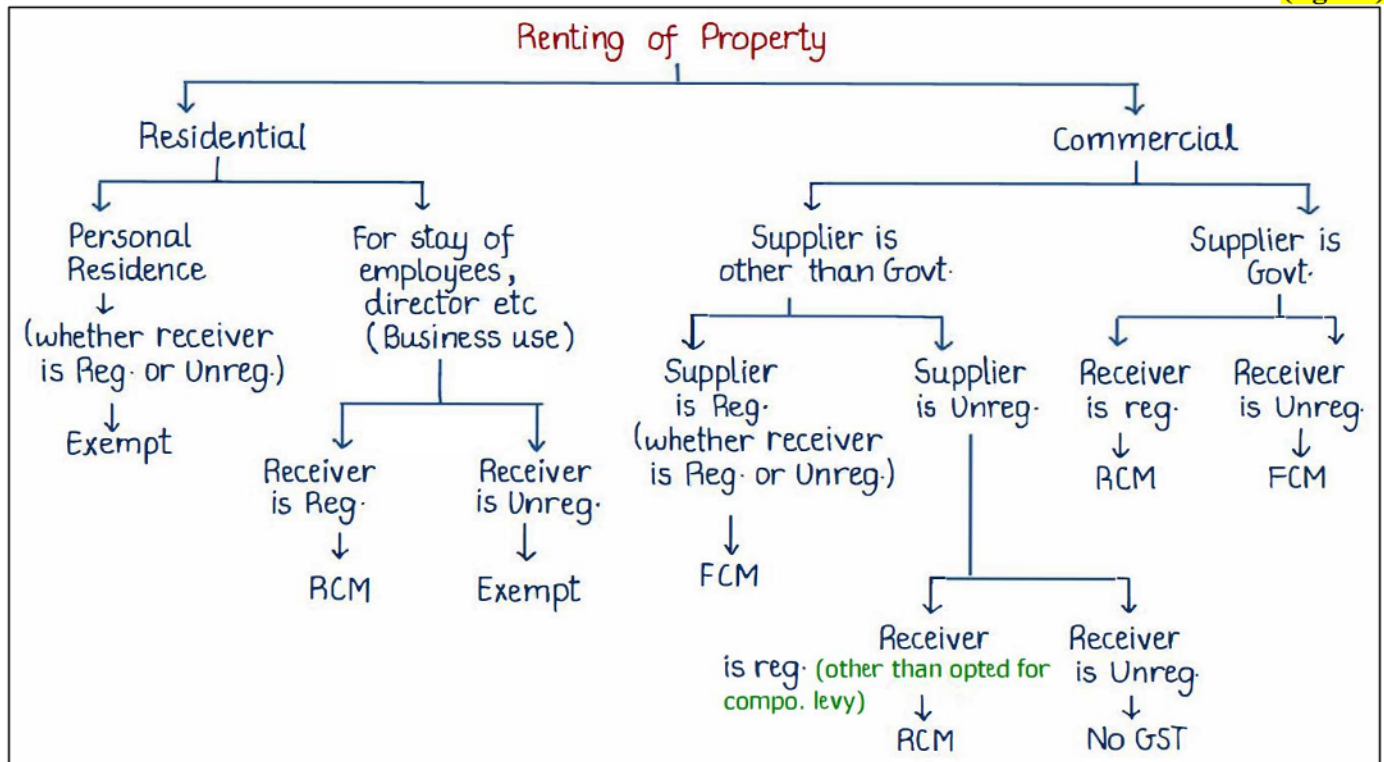


Supplier: Any Person **other than body corporate**

Recipient: Any Body Corporate or Partnership Firm located in TT



Examples: Sponsorship services by AKG to AKG Ltd. – RCM
Sponsorship services by AKG Ltd. to AKG – FCM



5AB: Services by way of renting of any immovable property other than residential dwelling.

Supplier: Any Unregistered Person;

Recipient: Any Registered Person **other than a person who has opted to pay tax under composition levy**

Example: By AKG (Unregistered) to Keyur Ltd. (Registered other than composition levy) – RCM

Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 or **74A** of the CGST Act shall be applicable for determination of tax and penalty.

EXEMPTION FROM GST

➤ New definition added of "Insurer":

(Pg 4.8 after Entry 61A)

"Insurer" has the same meaning as assigned to it in section 2(9) of the Insurance Act, 1938.

As per Section 2(9) of the Insurance Act, 1938, "Insurer" means—

- an Indian Insurance Company, or
- a statutory body established by an Act of Parliament to carry on insurance business, or
- an insurance co-operative society, or
- a foreign company engaged in re- insurance business through a branch established in India.

Explanation. — For the purposes of this sub-clause, the expression “foreign company” shall mean a company or body established or incorporated under a law of any country outside India and includes Lloyd’s established under the Lloyd’s Act, 1871 (United Kingdom) or any of its Members.

➤ **Amendment in Entry 34 as below:**

(Pg 4.9)

ENTRY 34: Services by an acquiring bank, to any person in relation to settlement of an **amount upto ₹ 2,000** in a single transaction transacted through credit card, debit card, charge card or other payment card service. **[This Exemption is available to RBI Regulated Payment Aggregators only.]**

➤ **Amendment in Entry 69 as below:**

(Pg 4.21)

ENTRY 69: Any services provided by –

- (a) the National Skill Development Corporation set up by the Government of India;
- (b) the National Council for Vocational Education and Training;
- (c) an Awarding Body recognized by the National Council for Vocational Education and Training;
- (d) an Assessment Agency recognized by the National Council for Vocational Education and Training;
- (e) a Training Body accredited with an Awarding Body that is recognized by the National Council for Vocational Education and Training,

(f) a training partner approved by the National Skill Development Corporation

in relation to –

- (i) the **National Skill Development Programme** or any other scheme implemented by the National Skill Development Corporation; or
- (ii) a **vocational skill development course** under the National Skill Certification and Monetary Reward Scheme; or
- (iii) any **National Skill Qualification Framework** aligned qualification or skill in respect of which the National Council for Vocational Education and Training has approved a qualification package.

➤ **Amendment in Entry 25A as below:**

(Pg 4.22)

ENTRY 25A: Supply of services by way of providing metering equipment on rent, testing for meters/transformers/capacitors etc., releasing electricity connection, shifting of meters/service lines, issuing duplicate bills etc., which are **incidental or ancillary** to the supply of **transmission and or distribution of electricity provided by electricity transmission and or distribution utilities** to their consumers.

➤ **New Entry 36B inserted:**

(Pg 4.24 under Insurance Services - after Retrocession Services)

ENTRY 36B: Services of insurance provided by the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988, against contributions made by insurers out of the premiums collected for third party insurance of motor vehicles.

➤ **Clarification on Applicability of GST on facility management services provided to Municipal Corporation of Delhi (MCD) Headquarters**

MCD is receiving the services such as housekeeping, civil maintenance, furniture maintenance and horticulture, from facility management agency, for the upkeep of their office. These services are not supplied in relation to performing any functions entrusted to a Municipality under Article 243W of The Constitution of India.

