



FINAL GST & CUSTOMS AMENDMENTS FOR MAY/JUNE 2024 EXAMS

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SUPPLY

Sec 7(2): Negative List

Para 6: Actionable claims, other than ~~lottery, betting and gambling~~ specified actionable claims.



Specified Actionable Claim [Sec 2(102A)]	Means: the actionable claim involved in or by way of— (i) betting; (ii) casinos; (iii) gambling; (iv) horse racing; (v) lottery; or (vi) online money gaming;
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Whether GST is liable on	Clarifications
Reimbursement of electricity charges received by real estate companies, malls, airport operators etc. from their lessees/occupants.	YES Sec 8 = Composite Supply = Principal Supply = Renting of immovable property and/or maintenance of premise. Hence taxable.
Activity of holding shares by a holding co. of subsidiary co.	NO Securities held by the holding company in the subsidiary company are neither goods nor services. Further, purchase or sale of shares or securities, in itself is neither a supply of goods nor a supply of services.
supply of food or beverages in cinema hall is taxable as restaurant service	Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as: (a) the food or beverages are supplied by way of or as part of a service, and (b) supplied independent of the cinema exhibition service. Where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

LEVY

Sec 9(3): Notified supplies under RCM

Issue 01: Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism

Clarification: It is hereby clarified that **services supplied by a director** of a company or body corporate to the company or body corporate **in his private or personal capacity** such as services supplied by way of renting of immovable property to the company or body corporate **are not taxable under RCM.**

→ Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate.

Notified supply of Services under RCM [N/N 10/2017 of IT]

Nature of Service	Supplier of service	Recipient (located in TT)
Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station in India	A person located in nontaxable territory	Importer , as defined in section 2(26) of the Customs Act, 1962, located in the taxable territory.

Notified supply of Goods under RCM [N/N 4/2017]

S.N	Description of goods	Supplier	Recipient
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
3A	Essential Oils of Peppermint and other Mints (other than those of citrus fruit)	Any unregistered person	Any registered person

4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	Raw Cotton	Agriculturist	Any registered person
5	Supply of lottery	SG, UT or any local authority	Lottery distributor or selling agent.
6	Used Vehicles, Seized and confiscated goods, old and used goods, waste & Scrap	CG excluding Ministry of Railways/SG/UT/Local authority	Any registered person
7	Priority sector lending certificate	Any Registered Person	Any Registered Person

Sec 9(5): Notified supplies through ECO

Notified supplies are:

- (i) Services by way of **transportation of passengers** by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle **except Omnibus**;
- (ia) services by way of **transportation of passengers by an omnibus**
 - except where the person supplying such service through ECO is a company






COMPOSITION LEVY

<p>Conditions [Sec 10(2) /(2A)]</p>	<p>(a) to (c) – Same as earlier.</p> <p>(d) Tax payer making supplies of goods or services through ecommerce operators who are required to collect tax at source is not eligible.</p> <div style="border: 1px dashed black; padding: 5px; margin: 10px 0;"> <p>Special procedure for ECO who is required to collect TCS u/s 52 on goods supplier by composition taxable person</p> <p>(i) the <i>ECO shall not allow any inter-State supply of goods through it</i> by the said person;</p> <p>(ii) <i>ECO shall collect TCS on supply of goods through it and pay u/s 52;</i></p> <p>(iii) <i>ECO shall furnish</i> the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8.</p> </div> <p>(e) & (f) same as earlier</p>
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EXEMPTION

EXEMPTIONS UNDER CGST ACT [N/N: 12/2017 CT]

Entry No	Contents
Entry 3B	<p>Services provided to a Governmental Authority by way of-</p> <ul style="list-style-type: none"> (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.
Entry 06	<p>Services by the CG, SG, UT or local authority excluding the following services—</p> <ul style="list-style-type: none"> (a) services by the Department of Posts or Ministry of Railways (Indian Railways) (b) ----- (c) -----; or (d) -----. <p>Note: As Entry 6(a) reference is also made at Entry 7/8/9, so above amendment will have impact there also.</p>
Entry 19C	<p>Satellite launch services supplied by</p> <ul style="list-style-type: none"> • Indian Space Research Organisation • Antrix Corporation Limited • New Space India Limited <div style="display: flex; align-items: center; justify-content: center;">    </div>

EXEMPTIONS UNDER IGST ACT [N/N: 9/2017 IT]

Entry 10	<p>Services received from a provider of service located in a non taxable territory by –</p> <ul style="list-style-type: none"> (a) the CG, SG, UT, a local authority, a governmental authority or an individual in relation to any purpose other than business or profession; (b) a charitable trust for the purposes of providing charitable activities; or (ba) way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of – <ul style="list-style-type: none"> (i) pre - school and education up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course (c) a person located in a non-taxable territory. <p>However, the exemption shall not apply to –</p> <ul style="list-style-type: none"> (i) OIDAR received by persons specified in entry (a) or entry (b); or
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	(ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by specified persons.
42	Services received by the RBI , from outside India in relation to management of foreign exchange reserves, custodial service etc.

VALUATION

Rule 28(2): Value of supply of goods or services or both between distinct or related persons, other than through an agent

Notwithstanding anything contained in sub-rule (1), **Value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be higher of -**



- a) 1% of the amount of such guarantee offered, or
- b) actual consideration,

Clarification on taxability of personal guarantee and corporate guarantee in GST

Issue 01	Whether the activity of providing personal guarantee by the Director of a company to the bank/ financial institutions for sanctioning of credit facilities to the said company without any consideration will be treated as a supply of service or not and whether the same will attract GST or not.
Clarification	It's a Supply of Service u/s 7(1)(c) Para 2 [As per Explanation (a) to Sec 15 = director and company = related persons]
Issue 02	How value shall be determined in above case?
Clarification	Valuation u/s Sec 15(4) read with Rule 28 = Open Market Value (OMV)
Issue 03	How to determine OMV as normally as per RBI Circular no consideration by way of commission, brokerage fees or any other form, can be paid to the director by the company, directly or indirectly, in lieu of providing personal guarantee to the bank for borrowing credit limits.
Clarification	Value = OMV = Nil (No GST payable)
Issue 04	How to determine Open Market Value in exceptional cases where payment of remuneration may be permitted e.g. where assisted concerns are not doing well and the existing guarantors are no longer connected with the management but continuance of their guarantees is considered essential because the new management's guarantee is either not available or is found inadequate.
Clarification	Value = OMV = Remuneration/ consideration provided to such a person/ guarantor by the company, directly or indirectly
Issue 05	Whether the activity of providing corporate guarantee by a person on behalf of another related person, or by the holding company for sanction of credit facilities to its subsidiary company, to the

	<p>bank/financial institutions, even when made without any consideration will be treated as a taxable supply of service or not, and if taxable, what would be the valuation of such supply of services.</p>
<p>Clarification</p>	<p>As per Sec 7(1)(c) Para 2 activity of providing corporate guarantee to be related person shall be treated as Supply [Supply of Service].</p> <p>Valuation u/s 15(4) read with Rule 28(2), irrespective of whether full ITC is available to the recipient of services or not.</p> <p>It is clarified that the Rule 28(2) shall not apply in respect of the activity of providing personal guarantee by the Director.</p>

ITC

Sec 17(3): VALUE OF EXEMPT SUPPLY SHALL INCLUDE VALUE OF SUPPLIES UNDER RCM, SECURITIES, LAND & 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, except those specified in

- paragraph 5 and
- Paragraph 8(a)

of Schedule III;

RULE 42/43 Explanation -

It is hereby clarified that the aggregate value of exempt supplies shall exclude

- the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non - banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and
- the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.
- the value of supply of Duty Credit Scrips specified in the notification issued by CG.

BLOCKED CREDIT

Sec
17(5)(fa)

Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in Sec 135 of the Companies Act, 2013;



Clarification on availability of ITC in respect of warranty

Issue 01: There are cases where the original equipment manufacturer offers warranty for the goods supplied by him to the customer and provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services. Whether GST would be payable on such replacement of parts or supply of repair services, without any consideration from the customer, as part of warranty?

Clarification: The Value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and / or repair services to be incurred during the warranty period, on which tax would have already been paid at the time of original supply of goods.

- Where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable on such.
- However, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

Issue 02: Whether in such cases, the manufacturer is required to reverse the ITC in respect of such replacement of parts or supply of repair services as part of warranty, where no additional consideration is charged from the customer?

Clarification: In such cases, the value of original supply of goods (provided along with warranty) by the manufacturer to the customer includes the likely cost of replacement of parts and/ or repair services to be incurred during the warranty period. Therefore, these supplies cannot be considered as exempt supply and accordingly, the manufacturer, who provides replacement of parts and/ or repair services to the customer during the warranty period, is not required to reverse ITC in respect of the said replacement parts or on the repair services provided.

Issue 03: Whether GST would be payable on replacement of parts and/ or repair services provided by a distributor without any consideration from the customer, as part of warranty on behalf of the manufacturer?

Clarification: There may be instances where a distributor of a company provides replacement of parts and/ or repair services to the customer as part of warranty on behalf of the manufacturer and no separate consideration is charged by such distributor from the customer.

- As no consideration is being charged by the distributor from the customer, no GST would be payable by the distributor on the said activity.
- However, if any additional consideration is charged by the distributor from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

Issue 04: In the above scenario where distributor provides replacement of parts to the customer as part of warranty on behalf of the manufacturer, whether any supply is involved between the distributor & manufacturer and whether the distributor would be required to reverse the ITC in respect of such replacement of parts?

Clarification:

- (a) Where the distributor replaces the part(s) to the customer under warranty either by using his stock or by purchasing from a third party and charges the consideration for the part(s) so replaced from the manufacturer, by issuance of a tax invoice, for the said supply made by him to the manufacturer. In such a case, **GST would be payable by the distributor on the said supply by him to the manufacturer and the manufacturer would be entitled to avail the ITC of the same. In such case, no reversal of ITC by the distributor is required in respect of the same.**
- (b) There may be cases where the distributor raises a requisition to the manufacturer for the part(s) to be replaced by him under warranty and the manufacturer then provides the said part(s) to the distributor for the purpose of such replacement to the customer as part of warranty. In such a case, where the manufacturer is providing such part(s) to the distributor for replacement to the customer during the warranty period, without separately charging any consideration at the time of such replacement, **no GST is payable on such replacement of parts by the manufacturer. Further, no reversal of ITC is required to be made by the manufacturer.**
- (c) Where the distributor replaces the part(s) to the customer under warranty out of the supply already received by him from the manufacturer and the manufacturer issues a credit note in respect of the parts so replaced subject to provisions of Sec 34(2). Accordingly, the **tax liability may be adjusted by the manufacturer, subject to the condition that the said distributor has reversed the ITC availed against the parts so replaced.**

Issue 05: Where the distributor provides repair service, in addition to replacement of parts or otherwise, to the customer without any consideration, as part of warranty, on behalf of the manufacturer but charges the manufacturer for such repair services either by way of issue of tax invoice or a debit note, whether GST would be payable on such activity by the distributor?

Clarification: There is a **supply of repair service by the distributor to the manufacturer.**

Hence, **GST would be payable** on such provision of service by the distributor to the manufacturer and the **manufacturer would be entitled to avail ITC** of the same.

Issue 06: Sometimes companies provide offers of Extended warranty to the customers which can be availed at the time of original supply or just before the expiry of the standard warranty period. Whether GST would be payable in both the cases?

Clarification:

- (a) If a **customer enters in to an agreement of extended warranty with the manufacturer at the time of original supply**, then the consideration for **such extended warranty becomes Value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly.**
- (b) However, in case **where a consumer enters into an agreement of extended warranty at any time after the original supply**, then the same is a separate contract and **GST would be payable by the service provider**, whether manufacturer or the distributor or any third party, depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply)

Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons.

Issue 01: Whether HO can avail the ITC in respect of common input services procured from a third party but attributable to both HO and BOs or exclusively to one or more BOs, issue tax invoices u/s 31 to the said BOs for the said input services and the BOs can then avail the ITC for the same or whether is it mandatory for the HO to follow the ISD mechanism for distribution of ITC in respect of common input services procured by them from a third party but attributable to both HO and BOs or exclusively to one or more BOs?

Clarification: HO has an option to distribute ITC in respect of such common input services by following ISD mechanism laid down in Sec 20 read with rule 39.

It is not mandatory for the HO to distribute such ITC by ISD mechanism. HO can also issue tax invoices u/s 31 of CGST Act to the concerned BOs in respect of common input services procured from a third party by HO but attributable to the said BOs **and the BOs can then avail ITC on the same subject to the provisions of section 16 and 17 of CGST Act.**

In case, the HO distributes or wishes to distribute ITC to BOs in respect of such common input services through the ISD mechanism as per the provisions of Sec 20 read with rule 39, HO is required to get itself registered mandatorily as an ISD in accordance with Section 24(viii) of the CGST Act. Further, such distribution of the ITC in respect a common input services procured from a third party can be made by the HO to a BO through ISD mechanism only if the said input services are attributable to the said BO or have actually been provided to the said BO.