Thus, it is hereby clarified that **GST is applicable** on the services provided by facility management agency to MCD, Delhi HQ for upkeep of its head quarter building at applicable rates **as these services are not covered under the scope of Entry 3A.**

➤ **Power not to recover GST not levied or short-levied as a result of General Practice [inserted by Finance (No. 2) Act, 2024]**

Notwithstanding anything contained in this Act, if the Government is satisfied that—

- (a) a practice was, or is, generally prevalent regarding levy of GST (including non-levy thereof) on any supply of goods / services / both; and
- (b) such supplies were / are liable to,—
 - (i) GST, in cases where according to the said practice, GST was not, or is not being, levied, or
 - (ii) a higher amount of GST than what was, or is being, levied, in accordance with the said practice,

the Government may, **direct that the whole of the GST payable** on such supplies, or, as the case may be, the GST in excess of that payable on such supplies, but for the said practice, **shall not be required to be paid** in respect of the supplies on which the GST was **not, or is not being levied**, or was, or is being, **short-levied**, in accordance with the said practice.

➤ **Clarification on whether GST exemption is available to payment aggregators in relation to settlement of an amount, up to ₹ 2,000/- in a single transaction, transacted through credit card, debit card, charge card or other payment card services**

The above exemption is available to acquiring banks. “Acquiring Bank” means any banking company, financial institution including nonbanking financial company or any other person, who makes the payment to any person who accepts such card.

PAs receive payments from customers in an escrow account, and are obligated to do the final settlement with the merchant within time periods specified by RBI. Therefore, the RBI regulated PAs, **involved in the settlement process of making payments to the merchant**, are **covered by the definition of acquiring bank.**

PAs are defined as entities who receive payments from customers, pool and transfer them on to the merchants within a specified time period. On the other hand, **PGs** are defined as entities that provide technology infrastructure to route and facilitate processing of an online payment transaction without any involvement in handling of funds.

It is hereby clarified that PAs fall within the definition of ‘acquiring bank’ given in the Explanation to the said exemption Entry 34 as they make the payment to the merchants who accept credit cards, debit cards, charge cards or other payment card services. Consequently, exemption under Entry 34 is **available to RBI regulated Payment Aggregators (PAs)** in relation to settlement of an amount, up to ₹ 2,000 in a single transaction, transacted through credit card, debit card, charge card or other payment card services.

It is also clarified that this exemption is limited to payment settlement function only, which involves handling of money, and **does not cover Payment Gateway (PG) services.**

➤ **Clarification on whether Delhi Development Authority (DDA) is a local authority under GST law**

Services supplied by local authority to a business entity are taxable under Reverse Charge (RCM) basis vide entry at Sr. No. 5.

Issue: The issue which arose for consideration was whether DDA can be treated as local authority under GST law.

Clarification: Local authority u/s 2(69) means a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund.

It means an authority which is similar to the elected self-governing body such as Municipal Committee and which is entrusted with the control and management of municipal or local fund can be termed as local authority.

Thus, it has been clarified that **DDA cannot be treated as local authority under GST law as DDA does not meet the requirement of local authority as per section 2(69).**

PLACE OF SUPPLY

➤ **Clarification on POS of Online Services supplied by the suppliers of services to unregistered recipients**

It has been clarified that in respect of supply of services made to unregistered persons, irrespective of the value of the said supply, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice, in cases involving supply of online money gaming or supply of taxable services by or through an electronic commerce operator or supply of online information and database access or retrieval (OIDAR) services.

Recording of the name of State of the unregistered recipient on the tax invoice in respect of such supply of services shall be deemed as the address on record of the recipient for the purpose of determination of place of supply of the said services under section 12(2)(b).

Accordingly, in such cases, the place of supply of such services shall be considered as the location of the recipient of the services.

It is clarified that in cases of all services supplied to unregistered recipients over digital or electronic network, either by the supplier using his own digital or electronic facility / platform or through any other electronic or digital platform owned and operated by an independent ECO, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare place of supply of the said services as the location of the recipient (based on the name of State of the recipient).

Therefore, in respect of following cases of supplies to unregistered recipients, the suppliers are **mandatorily required to record the name of the State of the recipient** on the tax invoice, irrespective of the value of supply of such services, and **to declare place of supply of the said services as the location of the recipient** (based on the name of State of the recipient) in their details of outward supplies in Form GSTR-1/1A.:-

- (i) supply of any such online/ digital services,
- (ii) OIDAR services and
- (iii) online money gaming

TIME OF SUPPLY

- Time limit for issuing tax invoice specified in cases where recipient is required to issue invoice (Pg 6.3 under Time limit for Issuance of Invoice for Supply of Services u/s 31)

Where a tax invoice is required to be issued by a registered person, who is liable to pay tax under RCM u/s 9(3) or 9(4), he shall issue the said invoice **within a period of 30 days from the date of receipt** of the said supply of goods or services, or both, as the case may be.

- Amendment in Section 13(3): (Covered in 6th Edition-Pg 6.9) (Pg 6.4)

The time of supply of service on which GST is payable on reverse charge basis (except on services received from associated enterprises located outside India).

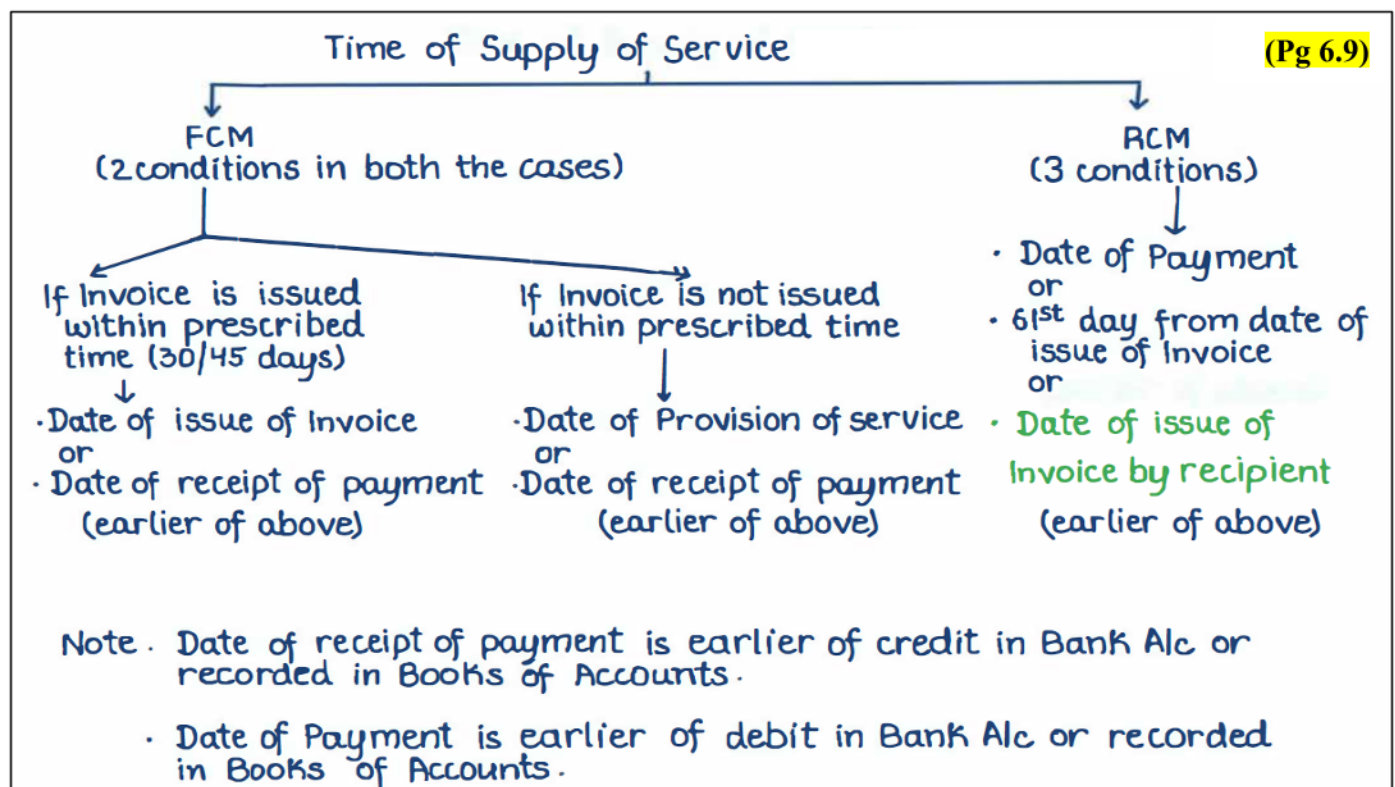
The time of supply for such service will be the **earlier** of the following:

- **Date of payment***, or
- **61st day** from the date of **issue of invoice** by the supplier, **in cases where invoice is required to be issued by the supplier; or**
- **Date of issue of invoice by the recipient, in case where invoice is to be issued by the recipient.**

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the **date of entry of the service** in the **books of account** of the **recipient** of supply.