Similarly, the HO can issue tax invoices u/s 31 to the concerned BOs, in respect of any input services, procured by HO from a third party for on or behalf of a BO, only if the said services have actually been provided to the concerned BOs.

Issue 02: In respect of internally generated services, there may be cases where HO is providing certain services to the BOs for which full ITC is available to the concerned BOs. However, HO may not be issuing tax invoice to the concerned BOs with respect to such services, or the HO may not be including the cost of a particular component such as salary cost of employees involved in providing said services while issuing tax invoice to BOs for the services provided by HO to BOs. Whether the HO is mandatorily required to issue invoice to BOs u/s 31 of CGST Act for such internally generated services, and/ or whether the cost of all components including salary cost of HO employees involved in providing the said services has to be included in the computation of value of services provided by HO to BOs when full ITC is available to the concerned BOs.

Clarification: Valuation u/s 15(4) read with Rule 28(a) = Open market Value.

The 2nd proviso to rule 28 provides that where the recipient is eligible for full ITC, the value declared in the invoice shall be deemed to be the open market value.

Where full ITC is available to a BO, the value declared on the invoice by HO to the said BO in respect of a supply of services shall be deemed to be the open market value of such services, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice.

Further, in such cases where full ITC is available to the recipient, if HO has not issued a tax invoice to the BO in respect of any particular services being rendered by HO to the said BO, the value of such services may be deemed to be declared as Nil by HO to BO, and may be deemed as open market value in terms of second proviso to rule 28 of CGST Rules.

Issue 03: In respect of internally generated services provided by the HO to BOs, in cases where full ITC is not available to the concerned BOs, whether the cost of salary of employees of the HO involved in providing said services to the BOs, is mandatorily required to be included while computing the taxable value of the said supply of services provided by HO to BOs.

Clarification: In respect of internally generated services provided by the HO to BOs, the cost of salary of employees of the HO, involved in providing the said services to the BOs, is **not mandatorily required to be included** while computing the taxable value of the supply of such services, even in cases where full ITC is not available to the concerned BO.

REGISTRATION

Sec 23(2): NOTIFIED PERSONS NOT LIABLE FOR REGISTRATION

(2) 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

Person effecting supply of goods through ECO who is required to collect TCS

Persons making supplies of goods through an ECO who is required to collect TCS u/s 52 and having an aggregate turnover in the preceding FY and in the current FY not exceeding the amount of aggregate turnover threshold limit, subject to following conditions:



- (i) such persons shall not make any inter-State supply of goods;
- (ii) such persons shall not make supply of goods through ECO in more than one State or UT;
- (iii) such persons shall have PAN;
- (iv) such persons shall, before making any supply of goods through ECO, declare on the common portal their PAN, address of their place of business and the State or UT in which such persons seek to make such supply, which shall be subjected to validation on the common portal;
- (v) such persons have been granted an enrolment number on the common portal on successful validation of the PAN declared as per clause (iv);
- (vi) such persons shall not be granted more than one enrolment number in a State or 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 u/s 25, the enrolment number shall cease to be valid from the effective date of registration.

Special procedure for such ECO

Special procedure for ECO who is required to collect TCS u/s 52 in respect of supply made through him by persons exempted from taking registration:

- (i) *ECO shall allow the supply of goods through* it by the said person *only if enrolment number has been allotted* on the common portal to the said person;
- (ii) the *ECO shall not allow any inter-State supply* of goods through it by the said person;
- (iii) *ECO shall NOT collect TCS u/s 52(1)* in respect of supply of goods made through it by the said person; and
- (iv) *ECO shall furnish* the details of supplies of goods made through it by the said person in the statement in **FORM GSTR-8** electronically on the common portal.

Where multiple electronic commerce operators are involved in a single supply of goods through electronic commerce operator platform, "the electronic commerce operator" shall mean the electronic commerce operator who finally releases the payment to the said person for the said supply made by the said person through him.

Sec 24: Compulsory registration

Notwithstanding anything contained in sec 22(1), the following categories of persons shall be required to be registered under this Act –

(xia) Supplier of online money gaming

Every person supplying online money gaming from a place outside India to a person in India; &



Sec 25: Registration Procedure

Proviso to Rule 8(4A) shall not apply in all the States and Union territories except the State of Gujarat and the State of Puducherry. (Bio-metric provision)

Rule 9: Verification of the application and approval.-

(1) Application shall be forwarded to the PO and if the same are found to be in order, approve the grant of registration to the applicant within a period of 7 working days from the date of submission of the application. [In case of deficiency in application notice shall be issued in GST-REG-03 with the said 7 days and applicant shall provided clarification with 7 working day]

Provided that where

- (a) a person, other than a person notified u/s 25(6D), fails to undergo authentication of Aadhaar number as specified in rule 8(4A) or does not opt for authentication of Aadhaar number; or
- (b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of AC, deems it fit to carry out physical verification of places of business,

the registration shall be granted within 30 days of submission of application [In case of deficiency in application notice shall be issued in GST-REG-03 with the said 30 days and applicant shall provided clarification with 7 working day], after physical verification of the place of business ~~in the presence of the said person~~, and verification of such documents as the PO may deem fit.”

Rule 10A: Furnishing of Bank Account Details

After a certificate of registration in FORM: GST REG-06 has been made available and a GSTIN has been assigned, the registered person, *except those who have been granted registration for TDS/TCS purpose or, voluntarily registered, shall as soon as may be, but*

- Within 30 days from the date of grant of registration or
- before furnishing the details of outward supplies of goods or services or both u/s 37 in FORM GSTR-1 or using invoice furnishing facility,

whichever is earlier,

furnish information with respect to details of bank account which is in name of the registered person and obtained on PAN of the registered person, or any other information, as may be required on the common portal in order to comply with any other provision

Provided that in case of a proprietorship concern, PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor.”;

Rule 25: Physical verification of business premises

- (1) Where the PO is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in GST REG-30 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), the PO 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 GST REG-30 on the common portal at least 5 working days prior to the completion of the time period specified in the said proviso.

Rule 21A of CGST, 2017: Suspension of Registration

- o 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.
- o Where,
 - (a) a comparison of the returns furnished by a registered person u/s 39 with
 - (i) the details of outward supplies furnished in FORM GSTR-1; or
 - (ii) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or such other analysis,

show that there are significant differences or anomalies indicating contravention, leading to cancellation of registration of the said person,

(b) there is a contravention of the provisions of rule 10A by the registered person,

his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, highlighting the said differences and anomalies and asking him to explain, within a period of 30 days, as to why his registration shall not be cancelled

Sec 30: Revocation of Cancellation of Registration

Revocation Application within 90 + 180 days of cancellation order

(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 in the prescribed manner within thirty days from the date of service of the cancellation order *in such manner, within such time and subject to such conditions and restrictions, as may be prescribed.*

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days;

(b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a)

Rule 23 of CGST, 2017:

- A registered person, whose registration is cancelled by the PO on his own motion **subject to the provisions of rule 10B**, may submit an application for revocation of cancellation of registration, in **FORM GST REG-21**, to such PO, **within a period of 90 days from the date of the service of the order of cancellation of registration.**

*Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be **extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Add. Commissioner or JC, as the case may be, for a further period not exceeding 180 days:***

INVOICING

Rule 46: Information Required in a GST Invoice

The tax invoice issued must clearly mention information under the following headings:

(5) If the recipient is **not registered** AND the value is more than ₹ 50,000 then:

- i. name and address of the recipient,
- ii. address of delivery,
- iii. state name and state code **(in case of export – name of destination country)**

*Provided that in cases involving supply of **online money gaming** or in cases where any taxable service is supplied by or **through an ECO** or by a supplier of **OIDAR services** to a recipient who is un-registered, irrespective of the value of such supply, a **tax invoice** issued by the registered person **shall contain the name of the state of the recipient and the same shall be deemed to be the address on record of the recipient.***

Rule 48(4): E-Invoicing

Notified Person:

Registered person

- ➔ other than Rule 54(2)/(3)/(4)/(4A), SEZ units, Government department & local authority and OIDAR service by registered to unregistered person (B2C),
- ➔ whose aggregate turnover in any preceding FY from 2017-18 onwards exceeds ₹ 5 cr in respect of supply of goods or services or both to a registered person or for exports.

Issue: Whether E-invoicing is applicable for supplies made by a registered person, to Govt dept/ PSUs etc which are registered solely for the purpose of TDS u/s 51?

Clarification: Government Departments/PSUs etc, which are required to deduct TDS u/s 51, are liable for compulsory registration in accordance with Sec 24(vi). Therefore, Government Departments/PSUs etc, registered solely for the purpose of deduction of TDS, are to be treated as registered persons as per Sec 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) of CGST Rules.

RETURNS

Rule 88D - Manner of dealing with difference in ITC available in auto-generated statement containing the details of ITC and that availed in return.

- (1) Where the **amount of ITC availed** by a registered person in the return for a tax period or periods furnished by him **in GSTR-3B exceeds the ITC available to such person in** accordance with the auto-generated statement containing the details of ITC in **GSTR-2B** in respect of the said tax period or periods, as the case may be, **by such amount and such percentage**, as may be recommended by the Council, the **said registered person shall be intimated of such difference in Part A of GST-DRC-01C**, 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, highlighting the said difference and **directing him to—**
- i. **pay an amount equal to the excess ITC availed** in the said FORM GSTR-3B, **along with interest payable u/s 50, through GST-DRC- 03, or**
 - ii. **explain the reasons** for the aforesaid difference in ITC on the common portal, **within a period of 7 days.**
- (2) The **registered person** referred to sub-rule (1) **shall**, upon receipt of the intimation referred to in the said sub-rule, either,
- (a) **pay an amount equal to the excess ITC**, as specified **in Part A of GST- DRC-01C**, fully or partially, **along with interest payable u/s 50, through GST-DRC-03** and **furnish the details thereof in Part B of GST-DRC-01C**, electronically on the common portal, or
 - (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, if any, **in Part B of GST-DRC-01C**, within the period specified in the said sub-rule.
- (3) **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 PO, the **said amount shall be liable to be demanded in accordance with the provisions of sec 73 or 74**, as the case may be.

Rule 59 - Form and manner of submission of statement of outward supplies

GSTR-1 cannot be filled (including using IFF) in following cases [Rule 59(6)]

- (i) **Normally:** In case the registered person has **not furnished the return in FORM GSTR-3B for preceding month;**
 - (ii) **For QRMP Scheme:** If he has **not furnished GSTR-3B for preceding tax period;**
 - (iii) a registered person, to whom an **intimation has been issued under Rule 88C(1), unless he has either deposited the amount specified in the said intimation or has furnished a reply under Rule 88C(2)**
 - (iv) a registered person, to whom an **intimation has been issued under Rule 88D(1), unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply under Rule 88D(2);**
 - (v) **who has not furnished the details of the bank account as per rule 10A.**
- **A registered person shall not be allowed to furnish a Statement of Outward Supplies [GSTR-1] u/s 37 or return u/ 39 [GSTR-3B to 8] or Annual return [GSTR-9/9A] for a tax period after the expiry of 3 years from the due date of furnishing the said return (However government may allow)**
 - **Annual return has to be filed if aggregate turnover exceeds ₹ 2 cr.**
 - **All registered person who are required to file annual return and whose aggregate turnover exceeds ₹ 5 cr is required to furnish self certified reconciliation statement [GSTR 9C] along with annual return.**

Rule 64 - Form and manner of submission of return by persons providing online information and data base access or retrieval services and by persons supplying online money gaming from a place outside India to a person in India.

Every registered person either providing **Online Money gaming from a place outside India to a person in India, or providing OIDAR services from a place outside India to a non-taxable online recipient** referred to in sec 14 of IGST Act, 2017 or to a registered person other than a non-taxable online recipient, **shall file return in FORM GSTR-5A on or before the 20th day of the month succeeding the calendar month or part thereof.**

Sec 47: Levy of late fee

Maximum Late Fees:

GSTR 1 &/or 3B		
Class of registered person	Agg. Turnover in preceding FY	Late fees (CGST + SGST)
Having Nil outward supplies or tax payable is Nil		Lower of - (a) ₹ 20/day (₹ 10 CGST/SGST each) (b) ₹ 500 (₹ 250 CGST/SGST each)
Registered persons other than covered in (1) above	Upto 1.5 cr	Lower of - (a) ₹ 50/day (₹ 25 CGST/SGST each) (b) ₹ 2,000 (₹ 1,000 CGST/SGST each)
	1.5 to 5 cr	Lower of - (a) ₹ 50/day (₹ 25 CGST/SGST each) (b) ₹ 5,000 (₹ 2,500 CGST/SGST each)
Other than (1) & (2)	>5Cr	Lower of - (a) ₹ 50/day (₹ 25 CGST/SGST each) (b) ₹ 10,000 (₹ 5000 CGST/SGST each)
GSTR 4		
Class of registered person	Max Late fees (CGST + SGST)	
Total Tax payable is Nil	Lower of - (a) ₹ 20/day (₹ 10 CGST/SGST each) (b) ₹ 500 (₹ 250 CGST/SGST each)	
Other than (1)	Lower of - (a) ₹ 50/day (₹ 25 CGST/SGST each) (b) ₹ 2,000 (₹ 1,000 CGST/SGST each)	
GSTR 7		
Lower of: 1) ₹ 50/day during which failure continues (₹ 25 CGST/SGST each) 2) ₹ 2000 (₹ 1,000 CGST/SGST each)		

E-WAY BILL

Rule 138F - Information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof.