* **Date of payment**

- Date on which the **payment is recorded** in the **books of account** of the entity that receives the service (recipient of service), or
- The date on which the **payment is debited** from the entity's **bank account**, whichever is **earlier**.



➤ Clarification on various issues pertaining to GST treatment of vouchers

1. Nature of Vouchers – Goods, Services, or Otherwise

Vouchers, whether or not covered under RBI-recognized Pre-paid Instruments (PPIs), are **not treated as supply of goods or services**:

- ❖ If covered under RBI PPIs, they are considered **money**, which is **excluded from GST**.
- ❖ If not RBI-recognized, they are considered **actionable claims** (other than specified actionable claims), and thus **neither goods nor services** under Schedule III of CGST Act.
- ❖ Therefore, **transactions in vouchers themselves are neither supply of goods nor supply of services**.
- ❖ However, the **underlying supply of goods or services** (when the voucher is redeemed) is **subject to GST**.

2. Distribution Models and GST Applicability

- ✚ **Principal-to-Principal (P2P) Model**: Distributors buy vouchers at a discount and sell them — this is considered **trading** and **not subject to GST** since vouchers are not goods/services.
- ✚ **Commission-Based Model**: Distributors or agents distribute vouchers on behalf of issuers for a commission — **GST is applicable on the commission amount** as it is considered a taxable supply of services.

3. GST on Ancillary Services

Additional services like marketing, promotion, technology support, customization, etc., provided by agents or others to the voucher issuer for a fee are considered **supply of services** and **taxable under GST**.

4. GST treatment of Unredeemed Vouchers (Breakage)

If a voucher is not redeemed by the customer:

- ❖ **No underlying supply** of goods or services **takes place**.
- ❖ The amount retained (breakage) is **not treated as consideration** and hence, **not liable to GST**.

INPUT TAX CREDIT

➤ Amendment in Section 17(5): Blocked Credits

(Pg 8.7)

Any Tax paid in accordance with the provisions of section 74, **129 and 130 in respect of any period upto Financial Year 2023-24**.

- No Exceptions

[**Crux**: Section 17(5) has been amended, so as to restrict the non-availability of ITC in respect of tax paid under section 74 of the said Act only for demands upto Financial Year 2023-24. It also removes reference to sections 129 and 130 in the said sub-section.]

➤ **Clarification in respect of ITC availed by ECOs where services specified u/s 9(5) are supplied through their platform**

1. ECO, required to pay tax u/s 9(5), is making supplies under two counts:
 - (i) Supplies notified u/s 9(5) for which he is liable to pay tax as if he is the supplier of the said services.
 - (ii) Supply of his own services by providing his electronic platform for which he charges platform fee /commission etc. from the platform users.
2. For providing the services mentioned at 1(ii) above, the ECO procures inputs as well as input services for which he avails ITC.

Issue: Whether ECO, required to pay tax u/s 9(5), is liable to reverse proportionate ITC on his inputs and input services to the extent of supplies made u/s 9(5)?

Clarification:

1. It has been clarified vide Circular No. 167/23/2021 – GST dated 17.12.2021 that the ECO shall not be required to reverse ITC on account of restaurant services on which he pays tax u/s 9(5). It has also been clarified that the ITC will not be allowed to be utilized for payment of tax liability u/s 9(5) and whole of the tax liability u/s 9(5) will be required to be paid in cash. **This principle also applies to the supplies made in respect of other services specified u/s 9(5).**
 2. Thus, it is clarified that ECO, who is liable to pay tax u/s 9(5) on notified services, is **not required to reverse the ITC on his inputs and input services** proportionately u/s 17(1) / 17(2) to the extent of supplies made u/s 9(5).
 3. It is further clarified that **ECO will be required to pay the full tax liability on account of supplies u/s 9(5) in cash**, i.e. only through electronic cash ledger. The credit availed by him in relation to the inputs and input services used to facilitate such supplies cannot be used for discharge of such tax liability u/s 9(5).
 4. However, such credit can be utilized by him for discharge of tax liability in respect of supply of services on his own account.
- **Clarification on availability of ITC as per Section 16(2)(b) 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.

As per Section 16(2)(b), a registered person is **not entitled to claim ITC** in respect of any supply of goods or services or both **unless he has “received” the said goods** or services or both.

Explanation to Section 16(2)(b) provides that the goods would be deemed to have been “received” by the registered person for the purpose of this clause, where:

- a) the goods are delivered by the supplier to a recipient or to any other person on the direction of such registered person, whether acting as an agent or otherwise;
- b) such direction may be given before or during movement of goods; and
- c) the goods may be delivered either by way of transfer of documents of title to goods or otherwise.

It is clarified, that the registered person (the dealer) can be considered to have “received” the goods at the **time of handing over of the goods by the OEM to the transporter, at his factory gate**, for their onward transmission to the said registered person (the dealer) under EXW contract.

It is also mentioned that as per provisions of section 16(1) of the CGST Act, 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.

➤ Amendment in Section 21:

(Pg 8.14)



Excess credit distributed can be recovered along with interest only from the recipient and not from ISD.

- If the ISD has distributed excess credit to any recipient, the excess will be recovered from the recipient with interest as if it was tax not paid by initiating action under section 73 or 74 or **74A**.
- ISD would also be liable to a general penalty under section 122(1)(ix).

REGISTRATION

➤ Risk-based biometric-based Aadhaar authentication of registration applicants

(Pg 9.11)

An applicant who has opted for authentication of Aadhaar number is identified on the common portal, based on data analysis & risk parameters, shall be followed by biometric based Aadhaar authentication & taking photograph:

- of the applicant where the applicant is an individual, or
- of notified individuals in relation to the applicant where the applicant is not an individual,

along with verification of original copy of the documents uploaded with the application form.