(1) Where-

- (a) a Commissioner of State or UT tax mandates furnishing of information regarding intra-State movement of natural or cultured pearls and precious or semi precious stones, metals, jewellery, goldsmiths and silversmiths, in accordance with Rule 138F(1) of SGST/UTST Rules, and
- (b) the consignment value of such goods exceeds such amount, not below ₹ 2 lakhs, as may be notified by the Commissioner of State or UT tax, in consultation with the jurisdictional Principal Chief Commissioner or Chief Commissioner of Central Tax, or any Commissioner of Central Tax authorised by him,

notwithstanding anything contained in Rule 138, every registered person who causes intra-State movement of such goods, -

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an un-registered person,

shall, before the commencement of such movement within that State or UT, furnish information relating to such goods electronically, as specified in Part A of FORM GST EWB-01, against which a unique number shall be generated:

Provided that where the goods to be transported are supplied through an ECO 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.

- (2) The information as specified in PART B of FORM GST EWB-01 shall not be required to be furnished in respect of movement of goods referred to in the sub-rule (1) and after furnishing information in Part-A of FORM GST EWB-01 as specified in sub-rule (1), the e-way bill shall be generated in FORM GST EWB-01, electronically on the common portal
- (3) The information furnished in Part A of FORM GST EWB-01 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.
- (4) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-waybill, the e-way bill may be cancelled, electronically on the common portal, within 24 hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.
- (5) Notwithstanding anything contained in this rule, no e-way bill is required to be generated-

- (a) 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;
 - (b) 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.
- (6) The provisions of Rule 138(10) to (12), rule 138A, rule 138B, rule 138C, rule 138D and rule 138E shall, mutatis mutandis, apply to an e-way bill generated under this rule.

Explanation.-For the purposes of this rule, the 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 CGST/SGST/UTGST charged 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.

ZERO RATED SUPPLY

Sec 16 of IGST, 2017: Zero rated supply

- (1) **"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 authorized operations, to a SEZ developer or a SEZ.**
- (2) Subject to the provisions of sec 17(5), **credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.**
- (3) A registered person making zero rated supply shall be eligible to claim refund of unutilised ITC on supply of goods or services or both, without payment of IGST, under bond or Letter of Undertaking u/s 54 of CGST Act.
 Provided that the registered person making zero rated supply of goods shall, **in case of non-realisation of sale proceeds, be liable to deposit the refund so received along with the applicable interest** u/s 50 of CGST Act **within 30 days after the expiry of the time limit** prescribed **under FEMA** Act, 1999 for receipt of foreign exchange remittances.
- (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 IGST and claim refund of the tax so paid;**
 - (ii) **a class of goods or services which may be exported on payment of IGST and the supplier of such goods or services may claim the refund of tax so paid.**

Export of Service:

- Payment received in INR from Special Rupee Vostro Account shall be eligible for export.

PAYMENT

Clarification on charging of interest u/s 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof.

Issue 01: In the cases of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest u/r 88B of CGST Rules, whether the balance of ITC available in E-Credit ledger under the head of IGST only needs to be considered or total ITC available in E-Credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.

Clarification: Since the amount of ITC available in E-credit ledger, 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 E-credit ledger, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest u/r 88B.

Issue 02: Whether the credit of compensation cess available in electronic credit ledger shall be taken into account while considering the balance of electronic credit ledger for the purpose of calculation of interest u/r 88B(3) of CGST Rules in respect of wrongly availed and utilized IGST, CGST or SGST credit.

Clarification: Credit of compensation cess cannot be utilized for payment of CGST/SGST/IGST and/or reversals of ITC. Accordingly, credit of compensation cess available in E-Credit ledger cannot be taken into account while considering the balance of E-Credit ledger for the purpose of calculation of interest u/r 88B(3).

TCS

- **TCS RETURN:** The details of tax collected at source u/s 52(1) furnished by the operator shall be made available electronically to each of the registered suppliers

Clarification on TCS u/s 52 in case of multiple E-commerce Operators in one transaction in the context of Open Network for Digital Commerce (ONDC)

Platform centric model of E-Commerce	Buyer interface and seller interface are operated by the same ECO. This ECO collects the consideration from the buyer, deducts the TCS u/s 52, credits the deducted TCS amount to the GST cash ledger of the seller and passes on the balance of the consideration to the seller after deducting their service charges.
ONDC or Similar arrangement	There can be multiple ECOs in a single transaction - one providing an interface to the buyer and the other providing an interface to the seller. In this setup, buyer-side ECO could collect consideration, deduct their commission and pass on the consideration to the seller-side ECO.

Issue: Which ECO should deduct TCS and make other compliances u/s 52 in such situations, as in such models having multiple ECOs in a single transaction, both the Buyer-side ECO and the Seller-side ECO qualify as ECOs u/s 2(45)

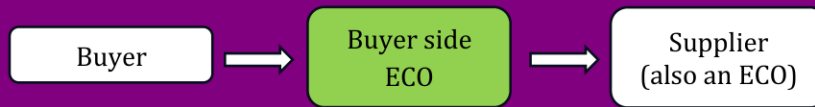
Situation 01: In a situation where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and where the supplier-side ECO himself is not the supplier in the said supply, who is liable for compliances u/s 52 including collection of TCS?



Clarification: In such a situation, the **compliances u/s 52**, including collection of TCS, is **to be done by the supplier-side ECO who finally releases the payment to the supplier** for a particular supply made by the said supplier through him. (Buyer-side ECO not liable for any compliance of TCS)

E.g.: Buyer-side ECO collects payment from the buyer, deducts its fees/commissions and remits the balance to Seller-side ECO. Here, the Seller-side ECO will release the payment to the supplier after deduction of his fees/commissions and required to do all the compliances u/s 52 of CGST Act.

Situation 02: where multiple ECOs are involved in a single transaction of supply of goods or services or both through ECO platform and the Supplier-side ECO is himself the supplier of the said supply, who is liable for compliances u/s 52 including collection of TCS?



Clarification: TCS is to be collected by the Buyer-side ECO while making payment to the supplier for the particular supply being made through it.

E.g. Buyer-side ECO collects payment from the buyer, deducts its fees and remits the balance to the supplier (who is itself an ECO). In this scenario, the Buyer-side ECO will also be required to do all the compliances u/s 52.

REFUND

Sec 54(6): In case of Zero rated supply except Notified category of registered persons, 90% of the amount shall be provisionally refunded

Notwithstanding anything contained in sub-section (5), the PO may, in the case of any claim for

- refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council,
- refund [GST-RFD-04] on a provisional basis, 90% of the total amount so claimed, **excluding the amount of input tax credit provisionally accepted**, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and

thereafter make an order [GST RFD – 06] under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant

Sec 56: Interest on delayed refund:

Period: *for the period of delay beyond 60 days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed*

Following periods shall not be included in the period of delay:-

- (a) any period of time beyond 15 days of receipt of notice in FORM GST RFD-08, that the applicant takes to-
 - (i) furnish a reply in FORM GST RFD-09, or
 - (ii) submit additional documents or reply;
- and
- (b) any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant

ASSESSMENT

Sec 62(2): Assessment of Non Filers of return

Where the registered person furnishes a valid return within 60 days of the service of the assessment order u/s 62(1), the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest u/s 50(1) or for payment of late fee u/s 47 shall continue.

Provided that where the registered person fails to furnish a valid return within 60 days of the service of the assessment order u/s 62(1), he may furnish the same within a further period of 60 days on payment of an additional late fee of ₹ 100/day 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.

APPEALS

Rule 108(1)/109(1): Proviso Inserted

Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-01/03, along with the relevant documents, only if-

- (i) the Commissioner has so notified, or
- (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.

Explanation.— For the provisions of this rule, the appeal shall be treated as filed only when the final acknowledgement, indicating the appeal number, is issued.

Rule 109C: Withdrawal of Appeal

The appellant may, at any time before issuance of SCN or before issuance of the order u/s 107(11), whichever is earlier, in respect of any appeal filed in FORM GST APL-01 or FORM GST APL-03, file an application for withdrawal of the said appeal by filling an application in FORM GST APL-01/03W

Provided that where the final acknowledgment in FORM GST APL-02 has been issued, the withdrawal of the said appeal would be subject to the approval of the appellate authority and such application for withdrawal of the appeal shall be decided by the appellate authority within 7 days of filing of such application:

Provided further that any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in Sec 107(1)/(2) as the case may be.

Sec 109: Constitution of Appellate Tribunal and its benches

GSTAT to be constituted

- (1) Appeal to GST Tribunal to be filed against the order of:
 - (a) Appellate Authority or
 - (b) Revisional Authority.

GSTAT Benches

- (2) The powers of the Appellate Tribunal shall be exercisable by the
 - **Principal Bench** constituted under sub-sec (3) and,
 - **State Benches** constituted under sub-sec (4).
- (3) The **Principal Bench** of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President **1 judicial member, 1 Technical Member (Centre) and 1 Technical Member (State)**.

- (4) On the request of the state, the Government may by notification, constitute such number of **state Benches** at such places and with such jurisdiction as may be recommended by the Council, which **shall consist of 2 Judicial Member, 1 Technical Member (Centre) and 1 Technical Member (State)**.

Appeals relating to Place of Supply to be heard by Principal Bench

- (5) The **Principal Bench and State Bench** shall hear appeals against the orders passed by the **Appellate Authority or the Revisional Authority**:

Provided that the cases in which any one of the issues involved relates to the place of supply, shall be heard only by the Principal Bench.

- (6) The President shall, from time to time, by a general or special order, distribute the business of the Appellate Tribunal among the Benches and may transfer cases from one Bench to another.
- (7) The senior-most Judicial Member within the State Benches, as may be notified, shall act as the Vice-President for such State Benches and shall exercise such powers of the President as may be prescribed, but for all other purposes be considered as a Member.

Cases to be heard by benches; Exception: Petty Cases by Single Member bench

- (8) Appeals, **where the tax or ITC involved or the amount** of fine, fee or penalty determined in any order appealed against, **does not exceed ₹ 50 Lakhs and which does not involve any question of law may**, with the approval of the President, and subject to such conditions as may be prescribed on the recommendations of the Council, **be heard by a single Member**, and **in all other cases, shall be heard together by 1 Judicial Member and 1 Technical Member**

Difference in Opinion - Majority will decide

- (9) *If, after hearing the case, the Members differ in opinion on any point or points, such Member shall state the point or points on which they differ, and the President shall refer such case for hearing,*

(a) where the appeal was originally heard by Members of a State Bench, to another Member of a State Bench within the State or, where no such other State Bench is available within the State, to a Member of a State Bench in another State;

(b) where the appeal was originally heard by Members of the Principal Bench, to another Member from the Principal Bench or, where no such other Member is available, to a Member of any State Bench, and such point or points shall be decided according to the majority opinion including the opinion of the Members who first heard the case.

- (10) *The Government may, in consultation with the President, for the administrative efficiency, transfer Members from one Bench to another Bench: Provided that a Technical Member (State) of a State Bench may be transferred to a State Bench only of the same State in which he was originally appointed, in consultation with the State Government.*

- (11) *No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal."*

OFFENCES & PENALTIES

Sec 122(1B): Penalty For ECO who allows supply in violation - Penalty = Higher of 10,000 or 100% Tax involved

(1B) Any electronic commerce operator who—

- (i) 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;
- (ii) 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
- (iii) 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, 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.

Sec 132: Punishment for certain offences

(1) Whoever commits or causes to commit and retain the benefits arising out of, any of the following offences

- (a) Supplies any goods/services without issue of any invoice/ issues an incorrect/false invoice.
- (b) Issues any invoice or bill without supply of goods / services.
- (c) avails ITC using such invoice or bill referred to in clause (b); or fraudulently avails ITC without any invoice or bill;
- (d) Collects any amount as tax but fails to pay for beyond 3 months from the due date of payment.
- (e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);
- (f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due or obtains refund
- ~~(g) Obstructs or prevents any officer in discharge of his duties.~~
- (h) Acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reason to believe are liable to confiscation.
- (i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reason to believe are in contravention.
- ~~(j) tampers with or destroys any material evidence or documents;~~
- ~~(k) Fails to supply any information which he is required to supply or supplies false information.~~
- (l) Attempts to commit, or abets the commission of the above offences.