(i) Where an applicant does not opt for authentication of Aadhaar number:

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 in relation to the applicant where the applicant is not an individual,

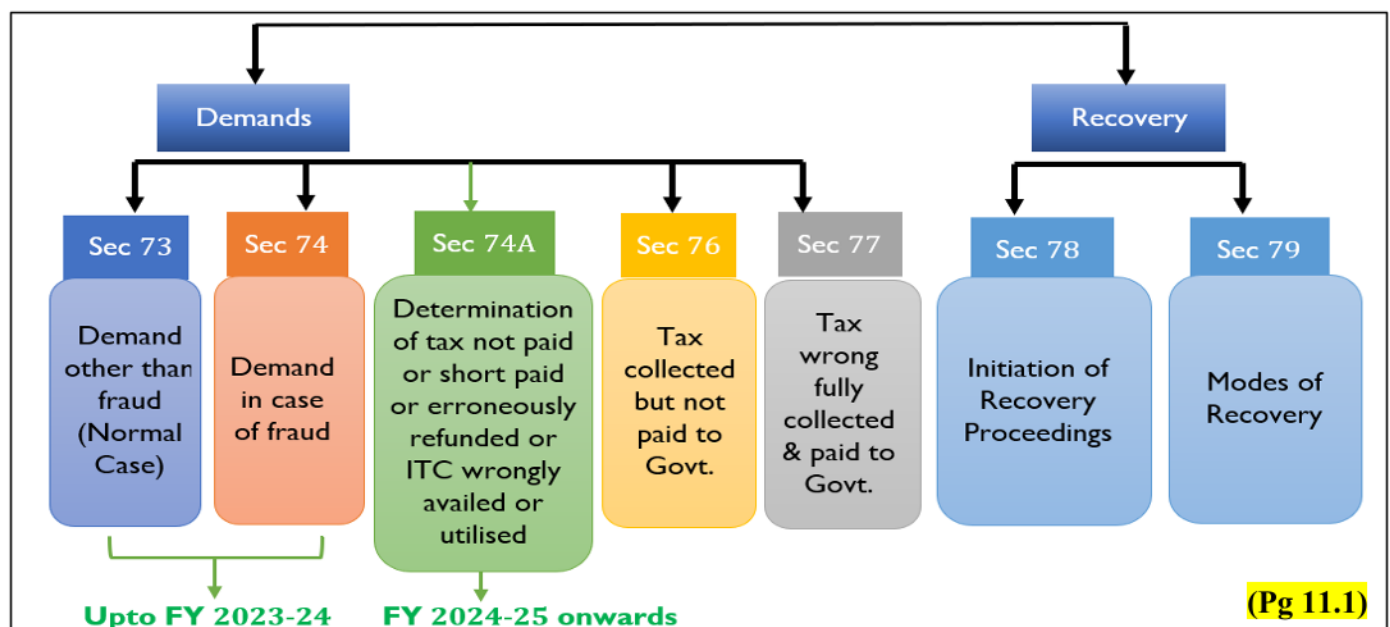
along with verification of original copy of the documents uploaded with the application form **at one of the Facilitation Centers notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after successful verification as laid down under this proviso.**

➤ Amendment in Section 30:**(Pg 9.18)**

- Apply for revocation within **90 days from the date of service of the order of cancellation.** However, such period may, on sufficient cause being shown, and for the reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, **for a further period not exceeding 180 days (i.e., 90 days + 180 days).**
- If P.O. is satisfied, he can revoke cancellation **within 30 days** from receipt of application.
- If P.O. is not satisfied, then P.O. will issue **SCN** seeking reply **within 7 working days** from the date of issue of SCN. The P.O. shall **dispose** the application (accept / reject) **within 30 days** of receipt of reply.
- **Revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.**

TAX INVOICE**➤ Time limit for issue of tax invoice where recipient is required to issue invoice under RCM:****(Pg 10.2 after Time Limit for Issue of Invoice Table)**

Where a tax invoice is required to be issued by a registered person, who is liable to pay tax under RCM u/s 9(3) or 9(4), he shall issue the said invoice **within a period of 30 days from the date of receipt** of the said supply of goods / services / both, as the case may be from the **unregistered supplier (including supplier who is registered solely for the purpose of TDS u/s 51).**

DEMAND & RECOVERY

➤ **Payment of Tax (Pg 11.2)**

Given Table on page - pertaining to the period upto FY 2023-24

➤ **Time Limit for Issuance of Notice / Order (Pg 11.3)**

Given Table on page - pertaining to the period upto FY 2023-24

➤ **Add Reference of Section 74A in Points to Remember Point-2 (Pg 11.3)**➤ **Section 74A: Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to FY 2024-25 onwards:**

(Pg 11.4 – Add before Section 76)

(1) Where it appears to the proper officer (PO) that any tax has not been paid or short paid or erroneously refunded, or where ITC has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon u/s 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

However, no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where ITC has been wrongly availed / utilised in a financial year is **less than ₹ 1,000**.

(2) **Time Limit for Issuance of Notice:** PO shall issue the notice **within 42 months** from the due date for furnishing of annual return for the FY to which the tax not paid or short paid or ITC wrongly availed or utilised relates to **or within 42 months** from the date of erroneous refund.

(3) PO may serve a statement which shall be deemed to be service of notice, on the person chargeable with tax, subject to the condition that the grounds relied upon are the same as are mentioned in the earlier notice for previous period.

(4) PO shall, after considering the representation, determine the amount of tax, interest and penalty due from such person and issue an order.

(5) **Time Limit for Issuance of Order:** PO shall issue the order **within 12 months** from the date of issuance of notice [**Extension of further 6 months** by Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of Central Tax after recording the reasons for delay in issuance of the order].

(6) **Penalty:**

Penalty for reason, other than fraud / wilful misstatement / suppression of facts to evade tax	Penalty for reason of fraud / wilful misstatement / suppression of facts to evade tax
10% of the tax due from such person or ₹ 10,000/- Whichever is higher	Amount of tax due from such person

(7)

Tax not paid / short paid / erroneously refunded / wrong ITC availed (other than fraud / wilful misstatement)		
Person chargeable with tax shall	Timeline	Outcome
• Pay tax & interest u/s 50 based on self-assessment or as ascertained by PO	Before service of notice & inform PO in writing of such payment	PO shall not serve any notice for tax so paid or penalty payable.
• Pay tax & interest u/s 50	Within 60 days of issue of SCN	No penalty shall be payable & all proceedings deemed concluded.

- (8) Penalty as specified above shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid **within 30 days** from the due date of payment of such tax.
- (9)

<u>Tax not paid / short paid / erroneously refunded / wrong ITC availed (for reason of fraud / wilful misstatement)</u>		
Person chargeable with tax shall	Timeline	Outcome
• Pay tax, interest u/s 50 & penalty @ 15% of tax based on self-assessment or as ascertained by PO	Before service of notice & inform PO in writing of such payment	PO shall not serve any notice for tax so paid or penalty payable.
• Pay tax, interest u/s 50 & penalty @ 25% of tax	Within 60 days of issue of SCN	All proceedings shall be deemed to be concluded
• Pay tax, interest u/s 50 & penalty @ 50% of tax	Within 60 days of the communication of order	All proceedings shall be deemed to be concluded

- (10) Where the PO is of the opinion that **the self-assessed amount** paid falls short of the amount actually payable, he shall proceed to issue the SCN in respect of such amount which falls short of the amount actually payable.
- (11) The provisions of this section shall be applicable for determination of tax pertaining to the **Financial Year 2024-25 onwards**.

For the purposes of this section —

- (i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132 (Punishment for certain offences);
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such **proceedings against the main person have been concluded** under this section, the **proceedings against all the persons liable to pay penalty** under sections 122 (Penalty for certain offences) and 125 (General penalty) **are deemed to be concluded**.

For the purposes of this Act, the expression “**suppression**” shall mean –

- non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or
- failure to furnish any information on being asked for, in writing, by the proper officer.