Where the amount of tax evaded or ITC wrongly availed or utilised or Refund wrongly taken exceeds	FINE	IMPRISONMENT
Sec 132(1)(i) Exceeding 5 crores	YES	Upto 5 years
Sec 132(1)(ii) Rs 2 Crores - 5 Crores	YES	Upto 3 years
Sec 132(1)(iii) Rs 1 Crores - 2 Crores [only for offence covered in clause (b)]	YES	Upto 1 year
Commit, abets the commission of offence in clause (g), (h), (j)	6 month or with fine or Both	
For second & every subsequent offence u/s 132 - No Limit	YES	Upto 5 years



Sec 138: Compounding of Offence

Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the CG or SG, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

- (a) a person who has been allowed to compound once in respect of any of the offences specified In Sec 132(1) (a) to (f), (h), (i) and (l);
- ~~(b) Omitted~~
- (c) a person who has been accused of committing an offence u/s 132(1)(b);
- (d) a person who has been convicted for an offence under this Act by a court;
- ~~(e) omitted~~
- (f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

➔ Compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

COMPOUNDING AMOUNT	
Minimum Penalty	25% of tax
Maximum Penalty	100% of tax

Rule 162 - Procedure for compounding of offences

- (1) An applicant may, either before or after the institution of prosecution, make an application u/s 138(1) in FORM GST CPD-01 to the Commissioner for compounding of an offence.
- (2) On receipt of the application, the Commissioner shall call for a report from the concerned officer with reference to the particulars furnished in the application, or any other information, which may be considered relevant for the examination of such application.
- (3) The Commissioner, after taking into account the contents of the said application, may, by order in FORM GST CPD-02, on being satisfied that the applicant has made full and true disclosure of facts relating to the case, allow the application indicating the compounding amount and grant

him immunity from prosecution or reject such application within 90 days of the receipt of the application.

(3A) The Commissioner shall determine the compounding amount under sub-rule (3) as per the Table below:-

S.N	Offence	Compounding amount if offence is punishable u/s 132(1)(i)	Compounding amount if offence is punishable u/s 132(1)(ii)
1	Offence u/s 132(1)(a)/(c)/(d)/(e)	Max - 75%; Min - 50% of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken	Max - 60%; Min - 40% of tax evaded or the amount of ITC wrongly availed or utilised or the amount of refund wrongly taken
2	Offence u/s 132(1)(f)/(h)/(i)	25% of tax evaded.	25% of tax evaded.
3	Attempt to commit / abets the commission of the offences mentioned in sec 132(1)(a), (c) to (f), (h) and (i)	25% of such amount of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken.	25% of such amount of tax evaded or ITC wrongly availed or utilised or the amount of refund wrongly taken.

Provided that where the offence committed by the person falls under more than one category specified in the Table above, the **compounding amount, in such case, shall be the amount determined for the offence for which higher compounding amount has been prescribed.**

MISCELLANEOUS

Sec 158A: Disclosure of Information by a public servant

- (1) Notwithstanding anything contained in Sec 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems [Account Aggregator] as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—
- (a) particulars furnished in the application for registration u/s 25 or in the return filed u/s 39 or u/s 44;
 - (b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished u/s 37 and the particulars uploaded on the common portal for generation of documents u/s 68;
 - (c) such other details as may be prescribed
- (2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—
- (a) the supplier, in respect of details furnished u/s 158A(1)(a), (b) and (c); and
 - (b) the recipient, in respect of details furnished u/s 158A(1)(b) and (c) only where such details include identity information of the recipient,
- in such form and manner as may be prescribed.
- (3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."

Explanation: For the purpose of this notification, "Account Aggregator" means a non-financial banking company which undertakes the business of an Account Aggregator in accordance with the policy directions issued by the Reserve Bank of India.

Rule 163 - Consent based sharing of information:

- (1) Where a registered person opts to share the information furnished in—
- (a) FORM GST REG-01 as amended from time to time;
 - (b) return in FORM GSTR-3B for certain tax periods;
 - (c) FORM GSTR-1 for certain tax periods, pertaining to invoices, debit notes and credit notes issued by him, as amended from time to time,
- with a system referred to in Sec158A(1) (hereinafter referred to as "requesting system"), the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods, where applicable, to the common portal.

- (2) The registered person shall give his consent for sharing of information under clause (c) of sub-rule (1) only after he has obtained the consent of all the recipients, to whom he has issued the invoice, credit notes and debit notes during the said tax periods, for sharing such information with the requesting system and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.
- (3) The common portal shall communicate the information referred to in sub-rule (1) with the requesting system on receipt from the said system-
- (a) the consent of the said registered person, and
 - (b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.

ETHICS UNDER GST

“Ethics” as the moral principle that governs a person's behavior or how an activity is conducted. Ethics provides a framework for distinguishing between right and wrong, guiding decision making, and determining what is considered morally acceptable in a given context.

Role of Chartered Accountant in ensuring ethics under GST

A Chartered Accountant in practice would be deemed to be guilty of professional misconduct under **clause (7) of Part I of the Second Schedule** to the Chartered Accountant Act, 1949, if he does not exercise due diligence, or is grossly negligent in the conduct of his professional duties. Further, as per **clause (8) of Part I of the Second Schedule** to the Chartered Accountants Act, 1949, a chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion.

Certifications/reports to be furnished by a CA required under GST

S.N	Sec/Rule	Certification
1	Sec 18(1) + Rule 40	Certification of the amount of ITC claimed at the time of registration/voluntary registration or switching to regular tax paying status or coming into tax-paying status
2	Sec 18(3) + Rule 41	Certification that the sale, merger, demerger, amalgamation, lease or transfer of business done with a specific provision for the transfer of liabilities
3	Sec 18(4)/ 29(5)+ Rule 44	Certification of the amount of ITC to be reversed on cancellation of registration or on switching to composition levy/exit from taxpaying status, in respect of inputs for which tax invoices are not available
4	Sec 54 + Rule 89(2)	Certification that in case of refund claim exceeding ₹ 2 lakh by the applicant, there is no unjust enrichment
5	Sec 66	Audit Report