SECTION 75: GENERAL PROVISIONS RELATING TO DETERMINATION OF TAX

- (1) When service of notice or order is **stayed** by court /tribunal – Such **stay** period shall be **excluded** while calculating time limit u/s 73, 74 & **74A**. (Time Limit u/s 73/74/74A = Allowed Time + Stay Period)
- (2) Where any Appellate Authority or Appellate Tribunal or court **concludes** that the notice issued u/s 74(1) **is not sustainable** for the reason that the **charges of fraud** or any wilful misstatement or suppression of facts to evade tax **has not been established** against the person to whom the notice was issued, the **PO shall determine the tax payable** by such person, deeming as if the notice were issued u/s 73(1).
- (3) **Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty u/s 74A(5)(ii) is not sustainable for the reason that the charges of fraud or any wilful misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person u/s 74A(5)(i).**
- (4) Adjudication order issued in pursuance of AA/ AT/ Court's direction be issued with **2 years**.
- (5) **Adjournment of hearing** shall be granted for a **maximum of 3 times** to a person during the proceedings, if sufficient cause is shown in writing.
- (6) The amount of tax, interest and penalty demanded in the order **shall not be in excess of the amount specified in the notice**.
- (7) Where the AA or AT or court **modifies the amount of tax** determined by the PO, the amount of **interest and penalty shall stand modified** accordingly.
- (8) **Interest** shall be **payable whether or not specified in the order** determining the tax liability.
- (9) **The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in section 73(10) or 74(10) or 74A(7).**
- (10) An issue on which the AA or the AT or the High Court has given its decision which is **prejudicial to the interest of revenue** in some other proceedings and an **appeal** to the AT or the High Court or the Supreme Court **against such decision is pending**, the **period spent** between the date of the decision of the AA and that of the AT or the date of decision of the AT and that of the High Court or the date of the decision of the High Court and that of the Supreme Court **shall be excluded in computing the time limit for passing adjudication order**, where proceedings are initiated by way of issue of a SCN under the sections 73(10) or 74(10) **or 74A(7)**.
- (11) Notwithstanding anything contained in section 73 or section 74 **or section 74A**, where any **amount of self-assessed tax** in accordance with a return furnished u/s 39 **remains unpaid**, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same **shall be directly recovered** under the provisions of section 79.
- (12) Where **any penalty is imposed** under section 73 or section 74 **or section 74A**, **no penalty** for the same act or omission **shall be imposed** on the same person **under any other provision of this Act**.

➤ **Monetary Limits Prescribed for Issuance of SCN by different level of officers (Pg 11.4)**
Given Table on page - pertaining to the period upto FY 2023-24

ASSESSMENT & AUDIT

➤ Amendment in Section 61:

(Pg 12.3 – Amendment in below part)

- Proper Officer may scrutinize the return to verify its correctness.
- In case of discrepancy, PO shall issue a notice, seeking explanation, within such time **not exceeding 30 days** from the date of service of the notice.
- The registered person shall within a period of **30 days** from the date of service of order either accept the discrepancy and pay tax along with interest or furnish an explanation regarding non-acceptance of discrepancy.
- In case no satisfactory explanation is furnished or where the registered person fails to take corrective measure after accepting the discrepancy, PO may-
 - Proceed to conduct **audit** u/s 65 of the Act
 - Direct the conduct of **special audit** u/s 66 [To be conducted by CA or Cost Accountant nominated by Commissioner]
 - Undertake procedures of **inspection, search, and seizure** u/s 67 of the Act
 - Initiate **proceedings u/s 73 or 74 or 74A** of the Act.

➤ Amendment in Section 62:

(Pg 12.3 – Amendment in below part)

Best Judgment Assessment: Notwithstanding anything to the contrary contained in section 73 or section 74 **or section 74A**, where a registered person –

- a) Fails to furnish return u/s 39 (monthly/quarterly) or u/s 45 (final return), and
- b) PO has issued notice u/s 46 requiring the taxable person to furnish return within a period of 15 days & taxable person fails to do so,

PO may proceed to assess the tax liability of said person to the best of his judgment taking into a/c all the relevant material which is available or which he has gathered.

Time Limit: Within a period of **5 years** from the date specified u/s 44 for furnishing the **Annual Return**.

Withdrawal of assessment order: where the registered person **furnishes a valid return** for the default period within **60 days** of the service of the assessment order passed on best judgment basis, the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest (18%) u/s 50(1) or for payment of late fees (**₹ 100 per day** subject to Max of **₹ 5,000**) u/s 47 shall continue.

However, where the registered person **fails to furnish a valid return** within 60 days of the service of the assessment order, he may furnish the same within a further period of 60 days on payment of an additional late fee of **₹ 100 for each day** of delay beyond 60 days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been **withdrawn**, but the liability to pay interest u/s 50(1) or to pay late fee u/s 47 shall continue.

➤ **Amendment in Section 63:**

(Pg 12.4 – Amendment in below part)

Best Judgment Assessment: Notwithstanding anything to the contrary contained in section 73 or section 74 **or section 74A**, where a taxable person –

- fails to obtain registration even though liable to do so; or
- whose registration has been cancelled u/s 29(2), for any of the following reason, namely-
 - (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or
 - (b) a person paying tax under composition levy u/s 10 has not furnished **the return for a FY beyond 3 months from the due date of furnishing the said return**; or
 - (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**; or
 - (d) any person who has taken voluntary registration u/s 25(3) has not commenced business within 6 months from the date of registration; or
 - (e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts: but who was liable to pay tax, the proper officer may proceed to assess the tax liability of said unregistered person to the best of his judgement for the relevant tax periods.

Time Limit: PO shall issue assessment order within a period of **5 years** from the due date of furnishing of **Annual Return** for the F.Y. to which non-payment of tax relates.

Before making the assessment, PO shall issue a notice containing grounds on which assessment is proposed to be made and taxable person shall be given **15 days' time to furnish his reply, if any**. No assessment order shall be passed before giving an opportunity of being heard.

➤ **Amendment in Section 64:**

(Pg 12.4 – Amendment in below part)

When Summary Assessment can be made: PO has evidence that a taxable person has incurred a liability to pay tax under act and has sufficient grounds to believe that delay in passing an assessment order may adversely affect the interest of revenue then he may initiate summary assessment with prior approval of Additional Commissioner / Joint Commissioner.

Withdrawal of Assessment Order: AC/JC may withdraw either on an application made by taxable person within a period of 30 days from the date of receipt of order or **Suo Moto** where he finds the order to be erroneous and may instead follow the procedures laid down in section 73 or section 74 **or section 74A** to determine the tax liability of such taxable person.

Deemed Taxable Person in case of supply of goods: Where the taxable person is not ascertainable then the person in charge of goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

➤ **Amendment in Section 65:**

(Pg 12.5 – Amendment in below part)

Conclusion of Audit:

- The PO shall **within 30 days** inform the registered person whose records are audited, about the findings & the reasons for such findings.
- Where the audit results in detection of tax not paid, short paid, erroneously refunded, or input tax credit wrongly availed or utilized, the PO may initiate action u/s 73 or 74 **or 74A**.

➤ **Amendment in Section 66:**

(Pg 12.6 – Amendment in below part)

Conclusion of Special Audit:

- The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit.
- On conclusion of special audit, the registered person shall be informed of the findings of special audit.
- Where the special audit results in detection of tax not paid, short paid, erroneously refunded, or input tax credit wrongly availed or utilized, the PO may initiate action/proceedings u/s 73 or 74 **or 74A**.

INSPECTION, SEARCH, SEIZURE & ARREST

➤ **Amendment in Section 70:**

(Pg 13.8 – Amendment in below part)

PO shall have power to summon any person whose attendance he considers necessary.

All persons summoned shall be bound to attend, either in person or by an authorised representative, as such officer ay direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.

[**Crux:** The authorised representative is now allowed to appear on behalf of the summoned person before the PO.]

APPEALS & REVISION

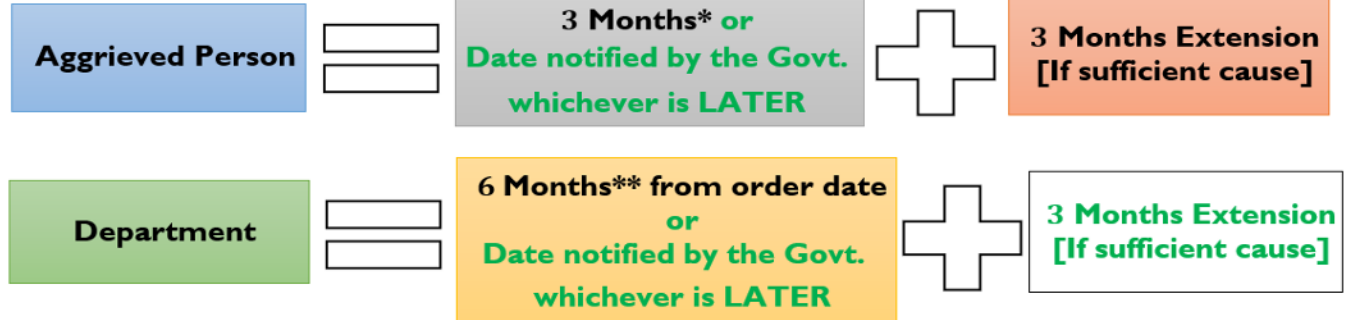
➤ **Amendment in Pre-deposit for filing appeal before AA:** (Pg 14.3 – Amendment in below part)

No appeal shall be filed before AA, unless the appellant has paid –

- (a) **Full amount** of tax, interest, fine, fee, & penalty arising from the impugned order, as is **admitted by him**; and
- (b) A sum equal to **10% of the remaining amount of tax in dispute** arising from the impugned order, subject to a **maximum of ₹-25-Crores ₹ 20 Crores [~~₹-50-Crores ₹ 40 Crores in case of IGST~~]**

Provided that no appeal shall be filed against an order u/s 129(3), unless a **sum equal to 25% of the penalty** has been paid by the appellant.

(Pg 14.8 – Amendment in below part)

➤ **Amendment in Section 112:****A. Appeal by the aggrieved person (taxpayer)**➤ **Time Limit for Filing Appeal**➤ **Amendment in Pre-deposit for filing appeal before AT** (Pg 14.9 – Amendment in below part)

No appeal shall be filed before Appellate Tribunal, unless the appellant has paid –

- Full amount** of tax, interest, fine, fee, & penalty arising from the impugned order, as is **admitted by him**; and
- 20% 10%** of the remaining amount of **tax in dispute**, in addition to the amount deposited before the AA, arising from the said order, subject to a **maximum of ₹50-Cr ₹ 20 Crores** [~~₹50-Crores~~ **₹ 40 Crores in case of IGST**] in relation to which appeal has been filed.

(Pg 14.11)

Authority	Pre-Deposit	
	When the tax involved is CGST	When the tax involved is IGST
AA	Admitted CGST Liability in full + 10% of the CGST in dispute, subject to a maximum of ₹25-Crores . ₹ 20 Crores*	Admitted IGST Liability in full + 10% of the IGST in dispute, subject to a maximum of ₹50-Crores . ₹ 40 Crores
AT	Admitted CGST Liability in full + 20% 10% of the CGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of ₹50-Crores . ₹ 20 Crores*	Admitted IGST Liability in full + 20% 10% of the IGST in dispute, in addition to the amount deposited before AA as pre-deposit, subject to a maximum of ₹100-Crores . ₹ 40 Crores

* Equivalent amount of SGST is also required to be deposited.

OFFENCES & PENALTIES

➤ **Amendment in Section 122(1B): (Covered in 6th Edition-Pg 15.11)** (Pg 15.2)

Any electronic commerce operator, who is liable to collect tax at source under section 52 -

- allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;
- allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or
- fails to furnish the correct details in the statement to be furnished u/s 52(4) of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a **penalty of ₹ 10,000** (CGST/SGST/UTGST) / **₹ 20,000** (IGST), or an **amount equivalent to the amount of tax** involved had such supply been made by a registered person other than a person paying tax u/s 10, whichever is **higher**.

➤ **Amendment in Section 127: (Covered in 6th Edition-Pg 15.11)**

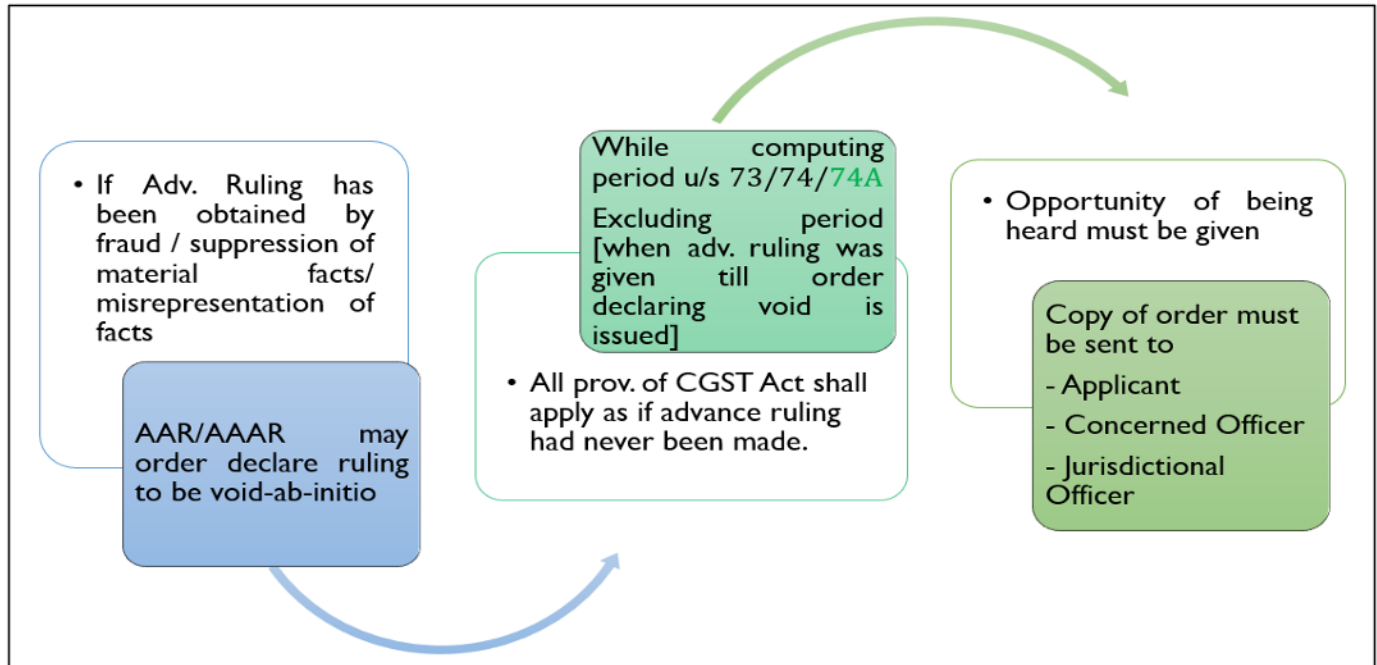
(Pg 15.4)

Where the PO is of the view that a person is liable to a penalty and the same is not covered under any proceedings u/s 62 or 63, 64, 73, 74, **74A**, 129 or 130 he may issue an order levying such penalty after **giving a reasonable opportunity of being heard** to such person.