SPECIFIED ACTIONABLE CLAIM

<p>Specified Actionable Claim [Sec 2(102A)]</p>	<p>Means: the actionable claim involved in or by way of—</p> <ul style="list-style-type: none"> (i) betting; (ii) casinos; (iii) gambling; (iv) horse racing; (v) lottery; or (vi) online money gaming;
<p>Online Gaming [Sec 2(80A)]</p>	<p>Means: 'online gaming' as offering of a game on the internet or an electronic network and includes online money gaming</p>
<p>Online Money Gaming [Sec 2(80B)]</p>	<p>Means: online gaming in which players pay or deposit money or money's worth, including Virtual Digital Assets, in the expectation of winning money or money's worth, including VDAs, in any event including game, competition or any other activity or process, whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force</p>

Section 14A of IGST Act 2017: Special provision for specified actionable claims supplied by a person located outside taxable territory

- (1) A **supplier of online money gaming, not located in the taxable territory, shall** in respect of the supply of online money gaming by him to a person in the taxable territory, **be liable to pay integrated tax on such supply.**
- (2) For the purposes of complying with provisions of sub-section (1), the **supplier of online money gaming shall obtain a single registration** under the Simplified Registration Scheme referred in Sec 14(2):

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay the integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he shall appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.
- (3) **In case of failure to comply** with provisions of sub-section (1) or sub-section (2) by the supplier of the online money gaming or a person appointed by such supplier or both, notwithstanding

anything contained in section 69A of the Information Technology Act, 2000, any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such supplier shall be liable to be blocked for access by the public in such manner as specified in the said Act.

Valuation in case of Lottery, online money gaming, casino etc - Sec 15(5)

Rule 31B - Value of supply in case of online gaming including online money gaming.

Notwithstanding anything contained in this chapter, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player:



Provided that any amount returned or refunded by the supplier to the player for any reasons whatsoever, including player not using the amount paid or deposited with the supplier for participating in any event, shall not be deductible from the value of supply of online money gaming.

Rule 31C - Value of supply of actionable claims in case of casino.

Notwithstanding anything contained in this chapter, the value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for -






- (i) purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or
- (ii) participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:

Provided that any amount returned or refunded by the casino to the player on return of token, coins, chips, or tickets, as the case may be, or otherwise, shall not be deductible from the value of the supply of actionable claims in casino.

Explanation.- For the purpose of rule 31B and rule 31C, any amount received by the player by winning any event, including game, scheme, competition or any other activity or process, which is used for playing by the said player in a further event without withdrawing, shall not be considered as the amount paid to or deposited with the supplier by or on behalf of the said player.

Tax has to be paid on specified actionable claims at the time of receipt of payment for such supplies by the suppliers. [N/N 66/2017 CT not applicable here]

Sec 14 of IGST Act: Special provision for payment of tax by a supplier of OIDAR service

<p>Non-taxable online recipient</p>	<p>Means: any unregistered person receiving online information and database access or retrieval (OIDAR) services located in taxable territory.</p> <p><i>Explanation: For the purposes of this clause, the expression "unregistered person" includes a person registered solely in terms of Sec 24(vi) CGST Act, 2017 i.e TDS deductor</i></p>
<p>Online information and database access or retrieval services</p>	<p>Means: services</p> <ul style="list-style-type: none"> → whose delivery is mediated by information technology over the internet or an electronic network and → the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology and <p>Includes: electronic services such as,</p> <ul style="list-style-type: none"> (i) advertising on the internet; (ii) providing cloud services; (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet; (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (v) online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and (vii) online gaming <div style="display: flex; align-items: center; gap: 10px;">    </div>

PLACE OF SUPPLY

Sec	SUPPLY	POS
10(1)(ca) [IGST Act 2017]	where the supply of goods is made to a person other than a registered person , the place of supply shall, notwithstanding anything contrary contained in Sec 10(1)(a)/(c)	location as per the address of the said person recorded in the invoice issued in respect of the said supply and location of the supplier where the address of the said person is not recorded in the invoice.
<p><i>Explanation.</i>—For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;</p> <ul style="list-style-type: none"> • Sec 13(9) of IGST Act 2017 deleted 		

Clarification regarding determination of PoS in case of transportation of goods,

Issue	Whether POS in case of service of transportation of goods, including through mail and courier, in cases where location of supplier or location of recipient is outside India, will be determined as per Sec 13(2) or 13(3).
Clarification	<p>POS = Sec 13(2)</p> <p>POS of services of transportation of goods, in cases where location of supplier of services or location of recipient of services is outside India, will be determined by the default rule i.e u/s 13(2) and not as performance based services u/s 13(3).</p>

Clarification regarding determination of PoS in case of service in relation to procuring space on hoardings/bill boards

Facts	 <p>Advertising co are often involved in procuring space on hoardings/ bill boards erected and mounted on buildings/land, from various suppliers ("vendors") for providing advertisement services to its corporate clients. There may be variety of arrangements between advertising co and its vendors</p>
Issue 01	There may be a case wherein there is supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising co for display of their advertisement on the said hoarding/ structure. What will be the POS ?
Clarification	POS = Sec 12(3)(a) = Location where such hoarding etc is located

	<i>The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth.</i>
Issue 02	Where the advertising co wants to display its advertisement on hoardings/ bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertisement co at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure. What will be the POS of such services provided by vendor to the advertising co?
Clarification	Nature of Service = Advertisement Service; POS = Sec 12(2) Vendor is providing advertisement services for a specific period of time on his structure possessed/taken on rent by him at the specified location without supply (sale) of space/supply (sale) of rights to use immovable property.

CUSTOMS

Sec 20: Re-importation of Goods into India

If **goods are imported into India after exportation** there from, such goods shall be **liable to duty** and be **subject to all the conditions and restrictions**, if any to which goods of the like kind and value are liable or subject, **on the importation thereof.**

E/N 94/96: Condition for availing Concessational duty payable in case of re-importation

- (a) **Time-limit for re-importation – Normally: 3 years. Extendable to 5 years.**
Supplies under FTP: 1 yr + Ext of 1 yr
- (b) The exported goods and the re-imported goods must be the same.
- (c) The ownership of the goods should also not have changed.

Sec 47 read with Deferred payment Rules, 2016

- Government empowered to extend the dates mentioned in the rules.

Sec 51A: Payment of duty, interest, penalty, etc

- ❖ **Every deposit made towards duty, interest, penalty, fee or any other sum payable shall be credited to the electronic cash ledger of such person.**
- ❖ **Electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable.**
- ❖ **Balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable, may be refunded in such manner as may be prescribed.**
- ❖ For notified persons this manner of deposit may be exempted
 - **Goods imported in a port where automated system is not in place,**
 - **Goods imported or exported through courier**
 - **for accompanied baggage,**
 - **for paying taxes other than customs duties (including cess/surcharge), IGST, Compensation Cess, Int/Penalty/Late fees**