ADVANCE RULING

➤ **Amendment in Section 104:**

(Pg 16.3)

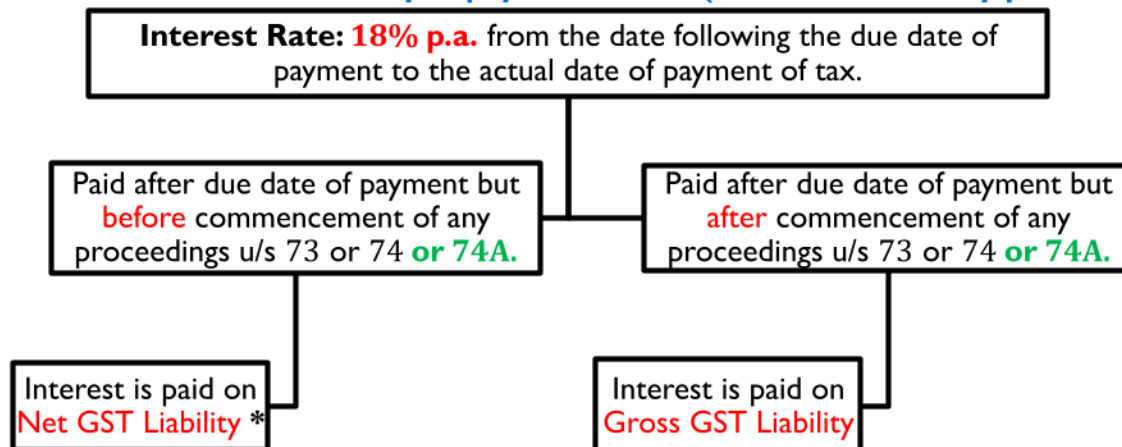


PAYMENT OF TAX

➤ **Amendment in Section 50:**

(Pg 17A.3 – Amendment in Case I)

- **Case I: Interest because of delay in payment of tax (either in full or any part thereof):**



* Any **amount credited in the Electronic Cash Ledger** 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.

REFUNDS UNDER GST

➤ Amendment in Section 16:

(Pg 19.12 – Point 4)

4. The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify–
- (i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid in accordance with the provisions of section 54 of the CGST Act or the rules made thereunder;
 - (ii) a class of goods or services or both, on zero rated supply of which, the supplier may pay IGST and claim the refund of tax so paid, in accordance with the provisions of section 54 of the CGST Act or the rules made thereunder.

Class of persons who may make zero-rated supply or notified class of goods or services which may be exported on payment of IGST and claim refund thereof notified.

Following goods/services/suppliers have been notified:

- (i) **all goods or services** (except the goods specified in note below) as the class of goods or services which may be exported on payment of IGST and on which the supplier of such goods/services may claim the refund of tax so paid; and
 - (ii) **all suppliers** to a Developer or a unit in SEZ undertaking authorised operations as the class of persons who may make supply of goods or services (except the goods specified in note below) to such Developer or a unit in SEZ for authorised operations on payment of IGST and on which the said suppliers may claim the refund of tax so paid.
5. Notwithstanding anything contained in sub-sections (3) and (4), no refund of unutilised ITC on account of zero rated supply of goods or of IGST paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods are subjected to export duty.

➤ Amendment in Rule 96B:

✚ Recovery of refund of unutilized input tax credit or integrated tax paid on export of Goods where export proceeds are not realized within stipulated time [Rule 96B]

- (1) Where any **refund of unutilised ITC** on account of **export of goods** or of IGST paid on export of goods has been paid to an applicant but **the sale proceeds** in respect of such export goods have **not been realised**, in full or in part, in India within the period allowed under the FEMA, including any extension of such period, the person to whom the refund has been made shall **deposit the amount so refunded**, to the extent of non-realisation of sale proceeds, along with applicable interest **within 30 days** of the expiry of the said period or, as the case may be, the extended period. In case of failure to do so, the **amount refunded shall be recovered** in accordance with the provisions of **sections 73 or 74 or 74A**, as the case may be, as is applicable for recovery of **erroneous refund, along with interest** u/s 50.

However, where sale proceeds, or any part thereof, in respect of such export goods are not realised by the applicant within the period allowed under the FEMA, but the **RBI writes off the requirement of realisation of sale proceeds** on merits, the **refund** paid to the applicant **shall not be recovered**.

- (2) Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him and the **applicant produces evidence** about such **realisation** within a period of **3 months** from the date of realisation of sale proceeds, **the amount so recovered shall be refunded** by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by RBI.

RETURNS UNDER GST

➤ Amendment in Rule 88D:

(Pg 20.8 – Point 3)

(3) 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 liable to be demanded in accordance with the provisions of section 73 or section 74 **or section 74A**, as the case may be.

➤ Amendment in time limit of filing GSTR-7:

(Pg 20.19 – Amendment in table as below)

6	TDS Deductor	Tax deducted at source (TDS u/s 51) GSTR-7	Monthly [Return to be furnished for every calendar month whether or not any deductions have been made during the said month.]	10 th of next—month the month succeeding the calendar month
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E-WAY BILL

➤ Generation of unique enrolment number

(Pg 21.1 – Add after last paragraph)

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.

➤ Amendment in Failure to maintain the records

(Pg 21.12)

Where the registered person fails to account for the goods or services or both in accordance with the provisions of section 35(1), the proper officer shall determine the amount **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** or **section 74A**, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

LEVY OF & EXEMPTIONS FROM CUSTOMS

✦ Customs (Import of Goods at Concessional Rate of Duty or for Specified End Use) Rules, 2022

Amendments in rule 3 [Definitions]

The definition of “Quarter” has been inserted in Rule 3(1)(ka) as under:-

Quarter: means a period comprising any three consecutive calendar months ending on the last day of March, June, September or December of a calendar year.

Importer to give one-time prior information [Rule 4]

- (1) The importer must file a one-time prior declaration on common portal with details such as:
 - name & address of the importer and his job worker;
 - goods produced or process undertaken at manufacturing facility of importer or job worker;
 - nature and description of goods imported;
 - particulars of the notification applicable on such import;
 - nature of output service rendered utilising the goods imported;
 - particulars of premises intended to be used in case of unit transfer;
 - details of the end use recipient;
 - intended ports of import.
- (2) Upon acceptance, an Import of Goods at Concessional Rate of Duty (IGCR) Identification Number (IIN) is generated. Information can be updated later if any changes occur.
- (3) The importer must furnish a continuity bond with surety/security and an undertaking to pay:
 - **For duty exemption notifications:** Duty difference (if exemption not availed) + interest for the period starting from the date of import of the goods on which the exemption was availed and ending with the date of actual payment of the entire amount.
 - **For other notifications:** Amount equal to the assessable value of imported goods.

Procedure to be followed [Rule 5]

- (1) The importer must mention the IGCR Identification Number (IIN) and continuity bond details in the Bill of Entry.
- (2) The Deputy/Assistant Commissioner of Customs at the port of import will allow the benefit of the applicable notification.
- (3) Upon clearance of the BOE for home consumption, the bond is automatically debited in the customs system, & details are shared electronically with the jurisdictional customs officer.

Importer to maintain records [Rule 6]

- (1) The importer must maintain detailed records & present to the DC/AC of Customs upon request –
 - Quantity and value of goods imported
 - Date and quantity of goods received
 - Quantity consumed, exported, sent to end-use recipients or for job work
 - Quantity received back after job work
 - Goods re-exported (if any)

- Closing stock as per Bills of Entry

(2) The importer shall submit a **quarterly** ~~monthly~~ **statement** on the common portal in the prescribed form by **10th day of the following quarter** ~~month~~;

However, the importer may submit details of goods consumed in prescribed form at any point of time, for immediate recredit of bond which shall become a part of the **quarterly** ~~monthly~~ statement of the subsequent **quarter** ~~month~~.

Procedure for allowing imported goods for job work [Rule 7]

- (1) The importer shall maintain a **record of the goods sent for job work** during the month and mention the same in the **quarterly** ~~monthly~~ statement.
- (2) The importer shall send the **goods to the premises of the job worker** under an **invoice** or wherever applicable, through an electronic-way bill, mentioning the **description & quantity** of the goods.
- (3) The **maximum period** for which the goods can be sent to job worker shall be **1 year** ~~6 months~~ from the date of invoice or electronic way bill.
- (4) In case the importer is **unable to establish** that the goods sent for job work have been used as per the particulars mentioned under rule 4, the jurisdictional Customs Officer shall **take necessary action against the importer** under rule 11 and 12.
- (5) The job worker shall,-
 - (i) maintain an **account of receipt of goods**, manufacturing process undertaken thereon and the waste generated, if any, during such process;
 - (ii) **produce** the account details before the jurisdictional Customs Officer as and **when required** by the said officer;
 - (iii) **after completion** of the job work **send the processed goods to the importer** or to another job worker as directed by the importer for carrying out the remaining processes, if any, under the cover of an invoice or electronic way bill.

Procedure for allowing imported goods for unit transfer [Rule 8]

- (1) The importer shall maintain a **record of the goods sent for unit transfer** during the month and mention the same in the **quarterly** ~~monthly~~ statement.
- (2) The importer shall send the **goods under an invoice** or wherever applicable, through an e-way bill, mentioning the **description & quantity** of the goods.
- (3) The importer shall in relation to **transfer of goods to another unit**,-
 - (i) maintain an **account of receipt of goods**, manufacturing process undertaken thereon and the waste generated, if any, during such process;
 - (ii) **produce** the account details before the jurisdictional Customs Officer as and **when required** by the said officer;
 - (iii) **after completion** of the said process, **send the processed goods back** to the premises of the importer from where the goods were received or to a job worker for carrying out the remaining processes, if any, under the cover of an invoice or electronic way bill.

Procedure for supplying imported goods to the end use recipient [Rule 9]

- (1) The importer shall maintain a **record of the goods supplied to the end use recipient** during the month and mention the same in the **quarterly** ~~monthly~~ statement.
- (2) The importer shall send the **goods under an invoice** or wherever applicable, through an electronic way bill, mentioning the **description** and **quantity** of the goods.

- (3) In case of supply for **replenishment** or export against supply, the end use recipient shall,-
- (i) maintain an **account of receipt of goods**, manufacturing process undertaken thereon and the waste generated, if any, during such process;
 - (ii) **produce** the account details before the jurisdictional Customs Officer as and **when required** by the said officer;
 - (iii) produce the **relevant details** to the importer for **fulfilment of the benefit** under the notification.

Re-export or clearance of unutilised or defective goods [Rule 10]

- (1) The importer who has availed the benefit of a notification shall **use the goods imported** in accordance with the conditions mentioned in the concerned notification within the period & with respect to unutilised or defective goods, so imported, the importer shall have an option to **either re-export/clear** the same for home consumption, within the said period, namely –
- (i) within the **period specified** in the notification;
 - (ii) within **1 year** ~~6 months~~ from the date of import, where the time period is not specified in the notification.

However, the said period of **1 year** ~~6 months~~ **can be further extended** by the jurisdictional **Commissioner** for a period **not exceeding 3 months**, if sufficient reason is shown that the causes for not conforming to the time period were beyond the importer's control.

- (2) Any re-export of the unutilised or defective goods referred to in sub rule (1) shall be recorded by the importer in the **quarterly** ~~monthly~~ statement by providing the details of necessary export documents:

However, the **value** of such goods for **re-export** shall **not be less than the value** of the said **goods at the time of import**.

- (3) The importer who intends to **clear unutilised or defective goods** for home consumption shall have an option of voluntary **payment of applicable duty along with interest** on the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the **quarterly** ~~monthly~~ statement.
- (4) The importer shall have the option of voluntary payment of the duty along with interest, through the common portal and the particulars of such clearance and the duty payment shall be recorded by the importer in the **quarterly** ~~monthly~~ statement.

Recovery of duty in certain case [Rule 11]

- (1) If the importer **fails** to meet conditions under Rule 10 or **short pays** the applicable amount, the **DC/AC of Customs** will **invoke the bond** and **initiate recovery proceedings**.
- (2) Amount Recoverable:
- **For duty exemption notifications:** Recovery = the difference between duty payable without exemption & duty actually paid) + interest from **date of import** to date of **actual payment**.
 - **For other notifications:** Recovery = **Assessable value** of imported goods.
- (3) Regardless of rules for **job work**, the **importer is fully responsible** to ensure goods are used as specified.

Penalty [Rule 12]

The importer or a job worker who **contravenes** any of the provisions of these rules **shall be liable to a specified penalty** without prejudice to any other action which may be taken under the Act.

FOREIGN TRADE POLICY 2023

- ✦ **Trade facilitation measures introduced with an option available to the Central Government for consultation with relevant stakeholders to seek their views and also providing the mechanism on best endeavour basis, to inform reasons for not accepting views concerning the formulation or amendment of the Foreign Trade Policy**

FTP 2023 has been amended by inclusion of Para 1.07A and Para 1.07B in Chapter 1 which provides as under:-

Consultation with Stakeholders

The Central Government, in the course of formulation of FTP, as and when it **deems reasonable** to do so, **may seek views / suggestions / comments / feedback from relevant stakeholders**, including importers / exporters / industry experts **with regard to formulation, incorporation of specific provision(s) or amendments in the FTP**, and to the extent possible, **30 days' time-period may be provided** to such relevant stakeholders **for submission** of their views / suggestions / comments / feedback.

However, Central Government **reserves the right to suo moto formulate**, amend or incorporate any specific provisions, without seeking views, suggestions, comments, or feedback from stakeholders.

Soliciting of views, suggestions, comments or feedback

If the views, suggestions, comments or feedback are **not incorporated** in the FTP, the Central Government may to the extent possible and if deems reasonable to do so, **provide**, to the relevant stakeholders, including importers/exporters/industry experts the **reasons for not considering** their views etc. while formulating, amending or incorporating specific provisions in the FTP.

However, Central Government is **not obliged** or **mandated to disclose reasons** for not incorporating views etc., that –

- has the **potential** to or will **adversely affect trade relations** with any foreign country;
- would **adversely affect food, economic or national security** of India;
- is in **conflict with any government policies**, strategic programs, international obligations or commitments or long-term plans and would undermine the objectives of such policies or programs;
- addresses matter unrelated to trade** or serve narrow, private or special interests to the detriment of or contrary to the broader public interest, good; or
- would **require the disclosure of confidential** or classified information.

Further, **no legal right shall be conferred** on any person **to seek reasons** for his **views**, comments, opinions or feedback, **not being incorporated in the FTP** thereof.